

Parish: Crakehall

Ward: Bedale

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15/01524/FUL & 15/01525/LBC

Committee Date: 28 April 2016

Officer dealing: Mrs H M Laws

Target Date: 29 April 2016

Applications for retrospective planning permission and listed building consent for change of use of paddock to domestic garden, partial removal of garden wall, widening of permeable hard standing access track, and replacement timber fence. at Hill Top Cottage, The Green, Crakehall, North Yorkshire for Mr J Kent.

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 Hill Top Cottage is a Grade II listed building located in Crakehall Conservation Area. A detached outbuilding lies to the rear of the property on the boundary with the neighbouring property known as Grey Riggs. The rear of the property is accessed through an archway.
- 1.2 The application is for retrospective consent for the removal of a section of wall that formed the rear boundary of the domestic plot. The length of the stone wall was approximately 4.5m and the height approximately 1.8m.
- 1.3 Work has also been undertaken to widen the hardstanding area to the rear of the dwelling by incorporating land from within the adjoining paddock to create a parking and amenity area. A fence has also been installed along the proposed rear boundary of the domestic plot. The timber post and rail fence (with gate into paddock) covers a length of approximately 30m.
- 1.4 The reason given for the removal of the wall is due to its poor structural stability. The supporting information states that it was dismantled as it was deemed to be a hazard. The wall was not supported by any foundations and was not tied to the adjacent boundary wall.
- 1.5 The application is brought to Committee at the request of a Ward Member in the light of it being one of a series of retrospective applications submitted by the applicant. Members deferred consideration at the meeting of 3 March for further research into the planning history. The application has also been subject of further assessment in respect of the heritage impact of the removal of the section of wall.

2.0 RELEVANT PLANNING & ENFORCEMENT HISTORY

- 2.1 2/95/032/0144 – Alterations and extension to dwelling; Granted 5 January 1996.
- 2.2 2/95/032/0144A - Application for Listed Building Consent for part-demolition of and alterations and extension to dwelling; Granted 5 January 1996.
- 2.3 2/96/032/0144B - Application for Listed Building Consent for part-demolition of and alterations and extension to dwelling; Granted 19 April 1996.
- 2.4 2/99/032/0144C - Alterations and extensions to outbuildings for use as ancillary living accommodation; Refused 13 January 2000 for the following reasons:
 1. In the opinion of the Local Planning Authority the proposed scale and design of the alterations and extensions would not be appropriate to the Conservation

Area. Thus the proposals would not comply with Policy HH4 of the Hambleton District Wide Local Plan.

2. In the opinion of the Local Planning Authority the proposed ancillary living accommodation would not be incorporated into the main house and thus the proposal would encourage its occupation as a separate additional dwelling. Thus the proposal would not comply with Policy H13 of the Hambleton District Wide Local Plan.
 3. In the opinion of the Local Planning Authority the proposed conversion would detract from the interest of the building and the character of the surrounding area. The proposal would result in the increase in the use of the existing substandard access and parking areas. This would be detrimental to the free flow of traffic and the safety of other road users. The proposed residential accommodation would have an adverse effect on the amenities of nearby residences by virtue of overlooking and general disturbance. Thus the proposal would not comply with Policy H14 of the Hambleton District Wide Local Plan.
- 2.5 2/99/032/0144D - Application for Listed Building Consent for alterations and extensions to outbuildings; Refused 13/12/1999 for the following reason:
1. In the opinion of the Local Planning Authority the proposed alterations and extensions would not maintain the character of the building or preserve its features; are not of an appropriate scale or design to the building or its setting; and would result in a significant loss to the historic fabric of the buildings. Thus the proposals would not comply with Policy HH17 of the Hambleton District Wide Local Plan.
- 2.6 2/00/032/0144E - Alterations to outbuildings for use as ancillary living accommodation; Granted 27 April 2000.
- 2.7 2/00/032/0144F - Application for Listed Building Consent for alterations to outbuildings; Granted 26 April 2000.
- 2.8 15/00473/MRC - Variation of condition 6 of 2/00/032/0144E to allow the use of the building for holiday accommodation; Granted 30 April 2015.
- 2.9 15/02272/LBC - Retrospective Listed Building Consent for new roof timber structure to holiday cottage barn, including 2 conservation roof lights and stove flue pipe; Granted 2 December 2015.
- 2.10 15/00110/CAT2 – Enforcement investigation regarding creation of domestic area outside of curtilage and alterations to outbuildings; On hold pending determination of these applications.
- 2.11 Applications 2/99/032/0144C and 2/99/032/0144D (paragraphs 2.4 and 2.5) were not listed in the previous version of this report because they had not been considered relevant due to subsequent applications 2/00/032/0144E and 2/00/032/0144F (paragraphs 2.6 and 2.7) being subsequently granted for similar development. They are listed in this report for completeness. The revised scheme approved in 2000 removed the previously proposed parking area from the paddock at the rear of the building.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Development Policy DP1 - Protecting amenity
Development Policy DP28 – Conservation
Development Policy DP30 – Protecting the character and appearance of the countryside
Development Policy DP32 - General design
National Planning Policy Framework - published 27 March 2012

4.0 CONSULTATIONS

- 4.1 Parish Council - no reply received.
- 4.2 Historic England - this application should be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.
- 4.3 Planning Policy and Conservation Officer - We visited the site on Thursday 10th March to further consider the significance of the garden wall which had been removed prior to the retrospective Listed Building Consent application. I have studied the historic OS plans for this property and the 1856 plan shows an outbuilding in roughly the position of the removed wall which aligned with a similar structure closer to the rear of the house. By the 1895 plan, this outbuilding has disappeared, leaving the one closer to the house in situ.

On close inspection, the northern stone boundary wall appears to be an original structure. At the point where the wall has been removed there is a block of masonry which indicates the location of the former building mentioned above from the 1856 OS plan, this would have been the north gable. Given the position of the removed wall it is possible that this was a fragment of the previous building. However, I understand from the application that the wall was not bonded into the north boundary wall. Evidence of repointing here is evident. Whether this was done simply as a repair to rectify the area removed from bonding in, only the applicant will know.

If the wall was not bonded to the northern boundary wall, then it is likely that the removed wall was a later construction in order to provide an end to the yard at the time of demolishing the outbuilding in the late 19th century.

Having not seen the wall in situ prior to its demolition it is impossible to make an accurate judgement of whether the wall was bonded to the north boundary wall or not and to understand whether its construction was the same as that to the north. From the partial photograph available, the wall was of cobble stone construction similar to that of the boundary wall.

It is my conclusion that the removed wall is either a fragment of the former outbuilding or a reconstruction of a boundary marker in the late 19th century. Either way, its loss in my opinion does not have any harmful impact on the significance of the principal listed building.

The matters in relation to the extension of the domestic garden and amenity of neighbouring residents are separate planning matters to the removal of the wall.

- 4.4 Site notice/advert/local residents - objections to the development have been received from and on behalf of 3 local residents, whose comments are summarised as follows:
- Harmful effect on the character and appearance of a designated heritage asset
 - The character and appearance of the conservation area and open countryside
 - The amenity of neighbouring residents

- Insufficient justification for the works
- Inadequate heritage statement
- Wall played an important historical role with regard to the setting of the main dwelling and the form and character of the settlement
- The dangerous condition of the wall is disputed
- Photographic evidence clearly shows the wall was stable and not dangerously leaning
- The gravelled surface is not in keeping and looks incongruous adjacent to the old stone buildings
- The original yard surface material and stone walls are deemed to be important features that contribute to the character and appearance of a designated heritage asset, therefore contrary to LDF policies
- Change of use is unsustainable and is a practice that could be repeated by other landowners that back onto the open countryside, thereby setting a dangerous precedent
- The encroachment has a materially harmful effect on both the setting of the village and the character and appearance of the countryside
- The additional curtilage would provide an external social area for the holidaymakers occupying the outbuilding and generate a noise nuisance, particularly to those existing residents that adjoin this area
- Proposed alterations are contrary to LDF Policy DP1
- The removal of a strip of agricultural land is blatant property development by stealth
- The field should be immediately restored to its previous condition
- It opens up the possibility for further development
- Application 2/00/032/0144E with drawing 99/1058/1D was approved on 27 April 2000 for single storey ancillary living accommodation in the barns. There was no change to the status of the agricultural field and the wall was clearly shown on the approved plans with strict conditions applied in the approval to the walls. The amenity of the residential property nearby was also considered.

5.0 OBSERVATIONS

- 5.1 The main issues to be considered in respect of the planning application relate to the effect of the alterations on heritage assets, specifically the character and appearance of the Crakehall Conservation Area and the setting and features of nearby listed buildings. It will also be necessary to consider the impact of the additional curtilage in terms of listed buildings and the Conservation Area, and also in terms of the likely impact of its use on residential amenity.
- 5.2 For the listed building application, only the impact of the demolition on the setting and any significant features of Hill Top Cottage are considered relevant.

Impact on heritage assets

- 5.3 The works, which include the removal of the wall and the creation of an additional area of domestic amenity space, have already taken place. The enforcement process had established two options for the applicant, to either reinstate the site as it was or to submit planning and listed building applications in an attempt to receive approval for the works and the latter course of action has been taken.
- 5.4 The National Planning Policy Framework, paragraph 131, states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation and to the desirability of new development making a positive contribution to local character and

distinctiveness. This reflects the statutory requirement under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the Council to consider the desirability of preserving the listed building or its setting or any features of merit (Section 66) and the desirability of preserving or enhancing the character or appearance of the Conservation Area (Section 72).

- 5.5 NPPF paragraph 132 goes on to state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 5.6 The most relevant heritage asset is Hill Top Cottage as the demolished section of wall marked its curtilage. The wall is not listed in its own right and although clearly of historic importance, is not of the same significance as the dwelling. The wall was a relatively small section that formed the boundary of the property between the yard and the paddock beyond and stood approximately 25 metres from the listed building. Whilst the wall was closer to other listed buildings (St Edmund's Cottages, Grade II) it had no historic or physical connection with them. Prior to its removal a gate connected the wall to the edge of the outbuilding to enclose the yard. Historic Ordnance Survey plans show that the wall was not in place in 1856 when an outbuilding straddled the boundary line; there is no building nor any boundary illustrated on the 1895 plan and there is an indication of a boundary in this position on the 1919 plan.
- 5.7 An inset area remains within the adjacent boundary wall to indicate where the wall was originally positioned and this allows a record to remain to indicate the evolution of the property.
- 5.8 It is disputed by local residents that the wall was in a poor condition; however there is no evidence to confirm whether or not it was dangerous or structurally unsound. Furthermore, the wall's condition is not, of itself, considered to be a determining factor in this case. The Council must consider whether permission and consent should be granted retrospectively for its removal on the basis of an evaluation of the harm its loss may have caused to the character of the area and the setting of the listed building and the soundness of the wall could only have minimal impact on those issues.
- 5.9 Where a proposal leads to less than substantial harm to the significance of the heritage asset (NPPF paragraph 134) this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The nature of the advice from Historic England reported in paragraph 4.2 is considered to suggest that the development does not cause substantial harm. The removal of the wall allows a larger area to be provided for parking and turning in connection with the domestic use of the dwelling and the holiday accommodation unit within the outbuilding. Although adequate space was available prior to the removal of the wall, that is not a reason to refuse planning permission or listed building consent; rather the impact of the development must be considered.
- 5.10 The removal of the wall and widening of the gravel access track has altered the setting of the listed building, which is now more open and covers a greater area. Historically the area to the rear of the dwelling was the secondary area providing amenity space and parking with ancillary outbuildings and storage. The role of the area remains unchanged and is characteristic of a courtyard. It is not considered that the removal of the wall and widening of the gravel access detracts from the setting of Hill Top Cottage or any of its features. As noted earlier, it is not considered that the wall was of any special importance in its own right. It was a minor feature within the

context of the listed building and the Crakehall Conservation Area and it is not considered that its removal to provide a larger domestic curtilage has caused harm to the character or appearance of the Conservation Area or the setting or any features of any listed building.

- 5.11 The fencing that has been erected on the edge of the paddock area is visible in public views from a public footpath some 65m to the west and from nearby gardens. However, it is not considered to detract from the character or appearance of the Conservation Area or the setting of any listed building and is therefore considered to be acceptable in heritage terms.
- 5.12 A strip of land with dimensions of approximately 28m x 7m has been enclosed within the extended curtilage of Hill Top Cottage to create additional parking and amenity space for use by the holiday accommodation unit. This land previously formed part of the adjacent paddock and lies along the rear boundaries of neighbouring properties. The paddock, and therefore the extended curtilage, lie beyond Development Limits but are not considered to have the characteristics of open countryside as the paddock is bound on three sides by domestic curtilages.
- 5.13 The additional garden area has mostly been surfaced with gravel, in keeping with the surfacing of the yard area to the rear of Hill Top Cottage. A paved area and an area of grass lie to the south of the gravelled area. The choice of gravel provides a visual connection with the dwelling and is not considered to be inappropriate for the location within the Conservation Area or on the fringe of the settlement and the paving is not considered to have any appreciable impact on any heritage asset or the countryside. The additional domestic amenity space is therefore not considered to detract from the character or appearance of the Conservation Area, or to adversely affect the setting or any features of any nearby listed building, or to have any appreciable impact on the rural landscape.

Residential amenity

- 5.14 One of the concerns of the adjacent residents is that the use of the strip of land in connection with the domestic use of the main dwelling, or the holiday accommodation, would have an adverse impact on residential amenity. The area in question lies adjacent to the boundaries of five neighbouring properties most of which already share a boundary with the existing domestic curtilage of Hill Top Cottage.
- 5.15 Noise and disturbance can occur in any domestic situation but there is no reason to expect an abnormal relationship between adjacent gardens in terms of neighbourly behaviour in this instance. It would not be appropriate to restrict a domestic curtilage on the grounds that its use could cause disturbance when there are other domestic curtilages in closer proximity. The proposed change of use is considered to comply with LDF Policy DP1.

6.0 RECOMMENDATIONS

- 6.1 That subject to any outstanding consultations application 15/01524/FUL is **GRANTED** planning permission subject to the following conditions:
1. The development hereby permitted shall be begun within three years of the date of this permission.
 2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings numbered 247 P001 and 247 L001 received by Hambleton District Council on 10 and 11 December 2015 unless otherwise approved in writing by the Local Planning Authority.

The reasons for the above conditions are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies.

6.2 That subject to any outstanding consultations application 15/01525/LBC is **GRANTED** listed building consent subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings numbered 247 P001 and 247 L001 received by Hambleton District Council on 10 and 11 December 2015 unless otherwise approved in writing by the Local Planning Authority.

The reasons for the above conditions are:

1. To ensure compliance with Section 18A of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies.