



Decision by Sue Bell a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-270-2005
- Site address: Land Between The Manse And Old Church Court, Innes Street, Plockton,
- Appeal by Ms Jill Malvenan against the decision by Highland Council
- Application for listed building consent 16/03051/LBC dated 6 July 2017 refused by notice dated 18 October 2016
- The works proposed: Create a pedestrian opening in the existing garden wall to Innes Street and increase the existing opening in a garden wall to Bank Street to allow vehicles
- Application drawings: Dwg 615 10-01, 10-02, 10-03, 10-04, 10-05, 10-06, 10-07, 10-08, 10-09
- Date of site visit by Reporter: 17 March 2017

Date of appeal decision: 7 April 2017

Decision

I allow the appeal and grant listed building consent subject to the following condition:

No development or work shall start on site until a method statement and schedule for the demolition and re-building of the boundary walls associated with the pedestrian and vehicular access points has been submitted to and approved in writing by the Planning Authority. Thereafter, development and other work shall progress in accordance with the approved details. For the avoidance of doubt, existing stonework shall be repaired and any new sections built using natural stone chosen to match, in all respects wherever possible (including colour, texture, geology, proportions, coping stones and tooling), the existing stonework.

Attention is also drawn to the advisory note at the end of this notice.

Preamble

The appealed decision relates to proposed alterations to walls, which form part of the listing of a category B listed building. There is a separate but related appeal (PPA-270-2164) against refusal of planning permission for these works, which form part of a larger application for construction of a dwelling on the land bounded by the walls. This appeal considers only the merits of the proposed alterations to the listed building (walls), and not the merits of any associated development. This differs from the approach taken by the planning authority, which treated the application for listed building consent as subsidiary to

and dependent upon the application for planning permission. Both applications were refused on the same grounds.

Reasoning

1. In reaching a conclusion, I am required by section 14(2) of the Listed Building and Conservation Areas Act (1997) (LBCA Act) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
2. As the site is in a conservation area, I am also required, by section 64(1) of the LBCA Act, to have regard to the desirability of preserving or enhancing the character or appearance of the area.
3. Accordingly, I consider the determining issues in this appeal are whether the proposed works would preserve the listed building, its setting and any features of special architectural or historic interest which it possesses; and whether the proposed alterations would preserve or enhance the character or appearance of the conservation area.
4. The walls subject to this appeal form part of the listing schedule for "*Innes Street Plockton Free Church and churchyard walls*", a category B listed building. At the time of listing (1971), these walls defined an area of land lying between the Free Church to the east, and its associated manse to the west. Since that time, the church has been converted to flats, which are in private ownership. The old Manse, which is also a Category B listed building, is in separate ownership and has been extended. Planning permission has recently been granted to allow sub-division of the property into two dwellings.
5. The listing description describes 'drystone wall', but provides no further details about which wall(s) are covered by the listing. Any structure built within the curtilage of a listed building, and that has existed since before 1948 forms part of the listed building. Based on the listing, I interpret the special interest of the wall(s) as arising from their construction (drystone) and association with the church.
6. The walls are built from stone and are approximately 1.5 metres high. The proposed works would have three elements: it would result in a new opening being created in the northeast corner of the wall adjacent to Innes Street; it would extend an existing opening in the wall adjacent to Bank Street; and would require the infill of an existing break in the wall on the boundary between the plot of land and the old church. The appellant maintains that this wall was relocated following conversion of the church to flats.

Desirability of preserving the building or its setting or any features of special architectural or historic interest

7. The proposed works would result in the demolition of short lengths of wall on the Innes Street and Bank Street boundaries. However, the layout and orientation of the walls would remain unchanged, as would their relationship to the old church. Their historic functional role in defining the boundary of the plot of land would remain clear. Their height, materials and method of construction would also remain unchanged.

8. The planning authority's Historic Environment Team response does not raise any issues of concern about effects upon the walls. However, the planning authority has indicated (in their Planning Appeal Response Form), that the works, which involve the partial loss of a listed structure, would only be considered appropriate if the associated proposed dwelling were granted permission. This point has also been raised in one of the representations to the application.

9. A number of representations have been received from members of the public. Several of these raise concerns linked to the proposed development, which is subject to a separate planning application. Concerns about public safety were also raised, but these are not a material consideration for the listed building consent.

10. In conclusion, for the reasons set out in paragraph 7 above, I do not consider that the proposed works to the boundary walls would undermine the objective of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Desirability of preserving or enhancing the character or appearance of the conservation area

11. There is no detailed description of the character of the conservation area.

12. From the site inspection I note that there are a number of stone walls along Innes Street on the approach into Plockton and along Bank Street.

13. The proposed works would not result in a loss of the pattern and layout of the stone walls. Nor would they result in a change in the character or appearance of the conservation area. Likewise, the increase in the size of opening in the stone wall on Bank Street would not result in a material change in the character or appearance of the conservation area.

14. In refusing consent for the works, Highland Council considered that the proposal was contrary to policies 28 and 57 of the local development plan. Whilst policies in the local development plan are a material consideration, these carry less weight than the statutory requirements of s14 and s61 of the LBCA Act.

15. Policy 28 defines criteria for sustainable design. Proposed developments need to demonstrate (amongst other criteria): "*sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials*". The planning authority did not consider that the design was in keeping with the local character and the historic environment of Plockton.

16. Policy 57 defines criteria for assessing proposals to safeguard features of the natural, built and cultural heritage. For features of local/regional importance, developments will be allowed "*if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.*" The planning authority did not consider that it had been satisfactorily demonstrated that the development would not have an unacceptable impact on the heritage resource of the conservation area by virtue of its contemporary design.

17. As the proposals relate to the alteration of a wall, rather than the construction of a new structure, it appears to me that the planning authority's stated reasons for refusal refer to the related, but separate, proposals to develop a dwelling on the land.

18. Strategic Aim 6 of the Highland Historic Environment Strategy requires that listed buildings are protected from harmful developments, including extension and alteration, which may affect their special architectural and historic interest or their setting and that there is a presumption against the demolition of listed buildings.

19. For the reasons identified above, I conclude that whilst there would be some change to the appearance, resulting from the proposed works, I consider this change to be neutral. NPPG18 states that development which would have a neutral effect upon a conservation area should be treated as one which preserves the area's character or appearance. Consequently, I do not consider that the proposed works would have an adverse effect on the character of the area.

Sue Bell

Reporter

Advisory note

The length of the consent: This listed building consent will last only for three years from the date of this decision notice, unless the works have been started within that period. (See section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended))