
Appeal Decision

Hearing held on 11 November 2014

Site visit made on 11 November 2014

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 November 2014

Appeal Ref: APP/P0119/F/14/2216500

Land at Elms Farm Office, Upper Tockington Road, Tockington, Bristol, South Gloucestershire BS32 4LQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr B A Farr against a listed building enforcement notice issued by South Gloucestershire Council.
 - The Council's reference is COM/13/1052/OD/1.
 - The notice was issued on 14 March 2014.
 - The contravention of listed building control alleged in the notice is: Erection of a single storey glazed extension to the front (southern elevation) of the building, in the approximate position marked as hatched in black on the plan attached to the listed building enforcement notice at annexe 2. Insertion of two large rooflights to the south facing roof planes. Installation of plastic rainwater goods.
 - The requirements of the notice are: Remove the single storey front extension and reinstate and make good all external walls to return the building to its condition before the breach took place. Remove the two rooflights set within the southern elevation and reinstate the roof to its condition before the breach took place. Remove all plastic rainwater goods that have been applied to the building and replace with metal rainwater goods painted black.
 - The period for compliance with the requirements is four months.
 - The appeal is made on the grounds set out in section 39(1)(e) and (g) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is allowed and the listed building enforcement notice is quashed.

Procedural matter

2. The appellant's statement made reference to the fact that he considered that the building that is the subject of the listed building enforcement notice was not, in fact, curtilage listed. He had set out his reasons for this in the statement and, at the Hearing, confirmed that he wanted this to be considered as part of the appeal. The matter was discussed at the Hearing and the Council had the opportunity to make full representations on this point. I have therefore considered these submissions as an appeal under ground (c), that the works concern a building that is not part of a listing.

Application for costs

3. At the Hearing an application for costs was made by Mr B A Farr against South Gloucestershire Council. This application is the subject of a separate Decision.

Main Issues

4. I consider the main issues in this case to be:
 - (i) on ground (c), whether the barn falls within the curtilage of the listed building at The Elms and, if so
 - (ii) on ground (e), the effect of the works on the special architectural and historic interest of the listed building and its setting and
 - (iii) on ground (g), whether the requirements of the listed building enforcement notice exceed what is necessary for restoring the building to its condition before the works were carried out.

Site and surroundings

5. The building that is the subject of the notice is a former barn that was once part of the agricultural enterprise for which the main Grade II listed building, The Elms, was the farmhouse. The appellant's family have owned both the farm and the farmhouse for many years but when the appellant's parents retired, they continued to own and occupy the house but the farm was owned and run as a separate enterprise by the appellant. This was the situation that existed at the time The Elms was listed in 1984.
6. After the house was left to the appellant and his siblings, the appellant bought out the other shares in the property and he then became the owner of both units. Today, The Elms is rented to tenants and the former farm business has diversified and the buildings connected with it are used by a number of tenants for various business purposes. The barn is occupied by the offices of companies run by the appellant and his family and other operations use the buildings to the west. There is a vehicular access from Hardy Lane leading to a car parking area for these commercial enterprises.
7. The former threshing barn was probably built in the late 18th or early 19th century, some time after the house, which, according to the listing description, was constructed in the 17th century. The appellant confirms that he used it in connection with his poultry rearing business and then for general farm storage until he converted it for office use in 2013.
8. The original barn is 'T' shaped but has now been surrounded by other development. An 'L' shaped attachment was added to the east side many years ago, and now has an opening linking it to the barn. This was used, I am told, as a farm office and the area between this extension and the barn was infilled with a lean-to addition. It is this lean-to that was demolished to allow the construction of the extension that is the subject of the listed building enforcement notice.
9. The evolution of the form of the barn can be seen on Ordnance Survey (OS) maps dating from 1881. Modest additions to the west of the barn were gradually enlarged until, by the OS map of 1971, the large range of buildings that are currently on site, including the garage to the south, can be identified. Although the Council has referred to some of these buildings as 'unauthorised', they have therefore gained immunity from enforcement action through the passage of time and had done so before The Elms was listed.

Reasons

Ground (c)

10. In respect of the curtilage issue, the case of *AG ex rel Sutcliffe v Calderdale BC [1983] JPL 310* identified three factors which have to be taken into account when considering whether land or structures fall within the curtilage of a listed building. These are the physical layout of the listed building and the land or structure, the ownership, past and present and their use and function, past and present.
11. It is the case that, at one time, there was a clear link between The Elms and the barn in terms of ownership and function. The Elms pre-dates the barn but the ancillary building was constructed to serve the needs of the farming operation that was taking place on the land and was run from the farmhouse.
12. However, the situation at the date of listing is also an important determining factor and a number of significant changes had taken place before The Elms was listed in 1984. By that time, the original farm holding had been separated into 2 parcels of land, the house and the agricultural holding, and these were individually recorded with the Land Registry. The house, together with an area of garden and a vehicular entrance from Upper Tockington Road, was owned by the appellant's parents, as noted above.
13. This building was in a purely residential use and there was no financial or functional link between the property and the farming business operated by the appellant on the land that forms the other unit. The farm office was in the building attached to the barn and the barn was used for agricultural storage.
14. I consider, therefore, that the barn was not making any contribution to the residential use of The Elms at the time of listing and there were no functional links between it and the listed building. Although the buildings are relatively close to each other this is the case with many groups of historic buildings. The barn was not considered suitable for listing in its own right and is now further visually separated from the house by development erected before listing took place, reducing any perception that the buildings are part of a single unit. The buildings were in different ownerships and the combination of all these factors indicates that the curtilage of The Elms had ceased to include the neighbouring farm property before listing occurred.
15. Consequently, I find that the barn is not a curtilage listed structure, the appeal on ground (c) succeeds and the listed building enforcement notice is quashed. The appeals on grounds (e) and (g) do not therefore need to be considered.
16. However, this finding does not affect the status of the alterations that have been carried out to the barn in respect of the Town and Country Planning Act 1990 (as amended) or the change of use to offices that has taken place in recent years. There is no planning application for these developments for me to consider in this appeal and I therefore make no comment on their merits, which will need to be resolved between the appellant and the Council.

Katie Peerless

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Gregory Beale	Planning Heritage Ltd. Agent
Mr Bruce Farr	Appellant
Mr James Farr	Appellant's son and employee of Elms Farm

FOR THE LOCAL PLANNING AUTHORITY:

Mr Neil Howat	Planning Enforcement Officer, South Gloucestershire Council
Mr Robert Nicholson	Planning and Conservation Officer, South Gloucestershire Council

DOCUMENTS

1 Letter of notification and circulation list

PHOTOGRAPHS

A Photograph of barn area where former lean-to was located

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