

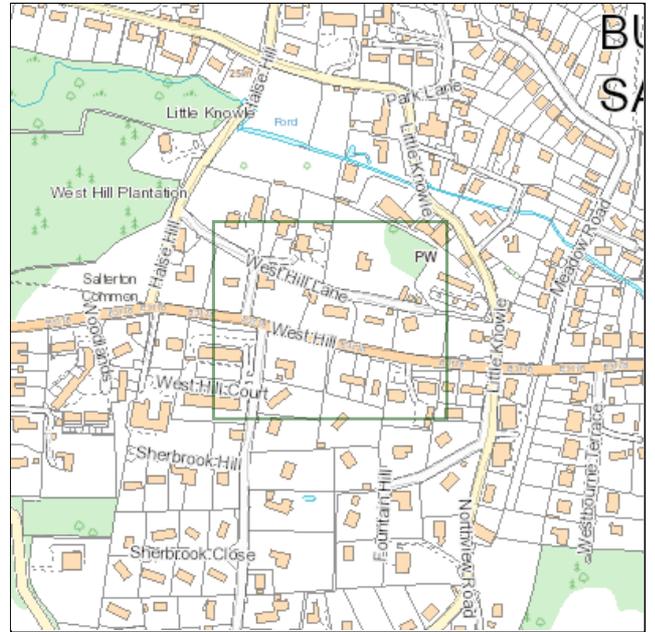
Ward Budleigh and Raleigh

Reference 19/F0454

Applicant

Location Rosehill 30 West Hill Budleigh Salterton EX9 6BU

Proposal 1 metre wall constructed within curtilage of listed building without planning permission and where no permitted development right exist.



RECOMMENDATION: That no further action be taken



		Committee Date: 17th March 2021
Budleigh Salterton	19/F0454	Target Date: 12.02.2021
Location:	Rosehill, 30 West Hill, Budleigh Salterton	
Planning Breach:	1 metre wall constructed within curtilage of listed building without planning permission and where no permitted development right exist.	

RECOMMENDATION:	That no further action be taken.

EXECUTIVE SUMMARY

This enforcement matter is before Members having been referred from Chair Delegation for consideration.

A 1m high rendered wall (with climbing plants) has been constructed within the curtilage of the listed building without the benefit of planning permission. Listed Building consent is not required as the wall is not attached to the listed building.

Following receipt of an enforcement complaint, the enforcement officer for the area has followed up on the lack of planning permission and requested the submission of a planning application on a number of occasions. No planning application being received.

National and local guidance in relation to enforcement states that formal action should only be taken whether it is proportionate and in the public interest where harm is being caused. It is clear from the guidance that formal action should not be taken simply to regularise the lack of planning permission, where no harm is occurring and/or where permission would otherwise be granted.

In this instance the wall is only 1m high and of an appropriate render finish to match the listed building and outbuilding. Whilst the wall is visible from West Hill Lane, it is located in a yard/parking/turning area and does not appear out of place.

Given the lack of wider harm from the proposal, it is considered that planning permission would be granted if a planning application were submitted. In light of this, it is not expedient or in the public interest to pursue the matter further and as such it is recommended that no further enforcement action be taken.

CONSULTATIONS

Local Consultations

Budleigh and Raleigh Ward – Cllr Tom Wright

Thank you for sight of the report. The wall is in keeping with the main buildings has been enhanced by planting and I think the decision is eminently sensible.

Budleigh and Raleigh Ward – Cllr Alan Dent

Thank you sight of this report.

I know the area well and am happy to support your recommendation that no further action be taken.

Further comment:

Happy to support the recommendation that no further action is to be taken.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

EN9 (Development Affecting a Designated Heritage Asset)

East Devon District Council Local Enforcement Plan

National Planning Policy Framework

National Planning Practice Guidance

Site Location and Description

Rosehill is a Grade II listed detached property off West Hill in Budleigh Salterton. The site is well screened from the main road by a boundary wall and fencing. There is also access to the rear of the dwelling off West Hill Lane.

To the east of the main house is a single-storey, flat-roofed, outbuilding in use as a separate dwelling. This is set down from West Hill Lane by approximately 1.5m.

The breach of planning relates to a wall constructed between the main listed building and the outbuilding.

Background

An enforcement complaint was raised with the Central Planning Team on 23rd August 2019 stating that a wall had been constructed within the curtilage of Grade II Listed property, Rosehill 30 West Hill, Budleigh Salterton.

On 16th September 2019 the Planning Enforcement Officer for the area visited the property and noted that a rendered wall 1 metre in height had been constructed within the curtilage of the property Rosehill. The Officer noted that the wall incorporated a timber bar gate which allows access to the property Sunset Cottage. The Officer noted that the wall divided the Grade II Listed property Rosehill and the property, Sunset Cottage (converted former garage/spar room). The wall effectively separating the two dwellings. Ms Webster also noted the wall was not attached the fabric of the Grade II Listed property Rosehill.

Sunset Cottage was converted to a residential dwelling in 2010 however it's does not benefit from planning permission, as planning permission to convert the former/garage spare room was never applied for, however the owner did apply for a Building Control Certificate for the conversion, which was approved in 2010 (10/IN0008 Alteration to form Annex).It is also noted that Sunset Cottage has been registered for Council Tax since 2011.

The wall has been finished and to soften the white rendered wall the owner has planted plants which will over time cover the wall. However despite the Enforcement Officer sending numerous letters to the owner requesting a retrospective planning application to retain the wall, and giving a reasonable time for submission of the application due to Covid19 restrictions, no application has been received.

Analysis

Planning permission is required for the wall because it is within the curtilage of a listed building so does not benefit from permitted development rights. Listed building consent is not required as the wall is not attached to the listed building.

Policy EN9 of the Local Plan states that developments which affect heritage assets such as listed buildings will not be permitted where there is substantial harm to the heritage asset, or where there is less than substantial harm but there are wider public benefits to the proposal that outweigh the harm.

Policy D1 seeks to ensure that the visual amenity of an area is protected.

In this instance it is considered that there is no wider visual harm and harm at all to the setting of the listed building due to its location set back from the road, in part the low height of the wall, its distance from the listed building and the materials used. It is therefore highly likely that planning permission would be granted for the wall if a planning application were to be submitted.

The National Planning Policy Framework states the following in relation to Enforcement:

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breached of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

The East Devon District Council Local Enforcement Plan which details how enforcement matters will be dealt with states at paragraph 5.19 that:

“The Council will take enforcement action when it is essential to maintain public safety, the character and appearance of the area, the area’s social and economic well-being and to preserve the natural and built environment. The impact of developments varies greatly and enforcement action should be proportionate to the specific breach.

Paragraph 5.20 of the East Devon Local Enforcement Plan states that:

“Enforcement action will not be taken merely to rectify an absence of planning permission if it is likely that planning permission would have been granted for the development or where there is no loss of public amenity.”

The guidance in the Local Enforcement Plan follows national guidance in the National Planning Practice Guidance which states the following in relation to Enforcement at Paragraph 011:

“Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where: There is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding

area; Development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;”

Whilst it is obviously disappointing that the owner of the property has decided not to regularise the situation through submission of a planning application, in this instance, officers conclude that this constitutes a technical breach of control where no material harm to the nearby heritage asset, or amenity of the neighbour or wider area occurs.

In light of the guidance in the National Planning Practice Guidance and Local Enforcement Plan, in the absence of any harm, it is recommended that a “Technical Breach” is recorded against the property and that no further enforcement action be taken.

The enforcement complaint will remain on the property and may become an issue should the owner seek to sell the property in the future. If it does, or even beforehand, a planning application may be submitted.

RECOMMENDATION

That no further action be taken against this breach of planning

List of Background Papers

Application file, consultations and policy documents referred to in the report.