

Item: 3.3

Planning Committee: 4 September 2019.

Demolish Concrete Wall, Erect Replacement Stone Wall and Install Railings and Gates (Part Retrospective) (amendment to 16/286/LB) at Ivy House, 43 Albert Street, Kirkwall.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

This proposal relates solely to the courtyard boundary wall fronting Ivy House, also known as Patrick Traill's House, at 43 Albert Street, Kirkwall. This building is a category 'B' listed building, described within the Historic Environment Scotland listed building entry as '43 Albert Street, (I), Patrick Traill's House, including boundary walls', and is in the heart of Kirkwall Conservation Area. The listed building consent application is part retrospective in nature as works approved in relation to previous Listed Building Consent 16/286/LB have been exceeded through the total loss of the previously extant wall with a new random coursed stone wall with dressed and drilled sandstone cope and vertical end stones at the gateway having been constructed to date. Further works proposed include the addition of wrought iron railings, a gate and final pointed finish to the main body of the wall. This application therefore seeks to regularise the works completed to date and conclude the development through finishing the stonework and installing the railings and a gate. One objection has been received on the grounds of procedural failings and lack of sufficient detail of works as proposed. No objection has been raised from any statutory consultee. The objection is of insufficient weight to merit refusal and was received prior to additional information being provided by the applicant during consideration of the application. It is considered that the development accords with Policies 1, 2 and 8 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

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| Application Numbers: | 19/261/LB. |
| Application Types: | Listed Building. |
| Proposal: | Demolish concrete wall, erect a replacement stone wall, and install railings and gates (part retrospective) (amendment to 16/286/LB). |
| Applicant: | Mr Colin Richards, Ivy House, Albert Street, Kirkwall, Orkney KW15 1HQ |
| Agent: | N/a |

1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm
(then enter the application number given below).

2. Consultations

Consultees have not objected or raised any issues which cannot be addressed by planning conditions.

3. Representations

3.1.

One objection has been received from:

- Mr Leslie Sinclair, 31A Broad Street, Kirkwall, Orkney KW15 1DH.

3.2.

The objection is made on several grounds including the loss of the previous wall without appropriate investigation and necessary application, together with a lack of detail and accuracy in the specification and design of the replacement wall in relation to materials, fixings, relationship to adjoining building(s), design and placement on site. The objection is considered to be technical in context, on matters of procedure and quality of application as presented. This representation was made prior to additional information being provided, which is considered in larger part to address matters of specification.

4. Relevant Planning History

| Reference. | Proposal. | Location. | Decision. | Date. |
|------------|--|--|-----------|------------|
| 16/286/LB | Paint courtyard boundary wall and install metal railings and gates and install replacement gates to rear lane. | Ivy House (Land Near), 43 Albert Street, Kirkwall, Orkney, KW15 1HQ. | Consented | 01.08.2016 |

5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 8 – Historic Environment and Cultural Heritage.
- Supplementary Guidance and Planning Policy Guidance:
 - Supplementary Guidance: Historic Environment and Cultural Heritage (2017).

6. Legal Aspects

6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”

6.2.

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

6.3.

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

7. Assessment

7.1. Site and Proposal

7.1.1.

The proposal solely concerns the courtyard wall and elements relative thereto at 43 Albert Street, Kirkwall. This is a ‘B’ listed building, noting that the listing description from Historic Environment Scotland specifically records the wall in question as follows:

“BOUNDARY WALLS: low sandstone walls along Albert Street, enclosing courtyard.”

7.1.2.

Beyond the Historic Environment Scotland description of the wall, as noted above, no intrusive investigation on the nature of construction of the wall at the time of the previous application, nor in advance of works commencing as previously consented, was undertaken. The previous listed building consent, number 16/286/LB, was specifically to repaint the rendered walls of the courtyard boundary wall and to reintroduce the historic detail of railings along with a replacement gate, in the belief that the construction of the wall was as per the Historic Environment Scotland description. As such, no intrusive investigation was undertaken prior to submission of the previous listed building consent noting that the intention was reintroduction of railings and the painting of the wall. Upon instigation of works it was found that the wall was poor quality rendered concrete blockwork, believed to date to the middle of the 20th century.

7.2.

No historic material was stated as having been found, and as the blockwork was in such poor condition, it was removed, citing the unsightly nature of the wall following intrusive investigation and the weak nature of the blockwork posing a potential hazard. Weathered Orkney stone was subsequently sourced, and the wall rebuilt to reflect the previous wall in relation to height, width and form in advance of installation of the railings. The applicant was made aware that a further listed building consent application was required to address the significant material change arising and to regularise works undertaken to date. Following a reasonable and balanced approach to enforcement, seeking to regularise unauthorised works where such may be considered favourably, is established planning practice.

7.3.

The applicant has indicated that the intention was only ever to reinstate a historic detail. The applicant also indicates that whilst a coursed stone finish does not reflect the wall as demolished, nor as historically accurate in relation to proposed finish given the historic photographs provided in support of the application, a pointed coursed stone wall of weathered Orkney stone would be acceptable. It is noted that the set of circumstances outlined and the works to date have resulted in a higher quality outcome than retaining a block-built wall in situ. Furthermore, coursed stone walls with sandstone cope are not uncommon in Kirkwall and would complement the character and appearance of the listed building. It is also noted that there has been no objection nor substantive comment from Historic Environment Scotland in relation to this or the earlier listed building consent application. It is also considered that there is sufficient information as presented by the application to understand the intention and execution of the proposed works in relation to established planning practice. The applicant therefore wishes to achieve a pointed stone finish rather than a painted, rendered finish as previously consented.

7.4.

The previous application, 16/286/LB, accepted the reintroduction of railings and established the rationale for this element of the proposed development. The principle of the proposed railings and gate has therefore been established. It is, however, of

interest to note evidence of railings atop the wall pre-date the listing of the building (08/12/1971) with photographic evidence supplied of such within supporting information. In the course of consideration of the current application a slight amendment to the total height of railings to 1700 mm from ground level has been indicated to aid public safety given the originally proposed height and design of the proposed finials on the railings. This alteration is not considered significant in the context of the listing, as it regards a wholly new element of built fabric as previously consented. It is also not considered to have sufficient material weight to require further procedural consideration. This change is restricted solely to the total height of the railings and gate being increased by approximately 300mm, from 1400mm to 1700mm, and is viewed positively in relation to public safety by placing the railing tops at, or above, typical head height. The fixing of the railings to adjoining buildings is proposed through use of non-corrosive fittings finished to blend in with the railings and gate. Consideration remains consistent with the assessment of this element of the development from that undertaken previously. This is notwithstanding the increase in relative height of the proposed railings and gate, which is not considered to alter the nature of the proposal significantly. The proposed railings and gate are considered to be an improvement to the character and appearance of the conservation area with no loss to the historic fabric of the listed building.

7.5. Listed Building

As a listed building it is imperative that works are sympathetic and protect the special interest of the building. The record of the boundary wall as referenced within the Historic Environment Scotland listing as an element of the overall description of the listed building has been found to be deficient given that the wall extant at the time of the previous application was found not to be sandstone but a modern block-built wall. It could however be reasonably stated that the form and placement of this low wall does enhance the setting of the listed building, in particular its swept form and sense of enclosure provided to the small courtyard in relation to 43 Albert Street. The proposed reinstatement of the demolished block-built wall with a wall of coursed stone finished with dressed sandstone cope, wrought iron railings and matching gate is considered to significantly add to the character and aesthetic of the setting of the listed building. It is therefore considered that the special architectural and historic interest of the listed building would be protected.

8. Conclusion

8.1.

The proposal does introduce significant visual and material change to the appearance of the 'B' listed courtyard wall at 43 Albert Street, Kirkwall. The total loss of the previous courtyard wall is acknowledged with mitigation presented, however this wall was not historic in nature, was poor quality modern blockwork and did not reflect the visual description of this element of the listing when subject to intrusive investigation. Unauthorised works to a Listed Building, without listed building consent, is an offence. Provision exists for retrospective listed building consent to regularise any such unauthorised works such as is the case in this instance.

8.2.

It is apparent that the applicant has pursued a high-quality replacement wall in coursed natural stone, built to a good standard which reflects the low and sweeping curved form of the previous wall. The applicant contends that they wish to complete the wall in relation to the previously approved listed building consent in relation to the addition of railings and replacement gates, albeit at a slightly increased height. Furthermore, they are keen to secure a pointed stone finish rather than a painted render finish. Whilst it is considered unfortunate that the total loss of the wall and substantial construction of the new wall has occurred prior to listed building consent being sought, the quality of the workmanship and the net improvement in the quality and appearance of materials used and as proposed are considered as beneficial and sympathetic to the character and appearance of the listed building.

8.3.

The proposal is considered to have no adverse impact on the special architectural and historic interest of the listed building. The objection received is not of sufficient weight to merit refusal and neither does it account for the revisions made to the proposal in the processing of the application. The development accords with Policies 1, 2 and 8 of the Orkney Local Development Plan 2017. Accordingly, the application is **recommended for approval**, subject to the condition attached as Appendix 1 to this report.

9. Contact Officer

David Barclay, Senior Planner, extension 2502, Email david.barclay@orkney.gov.uk.

10. Appendix

Appendix 1: Planning condition.

Appendix 1.

01. The development hereby approved shall be finished in accordance with the Wall/Gate/Railings Specification unless otherwise agreed, in writing, by the Planning Authority.

Reason: To ensure that the works are constructed and finished in an appropriate manner to protect the special architectural and historic interest of the listed building.