

**North Northamptonshire Area Planning Committee
(Wellingborough)
24 May 2023**

Application Reference	NW/23/00097/LBC	
Case Officer	Mr Chris Law	
Location	Boundary Wall Manor House Close Earls Barton	
Development	Listed Building Consent for the wall and pier to be carefully taken down, the land behind be regraded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction	
Applicant	Mr Jason Farr	
Agent	Mr David Smith	
Ward	Earls Barton Ward	
Overall Expiry Date	18 April 2023	
Agreed Extension of Time	26 May 2023	
Checked	Senior Development Management Officer	Debbie Kirk

Scheme of Delegation

This application is brought to committee because it falls outside of the council's scheme of delegation because more than 5 objections have been received and an objection has also been received from Earls Barton Parish Council.

1. Recommendation

- 1.1 That listed building consent be **GRANTED** subject to the conditions listed at the end of the report

NW/23/00097/LBC




 North Northamptonshire Council




Scale:
 1:1,250

ICT Services
 This map is accurate to the scale specified when approved # 00

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Legend


 NW/23/00097/LBC Boundary Wall, Manor House Close, Ears Barton

2. The Application Proposal and Background

2.1 This application seeks listed building consent for the taking down and rebuilding of a section of the listed boundary wall at Manor House Close, fronting High Street in Earls Barton, due to the wall's poor condition. The works also involve regrading a section of the land to the rear of the wall to ensure the wall returns to being a boundary wall only and not a retaining wall. The works include the removal of a horse chestnut tree to the rear of the wall and details of a replacement tree have been provided.

2.2 The applicant has provided a plan to show the extent of the regrading works, a method statement, a heritage statement and a structural condition survey. An application for planning permission has also been submitted alongside this application under reference NW/23/0096/FUL.

3. Site Description and Surroundings

3.1 The application site fronts the High Street in Earls Barton to the north of the village centre and consists of a section of 2.1-metre-high brick wall running from the north east side of the right hand gate pier along the frontage of the Manor House Close flats. The wall is constructed in red/orange bricks with copings with a panelled ashlar gate pier to the north east. This application relates to the rebuilding of the brick wall and gate pier. The remainder of the wall to the north west has already been granted listed building consent and planning permission for the same works under references NW/22/00837/LBC and NW/22/00836/FUL.

3.2 The regrading of the land behind the wall will result in a newly formed slope which would start 0.5 metres from the north elevation of the wall. The level of the ground at the bottom of the slope and to the north of the wall would match the footpath on the opposite side of the wall.

3.3 The wall and gate pier are within the Earls Barton Conservation Area and are Grade II listed structures. The list entry reads as follows:

EARLS BARTON HIGH STREET SP8563 (North side) 20/18 Wall and gatepier approx 15m. 02/08/72 NW of The Manor House (Formerly listed as Garden wall and gatepiers to No.31)

GV II

Wall and gatepier. Late C18/early C19. Brick with ashlar coping and panelled ashlar gatepier attached to right. Forms pair with wall and gatepier approx. 15m. north-east of The Manor House.

Listing NGR: SP8537463946

4. Relevant Planning History

WP/14/00276/TCA	Approved G1. Goat Willow consisting of 4 No. stems; sectionally dismantle to ground level T1. 1 No. Maple; pollard crown at a height of 4m to suitable unions.	09.06.2014
WP/17/00006/FUL	Approved with conditions Restoration and alterations of rear outbuilding for use as gym with shower room, associated rest area and a storeroom and provide parking in the rear garden.	28.02.2017
WP/17/00007/LBC	Approved with conditions Restoration and alterations of rear outbuilding for use as gym with shower room, associated rest area and a storeroom and provide parking in the rear garden.	28.02.2017
NW/22/00128/FUL	Application withdrawn/undetermined Planning permission to carefully take down an existing listed boundary wall and rebuild a section of the boundary wall fronting the High Street.	17.05.2022
NW/23/00008/TCA	Approved T1. Sycamore; re-pollard crown to previous pollard points at a height of approximately 5m.	08.02.2023
NW/23/00096/FUL	Determination pending. The wall and pier to be carefully taken down, the land behind be regraded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction.	
WP/1997/0337	Approved with conditions Demolition of lean-to brick barn	03.09.1997
WP/1993/0250	Approved with conditions Creation of dwelling and curtilage separate from no. 76 High Street, Earls Barton	08.09.1993
BW/1987/0011	Approved with conditions Installation of bathroom and toilet	25.02.1987
BW/1985/0935	Approved with conditions 5 replacement windows to front elevation	20.11.1985
BW/1984/0070	Approved with conditions Alterations and improvements to provide living	06.03.1984

	accommodation and replacement of window frames	
BW/1989/0399	Refused Erection of 4 no. dwellings with garages and construction of access drive.	19.05.1989
BW/1988/1151	Application withdrawn/undetermined Alterations to form additional dwelling unit	14.02.1989
BW/1988/1150	Application withdrawn/undetermined Alterations to form additional dwelling unit	06.12.1988
WP/2002/0058	Application withdrawn/undetermined Erection of one detached house and garage	24.04.2002

5. Consultation Responses

A full copy of all comments received can be found on the Council's Website <https://www.wellingborough.gov.uk/viewplanningapplications>

5.1 Earls Barton Parish Council

Earls Barton Parish Council objects to this application as it will result in the loss of a mature horse chestnut tree which has ecological value. However, should an alternative option be found that allows the tree to remain despite work being carried out to repair the wall, we would ask that a tree planting scheme is agreed to mitigate against the loss, and that the scheme should include the planting of a semi-mature, heavy standard tree.

5.2 Neighbours/Responses to publicity

At the time of writing, 2 letters of support from the same household and 67 letters of objection have been received. A petition signed by 770 people titled 'Save the Earls Barton Conker Tree' has also been received. A large number of the comments received relate to the removal of the horse chestnut tree and are therefore considered under the associated application for planning permission under reference NW/23/00096/FUL.

Support

The comments received in the support letter are summarised below:

- The repair of a listed wall should surely always take priority especially as it is a statutory requirement which cannot be ignored.
- Other options have been undertaken to look at all the options to keep the tree including a retaining wall in front which would be unsightly.
- the tree is coming towards the end of its natural life and is poorly situated on a small raised piece of (private) land with neither of the walls, on either side, able to hold the tree if it were to fall.
- should the tree fall it could cause considerable damage, even large branches when falling can cause considerable damage.
- It has also been suffering with leaf blight for the last two years which has seriously impacted its ability to photosynthesise. The main trunk also has some early signs of disease which should not be ignored.

Object

The comments received in objection to the application can be summarised as follows:

- please save the tree, it is more important to local people than a wall that has been allowed to fall into disrepair
- the tree should not be removed as we are in a climate emergency
- the tree provides a habitat for animals
- the replacement tree would not adequately compensate for the loss of the horse chestnut and would take many years to grow as large
- the tree is important to local people have memories of collecting conkers
- the tree is not believed to be diseased and leaf miner would have little impact on an established tree of this age
- tree is home to wildlife, offers shade, absorbs pollutants and helps prevent flooding
- removal of the tree will negatively affect the area's ecological value and important environmental health
- the tree adds to the aesthetics of the landscape and local amenity
- please look at other options to repair the wall and retain the tree
- a retaining wall in front of the existing wall should be built which would retain the existing wall and tree
- options to de-list the wall should be explored
- the applicant is giving the impression that there are no other alternatives to removing the tree based on advice from Place Services due to the impact on the conservation area which has already been impacted by the removal of other trees and exposing the view of the flats
- the tree could be replanted elsewhere

5.3 Historic England

Historic England provides advice when our engagement can add most value. In this case Historic England are not offering advice. This should not be interpreted as comment on the merits of the application. Historic England recommend the local planning authority seek the views of their specialist conservation and archaeological advisers.

5.4 NNC Senior Built Heritage Consultant

The proposals are considered to enhance and better reveal the significance of the listed structure and future-proof against further deterioration and damage.

There are no objections to the proposals which are in full compliance with Section 16 of the NPPF, and chapter 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5.5 NNC Assistant Archaeological Advisor

Has nothing further to add to my comment of 18/01/2023, which should be understood to stand.

Officer note: The above refers to comments made to listed building consent reference NW/22/00837/LBC and planning permission reference NW/22/00836/FUL for the adjacent wall but apply to this application too. The comments are as follows:

The proposed development will have a detrimental effect upon surviving heritage assets. Such effects do not represent an over-riding constraint to development provided that adequate provision is made for the investigation and recording of those assets affected. In order to secure this please attach a suitable condition for a programme of archaeological work as recommended above and in line with NPPF paragraph 205 to any permission granted in respect of this application.

The condition wording is provided.

5.6 Wellingborough Civic Society

There seems to be strong local feeling against the felling of the mature horse chestnut tree. The Society would like the plans for the demolition and rebuild, to be looked at again, to see if there is an alternative way, so that the tree could be saved.

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 National Policy

National Planning Policy Framework (NPPF) (2021)
National Planning Practice Guidance (NPPG)
National Design Guide (NDG) (2019)

6.3 Planning (Listed Building and Conservation Areas) Act 1990

Sections 66 and 72 (1)

6.4 North Northamptonshire Joint Core Strategy – Part 1 of the local plan (JCS)

Policy 2 (historic environment)

7. Evaluation

7.1 The proposal raises the following main issues:

- effect on a Grade II listed building
- effect on the Earls Barton Conservation Area
- conditions.

Effect on a Grade II listed building

7.2 The Council is required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

7.3 Policy 2 of JCS sets out the policy background for the protection, preservation and enhancement of the historic environment. Part 2 (a) is clear that proposals should conserve and, where possible, enhance the heritage significance of an asset

in a manner commensurate to its significance. Part 2 (b) states that proposals should complement their surrounding historic environment through their form, scale, design and materials proposed. Part 2 (d) is clear that proposals should demonstrate an appreciation and understanding of the impact of development on heritage assets and their setting in order to minimise harm.

7.4 With regards the NPPF, chapter 16 sets out the government's advice on conserving and enhancing the historic environment. Paragraph 202 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.5 The NNC senior built heritage advisor has visited the site and discussed the rebuilding of this section of the wall with the applicant and their structural engineers at the pre-application stage. The comments received are as follows:

“The proposals relate to the Grade II listed Wall and Gatepier Approximately 15 Metres North East of the Manor House (List Entry Number: 1040801). The wall is also located in close proximity to the Grade II listed Wall and Gatepier Approximately 15 Metres North West of the Manor House (List Entry Number: 1294248) with which it has group value and has the potential to be impacted through change within its setting. In addition, the walls and gatepiers are also located within the Earls Barton Conservation Area and in close proximity to the Grade II listed Manor House (List Entry Number: 1040802) and the Grade II listed Stags Head Public House which also have the potential to be impacted through change within their setting.

In statutory terms the significance of the heritage assets has been recognised by their designation as a Grade II listed building and a conservation area, which reflects their ‘special interest’. The Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act 1990) states that Local Planning Authorities have a statutory duty to ‘have special regard to the desirability of preserving the [listed] building or its setting or any features of special architectural or historic interest which it possesses’ and to ensure that ‘special attention shall be paid to desirability of preserving or enhancing the character or appearance of that [conservation] area.’

Furthermore, paragraph 199 of the National Planning Policy Framework (NPPF) states:

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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The proposals are considered to enhance and better reveal the significance of the listed structure and future-proof against further deterioration and damage.

There are no objections to the proposals which are considered to be in full compliance with chapter 16 of the NPPF, and Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.”

7.6 The NNC Assistant Archaeological Advisor has also provided the following comments:

“The application site is the High Street boundary wall to Manor House Close which, as the name suggests was formerly the site of a Manor House with which the wall was associated. The wall was built in 1783-1793 as a gate and boundary wall to the Manor House, also known as Barton Hall or Barton House.

The proposed works result from a Building Control Department inspection, which concluded that the wall was sufficiently unsafe to be considered a dangerous structure. Consequently, the wall requires demolition and reconstruction. The heritage significance of the asset may be preserved through reconstruction using salvaged bricks and stone following demolition.

It is recommended that a programme of historic building recording to Level 2 as defined in Understanding Historic Buildings (Historic England 2016) is undertaken during the works to enhance the existing record represented by the research undertaken in connection with the supplied Heritage Statement (MOLA 2022) and record any construction details or other features. A programme of Observation, Investigation, Recording, Analysis and Publication (OIRAP) may also be a useful component of any package of mitigation measures depending on observation made of the site following demolition of the wall.

The proposed development will have a detrimental effect upon surviving heritage assets. Such effects do not represent an over-riding constraint to development provided that adequate provision is made for the investigation and recording of those assets affected. In order to secure this please attach a suitable condition for a programme of archaeological work as recommended above and in line with NPPF paragraph 205 to any permission granted in respect of this application.

The standard condition is worded as follows:

Condition:

No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) fieldwork in accordance with the agreed written scheme of investigation;
- (ii) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority);
- (iii) completion of post-excavation analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the Planning

Authority, completion of an archive report, and submission of a publication report to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded, and the results made available, in accordance with NPPF paragraph 205'.

NNC would Assistant Archaeological Advisor be happy to provide a brief for the programme of work.”

7.7 Due to the poor condition of the wall, the taking down and rebuilding of the wall is required. This results in substantial harm to the listed structure however the NNC senior built heritage consultant and the NNC assistant archaeological advisor are satisfied that the works proposed are acceptable subject to conditions to be provided in relation to replacement materials and an archaeological condition as described above.

7.8 It is also recommended that a condition is imposed to ensure the works are completed in accordance with the submitted method statement and heritage statement.

7.9 The large number of objections received relate mainly to the retention of the tree rather than the listed wall. Whilst it has been acknowledged by a number of objectors that the tree is more important to the community than the listed wall, there is a statutory responsibility on the local planning authority to protect the wall due to its designation as a listed structure. The applicant has investigated a number of different options to rebuild the wall without impacting upon the tree however it is not considered possible. The issues surrounding the removal of the tree are fully assessed within the associated report for the application for planning permission under reference W/23/00096/FUL.

7.10 Subject to the aforementioned conditions it is considered that the proposal is acceptable with regards to the effects on the architectural and historic interest of the listed structure and is compliant with policy 2 (a), (b) and (d) of the JCS and advice contained within chapter 16 of the NPPF in this regard and sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Effect on the Earls Barton Conservation Area

7.11 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a decision maker to pay special attention to the need to preserve and enhance the character or appearance of a conservation area.

7.12 Policy 2 of the JCS sets out the policy background for the protection, preservation and enhancement of the historic environment.

7.13 With regards the NPPF, chapter 16 sets out the government's advice on conserving and enhancing the historic environment. Paragraph 207 informs that not all elements of a conservation area will necessarily contribute to its significance.

7.14 Paragraph 201 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph

goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.15 The courts have held (*South Lakeland DC v Secretary of State for the Environment*, [1992] 2 WLR 204) that there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve.

7.16 Whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

7.17 The rebuilding of the wall will have a positive impact upon the character and appearance of the conservation area as it is currently in very poor condition. The works therefore represents an improvement on the current situation and there are substantial public benefits from the rebuilding of the wall as it has an immediate boundary with the adjacent pavement. The regrading of the land behind the wall is not considered to have a detrimental impact upon the Earls Barton conservation area.

7.18 The NNC senior built heritage consultant raises no objections to the scheme for the reasons previously stated and subject to a condition on replacement materials being imposed.

7.19 The development is therefore be considered acceptable in terms of its effects on the setting of Earls Barton conservation area.

Conditions

7.20 The Planning (Listed Buildings and Conservation Areas) Act 1990 at section 17 allows conditions to be imposed on a listed building consent for:

- (a) the preservation of particular features of the building, either as part of it or after severance from it;
- (b) the making good, after the works are completed, of any damage caused to the building by the works;
- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

7.21 Paragraph (2) of the section states that a condition may also be imposed requiring specified details of the works (whether or not set out in the application) to be approved subsequently by the local planning authority.

8. CONCLUSION/PLANNING BALANCE

8.1 The proposed development is consistent with the provisions of the JCS, specifically policy 2 (a), (b) and (d), and advice contained within chapter 16 of the NPPF, in relation to conserving the historic environment. In the absence of any contrary material considerations, it is recommended that the proposal be granted listed building consent, subject to conditions.

9. RECOMMENDATION

9.1 That listed building consent be **GRANTED** subject to the following conditions:

10. Conditions

1. The development shall be begun not later than the expiration of three years beginning with the date of this consent.

Reason: To prevent the accumulation of listed building consents; to enable the local planning authority to review the suitability of the works in the light of altered circumstances; and to conform with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following drawings/details:

Drawing No. 21/45663/SK02 - Site Location Plan (registered 21 February 2023)

Drawing No. 21/45663/02 Rev P1 - Site Plan, Section and Method Statement (registered 21 February 2023)

Drawing No. 21/45663/03 Rev P1 - Tree Replacement Plan (registered 26 April 2023)

Structural Inspection Report (ref. DS/21/45663/MH) by David Smith Associates dated 13 August 2021 (registered 18 February 2023)

Arboricultural Report (ref. 4502) by Wilby Tree/BHA Trees dated 24 June 2022 (registered 21 February 2023)

Arboricultural Impact Assessment (ref. 4502B) by Wilby Tree/BHA Trees dated 24 June 2022 (registered 21 February 2023)

Reason: To define the permission and to conform with the requirements of The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009.

3. Notwithstanding the approved details in condition 2, the development hereby approved shall be carried out in accordance with the method statement provided on Drawing No. 21/45663/02 Rev P1.

Reason: To preserve the character and special interest of the listed structure, in accordance with policy 2 (b) of the North Northamptonshire Joint Core Strategy.

4. Prior to their first use on site details of any replacement materials shall be submitted to and agreed in writing by the local planning authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.

Reason: To preserve the character and special interest of the listed structure, in accordance with policy 2 (b) of the North Northamptonshire Joint Core Strategy.

5. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:
- (i) fieldwork in accordance with the agreed written scheme of investigation
 - (ii) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the planning authority);
 - (iii) completion of post-excavation analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the planning authority, completion of an archive report, and submission of a publication report to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the planning authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded, and the results made available, in accordance with policy 2 (d) of the North Northamptonshire Joint Core Strategy and paragraph 205 of the National Planning Policy Framework.

11. INFORMATIVE/S:

1. In accordance with the provisions in the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2012 and pursuant to paragraph 38 of the National Planning Policy Framework, where possible and feasible, either through discussions, negotiations or in the consideration and assessment of this application and the accompanying proposals, the Council as the local planning authority endeavoured to work with the applicant/developer in a positive and proactive way to ensure that the approved development is consistent with the relevant provisions in The Framework.

2. The North Northamptonshire Council encourages all contractors to be 'considerate contractors' when working in our district by being aware of the needs of neighbours and the environment. Prior to the commencement of any site works, it is good practice to notify neighbouring occupiers of the nature and duration of works to be undertaken.

To limit the potential detriment of construction works on residential amenity, it is recommended that all works and ancillary operations which are audible at the site boundary during construction should be carried out only between the following hours: 0800 hours and 1800 hours on Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.