
Appeal Decisions

Site visit made on 6 December 2016

by Jacqueline Wilkinson Reg. Architect IHBC

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

Decision date: 08 February 2017

Appeal A Ref: APP/U1620/W/16/3154778
18 Brunswick Square, Gloucester, GL1 1UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Watson against the decision of Gloucester City Council.
 - The application Ref 15/00894/FUL, dated 17 July 2015, was refused by notice dated 8 June 2016.
 - The development proposed is conversion of the existing listed building into 8 single flats, demolition of the existing storage shed to the rear and erection of a replacement building to provide 5 additional flats.
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Appeal B Ref: APP/U1620/Y/16/3154820
18 Brunswick Square, Gloucester, GL1 1UG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The application Ref 15/00895/LBC, dated 17 July 2015, was refused by notice dated 8 June 2016.
 - The works proposed are conversion of the existing listed building into 8 single flats, demolition of the existing storage shed to the rear and erection of a replacement building to provide 5 additional flats.
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Procedural matter

1. The submitted plans for the proposed conversion show a bathroom for proposed flat 6 within the link to the rear wing, accessed through a new opening. However, due to the difference in floor levels the proposed bathroom could not be accessed as shown. I have sought the appellant's comments on this. He has accepted that the plans would need revision and has submitted a revised plan, requesting that it be taken into consideration. However, the solution would require the insertion of a bathroom into the first floor rear room of the main building, affecting internal decorative features and spatial character of a room of some quality, as identified by the Council's Conservation Officer. This would not be a minor amendment, and as neither the Council nor other interested persons would have had an opportunity to comment, I have therefore assessed these appeals on the basis of the submitted plans.

Decisions

2. The appeals are dismissed.
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Application for costs

3. An application for costs was made by Mr David Watson against Gloucester City Council. This application is the subject of a separate Decision.

Main Issues

4. The main issue for Appeal A is the effect on the living conditions of the adjacent occupiers at 1 Old Tram Road, 9 Albion Street and numbers 17, 16, and 15 Brunswick Square in terms of overshadowing and outlook.
5. The Council has cited the same reason for refusal on both decision notices. However, for Appeal B I am required only to have regard to Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, that is the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
6. Therefore the additional issues for Appeal A and the main issue for Appeal B are i) whether the proposed conversion and development would preserve the listed building, its setting or any feature of special architectural or historic interest which it possesses and ii) whether the proposal would preserve or enhance the setting of the listed building, the adjacent listed buildings and the character or appearance of the Spa Conservation Area.

Reasons

Living conditions

7. *Site Layout Planning for Daylight and Sunlight: A guide to good practice Building Research Establishment (BRE) 2011* is the accepted reference for assessing the effect of developments on adjacent buildings and gardens. With respect to sun-light, it introduces the concept of annual probable sunlight hours which an existing habitable room would receive (section 3.2.11). It also suggests that if any living room window facing within 90° of due south (as at 9 Albion Street) subtends an angle of more than 25° to the horizontal measured from the centre of the window, then sunlight may be adversely affected. A methodology for calculating the effect on annual sun levels over winter and summer is then explained.
8. The submitted plans have been annotated with a before and after effect of the proposed development on the sun reaching adjacent properties at two times of the year (winter and summer solstices, although these are not shown both due south). The diagrams do not include the spring and autumn solstices, but it is evident that there would be an additional loss of sunlight in the winter months to first floor front and ground/first floor side windows to likely habitable rooms at 9 Albion Street. The additional bulk and height of development in close proximity to this dwelling would also adversely affect the aspect from this dwelling. 1 Old Tram Shed Road would face the proposed development at an angle at a further distance. The shadow path indicates a worsening of the winter sunlight levels reaching this dwelling. I am not persuaded by the limited evidence that the living conditions of these occupiers would not be unreasonably affected. In addition, a degree of uncertainty exists over the shadow path analysis, due to the unresolved roof profile, which I discuss later.
9. 17 Brunswick Square is immediately adjacent to the appeal site and its rear area is overshadowed by the existing buildings at present. I have been told

that this site is in office use and the garden area is a car park. The proposed new buildings would effectively create an oppressive wall of development along this boundary and the rear area, all bar a small slot at the end of the site, would be in permanent shadow. This would prejudice the long term possibility of the beneficial return of this listed building to residential use and the enhancement of the rear area.

10. The shadow diagram also shows a significant worsening of sunlight reaching the rear gardens of 16 and 15 Brunswick Square. The BRE Guidelines give a methodology for assessing the impact on gardens (section 3.3.17). Some of these gardens may not receive large amounts of sun at the moment, but without more detailed evidence based on the BRE approach, I am not persuaded that the amenity of these occupiers would be protected.
11. I therefore conclude that the proposal would fail the requirement of policy BE.21 *Safeguarding of Amenity* of the Gloucester City Council Revised Deposit Local Plan 2002. This policy accords with the requirements set out in paragraph 17 of the Framework, *Core Planning Principles* that development should always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.
12. This is an overriding reason for refusal which would prevent the listed building works coming forward. Nevertheless, I have a duty under the Planning (Listed Buildings and Conservation) Areas Act 1990 to assess the effect on the listed building and the conservation area.

Listed building

13. This Grade 2 listed terrace townhouse of 1825 is unusual in that very early in its life, its setting was significantly changed by the erection of the large rear wing by around 1843. The purpose of this dramatic increase in floor area has not been established – one respondent describes it as “a development error of that time”. Nevertheless, the frontage building retains a well preserved plan form, an elegant slender winding staircase and numerous items of special architectural and historic interest within the principal rooms.
14. Information about the works required to carry out the conversion is limited. Neither the application plans nor the Heritage Statement address the technical challenges of subdividing a building of this age and construction into a number of small flats. Fundamental matters such as fire and acoustic separation, means of escape in case of fire, foul drainage, the installation of vertical risers for services, the location of meter boxes, boiler flues and vents and the thermal upgrading of the building, in particular windows, are not addressed. Whilst it would not be reasonable to require full resolution of all these matters at this stage, some written indication or sketch details would give sufficient understanding of the approaches to be taken. Most importantly, there is no indication that the means of escape in case of fire has been clearly resolved and this can have a major impact on the layout.
15. The proposal would also involve creating openings through the structural main rear wall, but there is no structural report to establish that the openings could be made without significant loss of adjacent fabric or affecting the load bearing capacity of the rear wall itself. It is essential that the structural implications of the proposed connections are well understood and that it is established that the

work would not affect the historic windows, shutter boxes and other features at ground and first floor level, which are of high significance.

16. As already explained, the bathroom to proposed unit 6 on the first floor could not be provided within the link as shown on the submitted plans. The appellant's solution would be to move the bathroom into the main rear room, but this would subdivide the room unsympathetically and there is no information about the pipework and drainage routes. This adds to my concerns that the full impact of the proposal on the significance of the listed building has not been sufficiently understood.
17. I note that the proposal was subject to pre-application discussions and that the Council's Conservation Officer accepted the subdivision "in principle" but this was subject to there being no loss original internal features, particularly on the ground and first floors. However, given the lack of a clear understanding of the impact of the proposals on the fabric of the building, I cannot conclude that the internal features would not be adversely affected or that the loss of the historic plan form would be justified.
18. Historic maps show that there was a coach house at the end of the garden which was replaced by a larger single storey building in the late 1920's. The profile of the coach house gable (which was linked to a similar coach house at 17) can be seen in the north wall of this building. The demolition of this rear building, known as the Old Tram Shed, is proposed.
19. The purpose of this building, despite its name, is unknown, although it may have been used as a hall in association with occupation of the site by the YMCA. This building is in such poor condition that its conversion would be likely to require substantial re-building which would amount to its demolition. This is one of those rare occasions when the demolition would be justified on the grounds of its condition. Given its limited historic significance, I conclude that the loss of this curtilage building would not have an impact on the significance of the principal listed building.
20. Sections 16 and 66 of the Act¹ require that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. As I have explained, I have insufficient information to assess whether the building or its features of special interest would be preserved after the impact of this intensive level of conversion. I therefore conclude that the proposals would fail the tests of Section 16 and 66 of the Act.

Setting of listed buildings, conservation area

21. The significance of this group of Grade 2 listed buildings (nos 12 to 18) is primarily in its architecturally formal composition and historically, in its relationship to the formal enclosed gardens, although this has been somewhat marred by the loss of the historic railings at the appeal site, which are not to be reinstated. However, as pointed out by Historic England in its initial response to the proposed demolition of the Old Tramshed, the hierarchy between the principal frontage buildings and the lower less formal service areas to the rear is also a part of the setting of the group and this contributes to their significance as a group of high status town houses.

¹ Planning (Listed Buildings and Conservation Areas) Act 1990.

22. The proposed new residential building would significantly increase the amount of built form at the rear of the building. The small gap between the rear wing and the proposed new building would not alleviate the dominant effect that this new block would have in this relatively low scale setting. Whilst Historic England and others have accepted that the revised plans took better account of the ancillary character of this frontage, there would still be a significant degree of harm to the informal service character of the setting of the listed building and the low scale character of this part of the conservation area.
23. Whilst materials and certain details can be dealt with by conditions, the plans submitted with this full application do not give the certainty that the high design quality necessary for a conservation area would be reached. Comments have also been made on the accuracy of the plans. The roof plan, sections and elevations of the proposed new block differ. As drawn, the staircase bay would be a monopitch roof, in awkward contrast to the upper and lower mansards proposed either side. The roof planes would appear, from the cross-section, to rise from the top of the front wall and the dormers would rise in the same plane as the front wall. This would give the roof level accommodation greater prominence than a more traditional mansard roof set behind a parapet. The treatment of the parapet walls and copings, particularly at the junction with the front wall, is unresolved. These matters are likely to affect the appearance and design quality of the scheme.
24. Notwithstanding that the officer's report states that the design quality would be good, the inaccuracies and lack of detail on the submitted plans gives rise for concern that the design quality of the scheme is not assured. It is likely that significant amendments would be needed to rectify these points and these could not be dealt with by condition.
25. I therefore conclude that the requirements of Sections 16 and 66 of the Act to preserve the setting of the listed buildings and Section 72 to preserve or enhance the character or appearance of the conservation area, cannot be satisfied.

Other matters

26. Concerns have been expressed about parking and the nature of the parking survey undertaken by the appellant. However, the Highway Authority has not objected and the location is close to a wide range of services and transport links, accessible by foot or cycle. The Square is subject to a residents parking scheme, with short term pay and display, and most of the properties on this side of the Square have rear parking. Taking into account the potential parking that could be generated by an office use and the Highway Authority's evidence as to current levels of car ownership in the area, I conclude that the lack of parking for the future residents would not lead to such significant additional parking stress in the area as to warrant dismissal of appeal A on that basis.

Public benefits

27. I am required by paragraph 134 of the Framework to balance the harm I have identified to the listed building, the setting of the listed building and the adjacent listed buildings and the character and appearance of the conservation area against the public benefits which would arise from the scheme.

28. The case is made that the viability of converting the main house is “questionable” and that the construction of the new dwellings to the rear would make the scheme more viable, but no specific viability evidence or options analysis has been put before me.
29. The provision of 13 additional residential units, including two 2 bedroom flats, would make a small windfall contribution to the housing supply and this attracts some weight. There would be economic benefits during the construction period, but these would be short term, so this attracts low weight.

Conclusions

30. I have concluded that the proposed new buildings to the rear of the listed building would fail to protect the amenity of adjacent occupiers as required by Local Plan policy BE.21. This is an overriding reason for refusal, which would prevent the proposed development from coming forward.
31. I have also concluded that the intensive subdivision of the listed building and the scale and amount of new development to the rear would fail to preserve the listed building and its setting. I have also found that the proposal would fail to preserve the settings of adjacent listed buildings in the group and that the character and appearance of the conservation area would be not be preserved or enhanced by the proposed new development.
32. Paragraph 132 of the Framework requires that great weight is given to the conservation of a heritage asset. I therefore cannot conclude that the benefits of the scheme would outweigh the harms I have identified and I have no evidence before me that this level of harm would be justified in order to find the optimum use of the listed building.
33. For the reasons given above I conclude that the appeals should fail.

Jacqueline Wilkinson

INSPECTOR