
Appeal Decision

Site visit made on 30 January 2017

by Joanne Burston BSc MA MRTPI

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

Decision date: 9 February 2017

Appeal Ref: APP/F0114/W/16/3160550

Site of demolished Canal Cottages, Tow Path, Kennet and Avon Canal, Widcombe, Bath (Grid ref: 375656 , 164295)

- 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 Mrs Marian Sange against the decision of Bath & North East Somerset Council.
 - The application Ref 16/02246/FUL, dated 6 May 2016, was refused by notice dated 22 July 2016.
 - The development proposed is the erection of a detached house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the development would preserve or enhance the character or appearance of the Bath Conservation Area and the effect of the proposal on the special architectural and historic interest of the Grade II Listed Wash House Lock and Bridge structures.

Reasons

Background

3. The appeal relates to a parcel of land situated between Abbey View Gardens to the east, the Kennet and Avon Canal to the west, allotment gardens to the northeast and St Matthew's Church and residential properties to the south. The land slopes up towards Abbey View Gardens. At present the land comprises a vegetated area of scrub and trees, accessed only by foot via the Wash House Lock Bridge.

Conservation Area

4. The site is located within a discrete, modest enclave within the Bath Conservation Area. Accordingly, I am required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
 5. The Conservation Area is characterised by, among other things, the architectural quality of its buildings and urban design. It is internationally
-

renowned for its significant architectural and historic interest. In the vicinity of the appeal site, the character and appearance of the Conservation Area is largely distinguished by the Canal, reasonably rigid nature and pattern of development and the pockets of greenery which punctuate the fairly dense residential development.

6. Furthermore, the City of Bath is described on the UNESCO List of World Heritage Sites as a "city of international importance for its contribution to the art of urban design, for its architectural quality, its Georgian town centre and its historical associations". The Conservation Area and the World Heritage Site are important designated heritage assets.
7. The land historically contained a number of canal side cottages, however no remnants of these buildings remain. Therefore, at least in spirit, the appeal site would be more akin to the restored land exemption clause contained in the National Planning Policy Framework (the Framework), than the clause relating to "*previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time*".
8. Whilst I accept that the appeal site is in separate ownership from the allotments, it does form part of a swathe of green land running north alongside the Canal, which contributes to the character and appearance of this part of the Conservation Area, providing visual relief from the built form. I also note that the cottages had been removed from the site when the area was designated in 1968, which adds weight to my findings that the open aspect of the area contributes positively to the Conservation Area as a whole.
9. Although the modern, split level design with flat roofs responds to the topography of the site, the dwelling would nevertheless be a large one, and would damage the sense of openness that the site currently contributes to. This would result in clear harm to the beneficial role that the site makes to the attractiveness of the Conservation Area hereabouts. Whilst public views of the dwelling would be limited to the immediate section of the Canal tow path, they would not be insignificant and there would be numerous private views of the dwelling.
10. The design of the house would contrast with the architecture and street pattern of the most of the nearby houses. That in itself is not indicative of harm. Its materials would complement those used in the area. However, the pattern of development in the area is strongly linear, with lines of dwellings running along and across the hillside. The proposed dwelling on the other hand would stand in relative isolation and would appear as prominent, stark and incongruous in its context. Moreover, conditions could not effectively limit the build up of domestic paraphernalia around it and, as a consequence, further detract from the important contribution the green space makes to the Conservation Area.
11. The level of harm would be 'less than substantial' in terms of the Framework but significant importance and weight attaches to it in the final balance.

Listed structures

12. The Kennet and Avon Canal Wash House Lock and footbridge are Grade II listed structures and therefore I am required to have special regard to the desirability of preserving the structures or their setting or any features of special architectural or historic interest which they possess. The listing covers

the brick-lined basin, bridge, timber gates and cast iron winch gear and is noted for its group value. The significance of these structures mainly derives from their historic functional and engineering interest associated with the canal and the evolution of Bath itself.

13. Paragraph 132 of the Framework sets out that 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. It goes on to note that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting.
14. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral.
15. The proposal would have no impact on the listed structures themselves but it would detract from their setting. The significance of the canal lock and bridge is partly derived from the backdrop of vegetation, which forms a soft, verdant foil to the engineered structures and a renewed understanding of the aesthetic value of the Canal.
16. The proposal would enclose this view and exert a strong visual influence thereby reducing the positive contribution the verdant character of the appeal site makes to the listed structures' setting. Moreover in views from the tow path the dwelling would appear uncomfortably close to the listed structures, with its flat roofs, bulk and associated domestic paraphernalia serving to accentuate this awkward relationship.
17. The appellant states that the proposed dwelling would bring back into existence the historic link between the footbridge and the historic cottages. I cannot agree. The proposed dwelling would not be a reinstatement of the modest row of small cottages, the scale and form of which would better reveal the significance of the heritage assets and the historic use of the canal.
18. Buildings and the areas to which they belong can evolve over time as physical changes are made to reflect the circumstances that prevail at that time. The appeal site and surrounding area exemplifies this process with redundant buildings being demolished and older properties alongside later additions.
19. However, the important objective is to manage the process of change to listed buildings / structures and their setting in a way that preserves or enhances their significance. For the reasons given, the proposal would not achieve this outcome. The level of harm would be 'less than substantial' in terms of the Framework but significant importance and weight attaches to it in the balance.

Other matters

20. The appellant strongly considers that precedent has been set for this contemporary designed dwelling, given the development on the opposite side of the Canal. I do not have the full details of these developments, nevertheless, these are of a different form and design to that proposed in this appeal. Therefore, I do not consider that this and other nearby developments have created a precedent in this case.

21. A planning approval for an outbuilding in the neighbouring grounds of 'Cambridge Lodge' has been brought to my attention. Whilst I accept that the south bank of the canal has been developed to some extent, this only serves to increase the importance of retaining the remaining green spaces, which form an important part of the character of the area.
22. The appellant has raised concerns about the Council's handling of the planning application and the conduct of its officers. These are not, however, relevant to the planning merits of the case.

Balance and Conclusion

23. The Framework requires great weight to be given to the conservation of designated heritage assets, which include World Heritage Sites, Conservation Areas and listed buildings. It draws a distinction between substantial harm and less than substantial harm to such an asset. For the latter, which applies here, the test is that the harm should be weighed against public benefits.
24. The proposed development itself would provide some limited economic benefit. However, given the harm that has been identified I conclude that the public benefits would not outweigh this harm, or the conflict that the construction of the dwelling would have with: Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; the Framework; Policies BH.2, BH.6, BH.15, D.2 and D4 of the Bath & North East Somerset Local Plan, October 2007; and Policy B4 of the Bath and North East Somerset Core Strategy. These relate to, amongst other matters, the quality of development, the preservation of the special architectural and historic interest and setting of listed buildings, and the preservation or enhancement of the character or appearance of Conservation Areas. Therefore the proposal would not constitute sustainable development as set out in the Framework.

Overall Conclusion

25. For the reasons given above, and having regard to all other matters raised, including the support of some local residents, I conclude that the appeal should be dismissed.

Joanne Burston

INSPECTOR