



Appeal Decision

Site visit made on 4 July 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/F0114/W/19/3222626

Lansdown House, Camden Row, Lansdown, Bath BA1 5LD

- 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 Dr N Davey against the decision of Bath & North East Somerset Council.
 - The application Ref 18/01793/FUL, dated 20 April 2018, was refused by notice dated 8 November 2018.
 - The development proposed is the erection of 2 dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 dwellings and associated works at Lansdown House, Camden Row, Lansdown, Bath BA1 5LD in accordance with the terms of the application, Ref 18/01793/FUL, dated 20 April 2018, subject to the conditions in the attached schedule.

Procedural matter

2. The application, as described on the application form was for 4 dwellings. However, amended plans were submitted to the Council and the application as determined was for 2 dwellings. The drawings relating to this revised scheme are those that the Council has listed on its decision notice and recommended plans condition. I have, therefore, described the proposal as the erection of 2 dwellings which is stated on the appeal form.
3. Representations from interested parties indicate that they had an opportunity to comment on the amendments and a further opportunity to comment has arisen as part of the appeal process. I, therefore, find that no injustice would arise if I were to consider the appeal on the basis of the revised 2 dwelling scheme.

Main Issues

4. The main issues are: (i) The effect on the character and appearance of the conservation area and the effect on the outstanding universal value of the world heritage site; and (ii) the effect on highway safety.

Reasons

Character and appearance

5. The site is located on a steeply rising hillside, although substantial retaining walls above and below mean the site itself is relatively level. The topography

means that there are expansive views across the city of Bath from within the site and that reciprocal views towards the site are available, making the hillside important in wider townscape and landscape terms. There may well be shortcomings in the appellant's approach to landscape and visual impact assessment, but the proposal must be assessed on its merits.

6. During the site visit, I viewed the area from Beechen Cliff, which affords expansive views of the city. From here, the high degree of architectural unity, mainly from the predominant use of Bath Stone and natural slate for walls and roofs respectively, along with the mature trees that interject the built form and the distinctive landscape setting of the city are clearly apparent. Any development at the site would be visible within this townscape, the features of which are a clear part of the character and appearance of the conservation area, contributing to the outstanding universal value of the world heritage site and the significance of these heritage assets.
7. In close views, the immediate townscape is, in reality, more varied. There are a number of larger buildings with a bulky form and unbroken roofs that do not reflect the more traditional, predominantly terraced, surrounding development. At the lower end of Camden Row are a group of houses with facing materials that do not reflect the Bath stone vernacular appearance.
8. The Council have previously permitted¹ a single dwelling on the site with an individual, flat-roofed design and non-traditional detailing. There is no dispute that this earlier development has commenced and the permission would remain extant. I can accept the Council's position that the weight to be attributed to the extant permission overall is moderate, due to uncertainties over whether it would be completed. However, in terms of this main issue, it indicates that this is a site where the immediate surroundings do not dictate an architectural approach that slavishly adheres to vernacular detailing or form. In the immediate context, then, I find that the shape of the buildings, use of rubble stone, which is reflective of the surrounding walls and zinc, which like slate, would give a dark grey upper section to the building, would not be harmful.
9. In the distant views, use of materials would reflect the colouring of most buildings across the city. The cuboid and somewhat boxy form of the proposed development would be visible and different to the predominant terraces. However, at this distance, the shape of the buildings would be less discernible. Due to their relatively small scale in a part of the city where there are a number of bulky buildings nearby, they would not be dominant or harm the character and appearance of the area.
10. I note that the proposal would have a more uniform rectangular shape, that the cantilevered first floors could make the proposal slightly top-heavy and bulkier than that of the extant permission. However, whether or not the extant permission is considered a superior addition to the townscape, that does not automatically make this proposal harmful.
11. The dwellings would be close to the retaining walls forming the upper and lower site boundaries. However, there would remain separation from the buildings on the adjoining sites, particularly those uphill of the site which are off-set from the proposal. The narrow gap between the two proposed buildings would be barely discernible outside the site as the views are restricted by other built

¹ LPA Ref: 16/02194/FUL

- form and so would not harm the character and appearance of the area. With regard to these matters, I find that the resulting appearance in the townscape would not be cramped.
12. The proposal would result in the widening of an existing gap in a stone wall that runs along the site side of Camden Row. On the opposite side of the road are a number of garages with open forecourts. The wall is similar to others in the wider area and makes a positive contribution to the character and appearance of the area. However, the effect of widening the gap would be very localised, it is otherwise unbroken and so would continue to be a robust feature within the street. With regard to these matters, I find that a slightly larger gap than currently exists would not cause any demonstrable harm to the character and appearance of the area.
 13. Vehicles accessing the parking spaces would have to pass very close to the trunk of an off-site tree that makes a positive contribution to the character and appearance of the area. The tree is effectively growing within the carriageway of Camden Row. The Council refer to a discrepancy in the proposed layout plan and the technical highways drawings relating to the size and configuration of the parking spaces. I place greater weight on the technical drawings as they appear to be based on a measured survey. These drawings show that the manoeuvres would be possible, albeit very tight and not simple to perform.
 14. Vehicle movements so close to the tree have the potential to affect its long-term health and there could be a risk of collision. However, vehicles can already use this stretch of road and must pass close to it to access the garages and parking spaces opposite the appeal site. Whilst the additional parking spaces for this proposal would require manoeuvring closer to the tree, there is no substantive evidence that greater harm would be caused to it than already exists. Accordingly, there is no compelling evidence that the proposal would necessarily lead to added pressure for the tree's removal. I, therefore, find that the proposal would not harm the tree or the contribution that it makes to the area.
 15. With regard to the above, I find that the proposal would not harm the character and appearance of the area. For the same reasons, it would not harm the significance of the conservation area or the outstanding universal value of the world heritage site. Accordingly, I find no conflict with Policies CP6 and B4 of the Bath and North East Somerset Core Strategy 2014 (CS), or policies HE1, NE2, NE6, D1, D2, D3 or D5 of the Bath and North East Somerset Placemaking Plan 2017 (PP) which seek to ensure that design is of a high quality that responds to, reinforces and contributes to its specific local context, character and distinctiveness, protects trees, conserves or enhances important views, preserves or enhances the character and appearance of the conservation area and avoids harm to the outstanding universal value of the world heritage site.

Highway safety

16. Camden Row, leading to the site, is steep and narrow. It is closed at one end to vehicular traffic but there is a footway along the site side of the road that continues beyond. I understand that this pedestrian link is well used, including by school children and that the road can be slippery at times. Beyond the access to the neighbouring Lansdown Villas, the road gives vehicular access only to the appeal site and the garages and parking spaces on the opposite

side of the road. The part of Camden Row around the appeal site is, therefore, likely to be very lightly trafficked.

17. Four parking spaces would be provided for the two dwellings. Whether or not there are any shortcomings in the appellants assessment of the site's accessibility, the Council's evidence indicates that the parking provision is sufficient and policy compliant. As noted above, manoeuvring into and out of some of the parking spaces would not be simple and multiple manoeuvres may be required. However, given the limited traffic in the area, there is no compelling evidence that this would be unsafe.
18. I note that the garages on the opposite side of the street have individual stepped access ramps. There is also a significant change in level across the proposed access to the parking spaces. However, unlike the garages which require level access into the buildings, there is no compelling evidence that the slope could not be accommodated across the continuous surface proposed rather than individual ramps, thereby allowing the manoeuvres to take place.
19. Pedestrians accessing the site would have to pass through the parking spaces. However, whilst there is no dedicated pedestrian route, the shape of the space means that the likely parking positions would be irregular and there should be adequate space for pedestrians to pass. The spaces are not proposed to be marked out so the occupiers would have to manage the space themselves and accuracy in parking may be required, particularly for larger vehicles. However, whilst a cooperation may be required, there is no substantive evidence that this cannot be achieved or that a harmful conflict of vehicle movements would result.
20. The site does not provide any dedicated off-street turning facility, nor is one available on the highway. This would present a problem for service and delivery vehicles accessing the site and the consequential need to reverse significant distances and manoeuvre elsewhere could affect highway safety.
21. However, this would also have been the case for the extant permission for the single dwelling. As with the first main issue, whilst the weight to be attributed to the permission is tempered by uncertainties over its likely completion, the presence of the permission is a clear indication that this access arrangement is appropriate for a single dwelling. I note that the PP has been adopted in the interim, but there is no substantive evidence that this ushered in a change in requirements for delivery and service vehicles. Two dwellings may well create more traffic than a single dwelling in terms of deliveries and the like, but it is likely that a number of servicing trips, such as refuse would be shared. There is no substantive evidence that the overall increase servicing and delivery traffic would be so significant as to create additional harm to highway safety.
22. I note the concerns of a number of local residents regarding a lack of visibility between the parking spaces and pedestrians on the footway outside the site. Concerns have also been expressed in relation to the junction configuration where Camden Row meets the remainder of the highway network and in respect of access for emergency services. However, the Council do not raise any concern about these matters and so I attribute them very limited weight. I, therefore, find that there would be no conflict with those aims PP Policy ST7 that seek to safeguard highway safety and provide appropriate parking.

Other matters

23. Some of the neighbouring dwellings at Lansdown Villas have windows facing towards the site. However, due to the change in levels, the predominant views from the development would be across the roof rather than directly towards neighbouring windows. There are also small courtyard gardens for Lansdown Villas between the building and the retaining walls to the appeal site. The dwellings would be close to this boundary which could increase the sense of enclosure. However, the Council found that any impact in this regard would not be significant, compared to the existing situation. Given the off-set relationship proposed to Haygarth Court and distances to other neighbouring dwellings, and for the reasons given above, the Council found that there would be no harm to the living conditions of neighbouring residents. There is no substantive evidence to lead me away from this position.
24. I note the concerns regarding ground stability and potential effects on the retaining walls. However, the Council has noted that there is no substantive evidence of risk in this area that would require specific planning control. Nor is there any substantive evidence that there would be an adverse effect on wildlife or drainage within the area. There is potential for some disturbance and inconvenience during the construction period, but this would be for a limited period of time so I attribute it little weight.
25. There are a number of listed buildings in the vicinity of the site. However, due to their separation from the proposed development, the Council found that their settings would not be affected. From my own observations at the site visit, I agree.

Conditions

26. A plans condition is required in the interests of certainty. Approval of materials, a planting scheme and tree protection proposals, are required in the interests of the character and appearance of the area and to ensure that no harm to heritage assets would arise. To avoid harm during construction, the tree protection details must be secured prior to the commencement of the development. My tree protection condition requires construction to be carried out in accordance with the scheme so there is no need for the Council's other condition requiring a compliance certificate to be submitted.
27. To protect archaeological interests, a condition is required to ensure that a programme of archaeological work is undertaken. To avoid any increase in flood risk, approval of a drainage strategy is required. In order to ensure that initial development does not prejudice these interests, details must be secured prior to the commencement of development.
28. The Council has suggested a set of conditions relating to contamination. However, there is no particular evidence of contamination at the site and the conditions were not imposed upon the previous permission. Accordingly, I find that such conditions are not necessary. Nor is there any substantive evidence that permission should be withheld if repairs to the historic boundary wall are not made. I have not, therefore, included a condition requiring those works.
29. A condition has also been suggested by a local resident that the appellant should be required to bring the unadopted part of Camden Row up to an adoptable standard and that the Council should adopt it. However, whilst I can understand concerns surrounding damage to a privately owned highway there is no clear evidence as to why this is necessary to make the development

acceptable. It was also suggested that a scheme to improve pedestrian visibility should be submitted and implemented, but it is not clear what this might entail. In any case, in light of my findings on the second main issue, it is not necessary.

30. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with Planning Practice Guidance.

Conclusion

31. For the reasons given above, the appeal is allowed.

M Bale

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AP (0) 01; AP (0) 02; AP (0) 03 REV C; AP (0) 04 REV B; AP (0) 05 REV B; AP (0) 06 REV B; AP (0) 10 REV B; AP (0) 11 REV B; AP (0) 12 REV B; AP (0) 13 REV B; AP (0) 14 REV A; AP (0) 15 REV B; AP (0) 16 REV B; 294_PP_03 V2.
- 3) No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:
 1. Detailed specification of the proposed materials (type, size, colour, brand, quarry location, etc.);
 2. Photographs of all of the proposed materials;
 3. An annotated drawing showing the parts of the development using each material.

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

The development shall thereafter be carried out in accordance with the approved details having been fully implemented prior to the occupation of the dwelling to which they relate and thereafter maintained as such.

- 4) No development shall commence, except archaeological investigation work and demolition required to undertake such work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features

encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

- 5) No occupation of the development shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority showing details of the following:
1. All trees, hedgerows and other planting to be retained;
 2. A planting specification to include numbers, size, species and positions of all new trees and shrubs;
 3. Details of existing and proposed walls, fences, other boundary treatment and surface treatments of the open parts of the site;
 4. A programme of implementation for the landscaping scheme

All hard and soft landscape works shall be carried out in accordance with the approved details and at the time specified in the programme of implementation.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

- 6) No development shall commence until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall include details of the following:
1. A programme of works to include details of supervision and monitoring by an Arboricultural Consultant and the provision of site visit records and certificates of completion to the Local Planning Authority;
 2. Measures to control potentially harmful operations such as site preparation (including demolition, clearance, earthworks and level changes), the storage, handling, mixing or burning of materials on the site and the movement of people and machinery throughout the site;
 3. The location of any site office, temporary services and welfare facilities;
 4. The location of any service runs or soakaway locations;
 5. A scaled Tree Protection Plan showing the location of all retained trees and tree protection measures.

The tree protection measures shall be installed prior to the commencement of any other development and shall be retained throughout the course of development. No development or other operations shall thereafter take place except in accordance with the approved details.

- 7) No development shall commence until a detailed drainage strategy has been submitted to and approved in writing by the Local Planning

Authority detailing how the site will drain and any impacts the proposed drainage may have on the integrity of adjacent structures. The approved drainage strategy shall be installed prior to the first occupation of the development and thereafter retained as such.

- 8) The areas allocated for parking and turning on the submitted plan shall be provided prior to the occupation of the development hereby permitted and shall thereafter be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.