



Appeal Decisions

Site visit made on 5 November 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 November 2019

Appeal A Ref: APP/F0114/W/19/3232436

Shaftesbury House, 1 Devonshire Buildings, Bear Flat, Bath BA2 4SP

- 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 Charman against the decision of Bath & North East Somerset Council.
 - The application Ref 18/05043/FUL, dated 12 November 2018, was refused by notice dated 8 March 2019.
 - The development proposed is erection of a new dwelling following demolition of existing ancillary accommodation.
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Appeal B Ref: APP/F0114/W/19/3232443

Shaftesbury House, 1 Devonshire Buildings, Bear Flat, Bath BA2 4SP

- 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 appeal is made by Mr Charman against the decision of Bath & North East Somerset Council.
 - The application Ref 18/05044/LBA, dated 12 November 2018, was refused by notice dated 8 March 2019.
 - The works proposed are external alterations for the erection of a new dwelling following demolition of existing ancillary accommodation.
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Decisions

1. Appeal A is dismissed. Appeal B is dismissed

Background and procedural matters

2. In the interest of clarity and conciseness, the description of development in the banner headings above is taken from the Council's decision notices.

Main Issues – both appeals

3. Shaftesbury House is a Grade II listed building (listed as No. 1 Shaftesbury House, with boundary walls and piers) in the Bath Conservation Area. These are designated heritage assets and I am mindful of my statutory duties in these respects.
4. The main issues are whether or not the proposal would preserve the listed building, any features of special architectural or historic interest that it possesses, or its setting; whether the character or appearance of the Bath Conservation Area would be preserved or enhanced; and, in respect of Appeal A, the effect of the proposals on the living conditions of occupiers of the extant and the proposed new dwelling, with regard to outdoor space and privacy.

Reasons

Heritage assets – both appeals

5. Shaftesbury House, 1 Devonshire Buildings (No. 1) is identified in the statutory description as a large end of terrace house of c. 1800, possibly by Charles Harcourt Masters. The handsome three-storey dwelling occupies a relatively large corner-plot, laid to lawn and bounded by high stone walls, through which there is a side pedestrian entrance off Wellsway Road. Within the curtilage and attached to the side of No. 1 there was an ancillary garage structure, which has been demolished as permitted by a scheme for its replacement with a two-storey extension plus mansard roof to form a granny annexe, which is the subject of these appeals.
6. The appeal site is situated at the western end of Devonshire Buildings, which consists of a group of early 19th century townhouses laid out between parallel streets of the same name. The group are not uniform and contain a mix of terrace houses, symmetrical pairs and individual villas that, over time, have become continuous through adaptation of intervening ancillary structures. The group has a more formal north-facing elevation, set back from the street by boundary walls through which there is independent pedestrian access to long front gardens. The secondary, south-facing, elevations are more ad-hoc and directly address the pavement edge.
7. The significance and special interest of the listed building are derived in part from its age, architectural form and historic fabric, as well as its historic origins as part of the speculative development of Georgian Bath. The boundary walls and piers are part of the listed building and so these, and the historic plot boundaries and garden they denote, are part of the building's setting and elements that underpin its significance and special interest.
8. The Bath Conservation Area is extensive and includes a range of middle-to-high status Georgian properties on the hillside that rises to the south of the city. Notwithstanding variation in local built form, overall cohesion and interest is provided by a broadly consistent material palette, plot layout and traditional townscape details. Due to its prominence and link with the historic evolution of the south side of Bath, No. 1 contributes positively to the local built-backcloth that adds to the special interest of the CA as a whole.
9. I saw on site that construction of the approved extension is underway. Whatever changes may have taken place to the listed building over time, No. 1 remains legible as the primary dwelling on the site, with a clear visual and functional primacy over the ancillary structure attached to it which the full implementation of the annexe scheme would allow to continue.
10. The proposal is to construct the annexe scheme essentially as approved but, crucially, it seeks to permanently separate its use from No. 1, enabling provision of an independent dwelling. With little to differentiate between the approved annexe and the appeals scheme physically, the latter would also achieve a subservience of scale and be constructed of locally sensitive materials and detailing. However, the effect of the proposal on the visual, functional and historic integrity, or the character of the area, are not one and the same.
11. The creation of an independent two-bedroomed dwellinghouse that would function in its own right, would significantly alter the relationship between the

- extant dwelling, its associated ancillary structure, and the homogeneity of the historic plot. Ultimately, the proposal would undermine the historic and enduring ascendancy that No. 1 has in relation to its grounds and the structures within them. Moreover, there would be subdivision of the plot that has, ostensibly, been owned as a single entity since the appeal site was first developed. As a result, the proposal would weaken the historic integrity of the appeal site, causing harm to the setting of the Grade II listed building.
12. The character of the Devonshire Buildings is in part contributed by the status of its buildings, as well as the relationship between handsome townhouses, their gardens, boundaries and pedestrian gate accesses. The appeal dwelling would be accessed solely from the south side of Devonshire Buildings and would be anomalous in this respect. Although the internal space would ensure a suitable standard of accommodation for its future occupiers, the size of the proposed dwelling would be atypically small and the plot narrow for an independent terraced house in an area where dwellings tend to occupy relatively generous plot widths. Indeed, while some structures further east along Devonshire Buildings are narrow, there is no demonstrable evidence that these are independent dwellings and none that I saw usefully compared with the appeal scheme.
13. The red-line boundary includes the entire plot of No. 1, with no blue-line to indicate to where any garden provision for the proposed dwelling would extend. It is suggested that there would either be a communal garden, shared with No. 1, or a low hedge would be planted. The planting of a hedge would not require consent, but it would demark a physical boundary and partitioning of the garden plot. Any such demarcation would emphasise the subdivision of the grounds of No. 1 and the narrowness of the plot associated with the new dwelling. The hedge illustrated in the historic illustration of No. 15 Devonshire Buildings is central to its attached neighbour and corresponds with the evenly wide plot widths found elsewhere along the group.
14. In light of the foregoing, I conclude that the proposal would fail to preserve the Grade II listed building, its features of special interest, or its setting. There would be associated harmful impact on the relationship between the listed building and the wider surroundings. Accordingly, the proposal would not preserve the character and appearance of the CA as a whole. The degree of harm to both as designated heritage assets would be less than substantial, which paragraph 196 of the National Planning Policy Framework, revised February 2019 requires be outweighed by wider public benefits, including, where appropriate, securing its optimum viable use.
15. I observed that the listed building looked to be generally in good order and is in occupation as a single-family dwelling. I acknowledge that there would be a modest economic and social benefit from the provision of an additional dwelling, contributing towards the supply of housing and the choice of homes. It would represent an effective use of land in an accessible location. Economic benefits associated with the construction phase and in improving the appearance of the site would be achieved through implementation of the approved annexe scheme. A lack of objection from any heritage body or neighbour is not a public benefit.
16. Even cumulatively, the sum of public benefits would be modest and would not be sufficient to outweigh the considerable importance and weight that even less than substantial harm to the designated heritage assets carries. The proposal

would therefore be contrary to the Framework as well as failing the statutory tests. There is also be conflict with Policy CP6 of the Bath and North East Somerset Core Strategy, 2014 and Policy HE1 and H3 of the Placemaking Plan, 2017 (PP) insofar as these seek to ensure that works and development protects, conserve and enhances the character of heritage assets and has no adverse impact on elements that contribute to the special architectural or historic interest of listed buildings, and allow for subdivision of existing buildings unless, amongst other things, it would harm the significance of a listed building.

Living conditions – Appeal A

17. The extant and the proposed dwelling would have sets of French doors leading directly onto the garden of No. 1. If the garden were shared, as the absence of a blue-line boundary would seem to indicate, there would be no private outdoor area for the occupiers of the proposed new dwelling or the occupiers of No. 1 to retreat to. Moreover, the French doors serve a bedroom and living room at No. 1; while in the proposed new dwelling they would serve a bedroom. Such spaces are where occupiers could reasonably expect a degree of privacy and a shared garden, with no intervening vegetation or obvious boundary, would not provide this.
18. It has alternatively been suggested that a low hedge could be planted to ensure some screening. However, I fail to see how a low hedge could provide meaningful privacy or screening, even if it would provide some definition of space. In any event, a physical demarcation of separate ownership would exacerbate the impact already identified in respect of the heritage asset.
19. I can appreciate the argument that occupiers of the annexe could garden and plant to suit their wishes. An annexe would inevitably have some areas of connection with the principal dwelling as, in this case, the garden. However, the distinctive characteristic of a dwelling house is its ability to afford to those who use it the facilities required for day-to-day private domestic existence. The appeal scheme would fail to provide this.
20. Irrespective of what other developments may employ shared gardens, in consideration of the appeal scheme I find that the proposed dwelling would leave existing and future occupiers with unsatisfactory levels of privacy and hence harm their living conditions. The proposal would thereby run contrary to Policy D6 of the PP as well as the Framework, which seek to ensure development provides a good standard of amenity.

Conclusion – both appeals

21. For the reasons given above, and having considered all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

H Porter

INSPECTOR