



Appeal Decisions

Hearing Held on 26 November 2019

Site visit made on 26 November 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal A: Ref: APP/P1133/W/19/3220110 13 Weech Road, Dawlish EX7 9BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sterling Property Developments Ltd against Teignbridge District Council.
 - The application Ref 18/01801/FUL, is dated 29 August 2018.
 - The development proposed is redevelopment of the site known as the Old Vicarage in Weech Road, Dawlish, involving the part demolition of the existing Listed Building, retention of the remainder and converting this into 3 dwellings. The remainder of the site is proposed to be developed as 6 new dwellings, with associated roads, parking etc.
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Appeal B: Ref: APP/P1133/W/19/3219629 13 Weech Road, Dawlish EX7 9BW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Sterling Property Developments Ltd against Teignbridge District Council.
 - The application Ref 18/01802/LBC is dated 29 August 2018.
 - The works proposed are redevelopment of the site known as the Old Vicarage in Weech Road, Dawlish, involving the part demolition of the existing Listed Building, retention of the remainder and converting this into 3 dwellings. The remainder of the site is proposed to be developed as 6 new dwellings, with associated roads, parking etc.
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Decisions

1. Appeal A is dismissed. Appeal B is dismissed.

Procedural Matter

2. These decisions address both planning and listed building consent appeals for the same site and the same scheme. To reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.

Main Issues – both appeals

3. The main issues are:
 - the effect of the proposed work and development on the special architectural and historic interest of the Grade II listed building;

- the effect on the character and appearance of the area;
- the effect on the living conditions of the occupiers of No. 15 Weech Road, in respect of privacy; and,
- whether sufficient information has been provided to demonstrate that the proposals would not cause harm in respect of flood risk or protected species.

Reasons

The site and the significance of the listed building

4. The appeals concern the Grade II listed building known as '13 Weech Road and former Gig House' (No. 13). The listed building is comprised of a substantial dwelling, the former vicarage to St Gregory's Church, and its associated detached gig or coach house. The listed building stands in open but well-contained grounds which slope down from Weech Road towards Vicarage Gardens, a mid-to-late 20th century residential cul-de-sac.
5. The listed building's principal structure is formed of two main elements: a two-storey cob range, which dates from the late-17th or early- 18th century; and a stone-faced, mid-19th century Victorian wing that transverses its east end. Together, these create a discernible T-shaped plan. Today, the principal structure is most readily distinguished by its vernacular materials, as well as its Classical architectural aesthetic. These characteristics are reflected in, amongst other things, its overall form, regular proportions and transom window detailing.
6. The modestly-scaled detached gig house stands alongside the site's Weech Road Boundary. Considered to be contemporaneous with the earliest part of the principal building, the gig house is timber-framed, with lime-rendered cob walls. Overall, the structure has an ancillary barn-like character, reflected in its wide opening through which a small gig could be driven.
7. The special interest of the Grade II listed building lies in the not-inconsiderable age of the earliest cob range and the gig house, the use of vernacular materials, the features of architectural execution and surviving historic fabric. So too is special interest derived from the principal structure as an entity, in its plan form, circulation and architectural aesthetic that reflect the building's evolution over time.
8. The extent of the lands once associated with the former vicarage has been much reduced and the wider built context significantly changed. Nevertheless, the functional ascendancy of the former vicarage over the appeal site and its ancillary gig house remains legible to this day. Furthermore, what remains of the undeveloped former garden around the listed building has ostensibly maintained a spatial and functional relationship with it. Therefore, the wider appeal site is an historic remnant and certainly comprises the setting of the listed building. All of these factors underpin the listed building's historic integrity and all contribute to its significance as a heritage asset.

Background and Policy context

9. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) place a statutory duty on the decision maker 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.

10. The Courts have confirmed that Inspectors need to make their decisions on the basis of the development plan and national policy which are in place at the time of their decision. The development plan in place is the Teignbridge Local Plan 2013 – 2033, adopted 2014 (LP) and this is the basis on which the decision on the planning Appeal A is made. The National Planning Policy Framework, revised in February 2019 (the Framework), is a significant material consideration; particularly Section 16 Conserving and Enhancing the Historic Environment paragraphs 191, 194 and 195 . The Government’s Planning Practice Guidance and the National Design Guide, October 2019 are also important material considerations.
11. The appeal site has a long and complex planning history. Various schemes and permissions have come and gone, some including proposed wholesale demolition of the listed building and development of up to 22 flats on the appeal site. In early 2008 an Inspector dismissed an appeal proposing demolition of the listed building (Ref: APP/P1133/E/07/2037960). However, none of the previous permissions or decisions reflect the circumstances of the case before me, which I have decided in the context of the latest planning policy situation and the merits of the extant proposals.
12. No. 13 was first listed in 1951 and its special architectural and historic interest subsequently assessed through applications for its de-listing. Despite the poor condition of its fabric, No. 13 has been retained on the statutory list. In 2012 Historic England reviewed the listing and confirmed inclusion of the gig house as part of the listed building.
13. A survey carried out in 2007 and the previous Inspector’s decision both attest to the cob range being beset by dry rot, extensive timber damage, collapsed floors, perished windows, and large sections of the cob walls having been washed-out completely. At the time of my visit, the condition of the listed building was, unsurprisingly, perilous. Comparing survey photographs from 2007 and 2016 with the situation as I saw it, the fabric of the Victorian wing and gig house seems to have deteriorated further.
14. Irrespective of what previous schemes and approvals and decisions have come and gone, No. 13 has remained a designated heritage asset over the successive decades during which its condition has progressively worsened. The appellant’s design and access statement comments that, when a liquidator acquired the site in 2002, it had deteriorated in many ways. There is evidence that the Council were began discussions to achieve urgent works in 2004 and the various applications for de-listing and demolition all cited the building’s poor condition. Latterly, Urgent Works Notices were served but were not fully complied with. Meanwhile, ineffective site security has meant that damage by vandalism has proliferated, while cob left exposed by lost render, and missing roof slates, has allowed water damage and rot infestations to burgeon.
15. Irrespective of culpability, the sustained deterioration of the heritage asset has been the up-shot of successive decades of un-checked neglect. As the continued deterioration of the asset was well known and well documented, the absence of any evident attempt to implement effective remedies to meaningfully halt that deterioration amounts to deliberate neglect. Bearing in mind paragraph 191 of the Framework, the deteriorated state of the heritage asset should not, therefore, be taken into account in my decision.

The effect on the listed building

16. The proposals are to demolish the listed building's cob range; to convert and extend the Victorian wing to become three dwellings; and to introduce three pairs of three-bedroomed, semi-detached dwellings onto the remainder of the site. The gig house would be restored and refurbished to provide workshop spaces, ancillary to two of the new dwellings. Vehicular access would be via Vicarage Gardens, off which a shared hard-surface and turning area would provide for 16 parking spaces and a shared bin store.
17. The wholesale removal of the cob range would clearly destroy all that remains of its historic fabric, the authenticity of its vernacular construction, its plan-form, architectural aesthetic and therefore significance. The T-shape plan that defines the form of the principal building as a whole would be lost. In turn, there would be considerable impact on the remaining Victorian wing element; not least, the very concept of it being a 'wing', inextricably and functionally connected to the cob range, would be extinguished by it becoming a detached structure.
18. The proposed subdivision of the Victorian wing into three separate houses would also introduce three new staircases, blocking internal openings and inserting a number of new ones within its exterior, along with two single-storey extensions, one on the north and one on the west elevation. The drastic re-organising of the internal arrangements and adaptation of the building's circulation route would erode the building's plan-form and obscure the way the listed building has evolved over time. Its historic integrity would therefore be compromised.
19. With respect to the gig house, the introduction of relatively standard, domestic-looking fenestration in place of historic timber doors and the coach-wide opening would affect its authentic barn-like character. Moreover, splitting its ownership between two of the new dwellings would sever the functional association between the gig house and the former vicarage building with which it has historically been connected.
20. The proposals would be prominent from both Weech Road and Vicarage Gardens, from where the form and density of new housing would noticeably encroach on the heritage asset and weaken its visual and functional ascendancy. The hard-surfaced turning and parking areas, paved routes, blockwork walls and close-boarded timber fences would together become a contrived arrangement. Ultimately, the intense domestication of the wider site would have a harmful, urbanising impact on the setting of the listed building.
21. The works and development would fail to preserve the listed building or its features of special architectural and historic interest, or its setting, contrary to the clear provisions of Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The scheme therefore conflicts with the objectives of the historic environment policy EN5 of the LP as well as those of the Framework.

Character and appearance

22. This issue leads me on to consider the effect that the proposal would have more generally on the character and appearance of the area. Vicarage Gardens has a coherent development pattern defined by two-storey, link-attached dwellings, which are set back a little distance from the street by their own front gardens and parking areas and follow a staggered building line. These factors combine to give the overall street scene a sense of spaciousness and

coherence, while the imposing scale and form of the listed building provides an iconic, terminating feature.

23. Proposed Plots 1 to 4, would to some extent continue the Vicarage Gardens building-line. Even so, the semi-detached form, small building-to-plot ratio, lack of front garden and shared parking of the proposed development would be uncharacteristic and at odds with the established pattern of housing in Vicarage Gardens. The single-storey extension and the proposed pair of houses that would replace the cob range would fail to replicate the imposing impact that No. 13 currently has on its surroundings.
24. Overall, the proposals would introduce uncharacteristic built form to the detriment of the general character and appearance of the area, leading to conflict with Policy S2 of the LP and with the Framework, insofar as it promotes high quality design.

Living conditions

25. The Council's fourth reason for refusal relates to the effect of the appeal development on the living conditions of the occupants of Number 15 Weech Road (No. 15) in respect of a loss of privacy. No. 15 is a bungalow with a private rear garden that abuts the western boundary of the appeal site. While accepting that some degree of mutual overlooking already exists from the closest property in Vicarage Gardens, the undeveloped nature of the appeal site inevitably affords the residents of No. 15 a sense of privacy and seclusion from their rear garden.
26. The proposed rear gardens of plots 1 & 2 would be relatively shallow and would give a maximum distance of 6.5 metres to the garden boundary of No. 15 from their respective rear elevations. A perimeter wall would prevent any overlooking from ground level, but the first-floor windows of proposed plots 1 & 2 would have a direct line of sight onto the rear garden of No. 15. This is conceded by the appellant, who says issues of overlooking could be dealt with by planting and obscure-glazing or changing the height of proposed windows. I accept that a condition could be used to require obscure glazing to a landing window. However, the submitted plans do not show that planting would be either dense or high enough to provide effective screening. Planting takes time to mature and provides an impermanent screen that could, of itself, present issues of overshadowing or overbearing impacts.
27. Based on the available evidence, the proposed development would result in an unacceptable degree of unwanted overlooking of the rear garden of No. 15, leading to a loss of privacy for its occupiers. This would cause material harm in respect of living conditions, leading to conflict with Policy S1 of the LP and with the Framework, insofar as these seek to ensure a high standard of amenity for existing and future users.

Flood Risk and Protected Species

28. The appeal site is in Flood Zone 1. The appellant's Flood Risk Assessment (FRA) establishes that surface water will be attenuated on site, discharged into an existing surface water sewer located in Vicarage Gardens, discharging into Dawlish Water, which is in Flood Zone 3. Policy EN4 of the LP establishes that in considering development proposals, regard will be had to the adequacy of, amongst other things, drainage, disposal arrangements and sewerage. However, the FRA sets out that no intrusive site investigations were

undertaken. Therefore, the drainage scheme, as designed, would not demonstrably be the most appropriate way of handling surface water drainage. As it is currently unclear whether or not the scheme would cause an increase in flood risk elsewhere, conflict arises with Policy EN4 of the LP and paragraph 163 of the Framework.

29. A Bat Survey Report was included with the application and identifies the use of the buildings on site by bats. Proposed mitigation measures included enclosing part of the gig house roof to provide a bat roost. However, the submitted plans do not illustrate any provision of bat roosts and so no appropriate mitigation is in place. Ultimately, the existence of protected species on the site need not be an impediment to the granting of a licence by Natural England, nor the implementation of planning permission or listed building consent.
30. However, I am mindful that the onus is on the appellant to demonstrate that the proposal is acceptable with regard to protected species and the potential impact mitigation measures may have on designated heritage assets. Based on the information before me, therefore, I consider that it cannot currently be demonstrated that the proposed works and development would not cause harm in either regard. Consequently, the proposals fail to accord with Policies EN8 and EN11 of the LP, or with the Framework, in these respects.

Other considerations and planning balance

31. There can be no question that the proposed works and development would result in serious harm to the Grade II listed building and its setting. Having regard to the circumstances of the case and given the nature and scale of the impact of the proposed works and development on the listed building and its setting, the harm to the significance of the heritage asset would be substantial.
32. Paragraph 194 a) of the Framework makes clear that substantial harm to or loss of Grade II listed buildings should be exceptional and requires clear and convincing justification.
33. For reasons I have explained above, the deteriorated state of the asset is not to be taken into account. But this consideration aside, the proposals still concern a substantial dwelling that has stood empty for a number of years and would unquestionably require significant investment in order to secure any reasonable use and longer-term conservation. It also seems highly unlikely that such investment could be realised unless a pragmatic approach to allow for its use other than as a single dwelling were adopted.
34. That said, the only evidence I have seen relating to the potential costs of repair or partial redevelopment of the site and potential future unit sales figures is at least 9 years old. Building costs may have risen during the intervening years, as may have land values and house prices. Thus, without more up-to-date figures and forecasts it is not possible on the information available to judge the credibility of the assertions made regarding viability. This casts doubt over whether the demolition of the cob range and the number and type of units being proposed within the Victorian range and wider site would cause minimum harm within the scope of financial viability. Conflict therefore arises with paragraph 190 of the Framework, which seeks to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
35. The appellant has demonstrated that accommodating flats rather than separate dwellings within the Victorian wing was explored. However, very little detailed

consideration appears to have been given to the possibility of wholly or partially rebuilding the cob wing using, for example, alternative materials. It would appear that ruling out options to keep or replicate the cob range has unduly influenced the current scheme. Other than fabric decay, there seems to be little justification for removing the cob wing in its entirety, for its replacement with a pair of semi-detached dwellings physically independent from Victorian wing; or for the proposed roofing detail and profile and pattern of fenestration on their north elevations.

36. Other than superficial replication of the cob range's ridge height, its footprint, windows and porch design, there is little to illustrate that a meaningful analysis of the significance of the asset and its setting informed the current scheme. Rather, it would seem a single on-site meeting attended by the appellant and the Council 2015 and discussion with a local estate agent have greatly influenced the nature and scope of the proposals. Fundamentally, there is not currently enough evidence to provide the requisite exceptional justification for the scope of the works and development proposed.
37. Additionally, in terms of paragraph 195 of the Framework, no substantive evidence has been presented that shows the nature of the heritage asset prevents all reasonable uses of the site or that appropriate marketing indicates the viable use of the asset cannot be found in the medium term or that conservation by grant-funding, not-for-profit, charitable or public ownership is demonstrably not possible. Under these circumstances consent should be refused unless it can be demonstrated that substantial public benefits could outweigh such harm.
38. A number of potential public benefits of the appeal scheme have been put to me, including the benefits associated with the delivery of nine dwellings onto the open-market. This would make a small but beneficial contribution towards boosting housing supply and contribute to the choice of homes in the district. There would be economic benefits, realised through the construction phase and future occupiers of the dwellings feeding into the local economy and supporting services therein. The appeal site is well located to access a range of essential facilities and public transport options, thus reducing reliance on journeys by car. There would be public benefits associated with clearing the site, solving issues with security, vermin and anti-social behaviour, and making use of previously developed land.
39. However, these benefits would come at considerable cost to the listed building, its setting, the character and appearance of the area, living conditions and, potentially to flood risk and protected species.
40. I have taken account of the views expressed on all sides of the debate. I am deeply sympathetic to the fact that local residents have been living with a decaying edifice for well over three decades. I do not wish to underestimate the impact of the extant situation or the considerable concern it continues to cause local residents, which my decision will ultimately protract. However, the presumptive desirability of preserving the asset and its setting must be given considerable importance and weight. I have given careful consideration to the weight to be given to public benefits, but do not consider a convincing argument has been made that proposals are the most appropriate or least harmful way of securing them. Even cumulatively, the sum of public benefits is not substantial and would not outweigh the heritage harm, nor the other harms, identified.

Conclusions – both appeals

41. The harm that would be caused as a consequence of the proposed works and development to the significance of the heritage asset, along with the associated conflict with LP policies S1, S2, EN4, EN5, EN8, EN11 and the Framework read as a whole would not be outweighed by public benefits. For the reasons given above, and having considered all matters raised, including the body of support from interested parties, I conclude that both Appeal A and Appeal B should be dismissed.

H Porter

INSPECTOR

APPEARANCES

FOR THE APPELLANTS

John Farrell (Stirling Property Development Ltd) – Appellant

Mike Hughes (Narracotts Architects) – Architect

FOR THE LOCAL PLANNING AUTHORITY

Ian Perry – Principal Planning Officer, Teignbridge DC

Naomi Archer – Conservation Officer, Teignbridge DC

INTERESTED PARTIES

Paul Perkin, local resident

Ian Woods, local resident

Cllr Carole Tamlyn, local resident

Chris Cole, local resident

Mike Trigger, local resident

Jo Leigh, local resident

Tony Leigh, local resident

William Parratt, local resident

Susanne Parratt, local resident

Cllr Valerie Mawhood, local resident

Cllr Martin Wigley, Teignbridge DC (on behalf of local residents)

DOCUMENT SUBMITTED AT THE EVENT

Design and Heritage Consultation Response (15/01205/LBC) 9 July 2015