



Appeal Decision

Site visit made on 10 December 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 January 2020

Appeal Ref: APP/X1118/W/19/3223736

Pill House, Road Past Pill House, Barnstaple EX32 9EF

- 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 & Mrs Jonathan Gay against the decision of North Devon District Council.
 - The application Ref 64728, dated 20 March 2018, was refused by notice dated 6 September 2018.
 - The development proposed is six dwellings including access, drainage, services and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have seen the drawings showing an alternative means of access to the appeal site. However, in the interest of natural justice and fairness to all parties, I have dealt with the appeal on the basis of the drawings that were considered and determined by the Council, and on which interested people's views were sought. The appeal process should not be used to evolve or materially change a scheme. If the Appellants consider the amendments would overcome the Council's concerns with the proposed development, they should make a fresh planning application.

Policy background

3. In considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
4. Subsequent to the Council issuing its decision notice, the North Devon and Torridge Local Plan (the LP) was adopted on 29 October 2018; through which most of the appeal site has been included within the development boundary for Barnstaple. This notwithstanding, development proposals still need to be fully and objectively assessed against the policies in the development plan and other relevant material considerations, and on their merits. The National Planning Policy Framework, revised February 2019 (the Framework) is a significant material consideration that should be read as a whole.

Main Issues

5. Subject to the imposition of conditions in the event of the appeal being allowed, the Council is no longer pursuing the third reason for refusal relating to financial contributions towards education and public open space. Therefore, the main issues in this appeal are:
 - the effect of the proposed development on the setting or any features of special architectural or historic interest the Grade II* listed building known as Pill House possesses; and,
 - whether sufficient information has been provided to demonstrate that the proposed development would not cause harm in respect of trees and protected species.

Reasons

The site and the significance of the listed building

6. Pill House is set back an appreciable distance from Bishops Tawton Road behind undeveloped fields that run either side of the driveway leading to it. The appeal site, which occupies most of the field on the north side of this driveway, is laid to rough grass and bounded by mature trees and hedgerows on three sides.
7. Pill House was added to the statutory list in 1951; the statutory list description identifies it as a large house, divided into flats, c. 1700, perhaps with an earlier core. The significance of the building lies in part in its fabric and architectural aesthetic, which denote its architectural and historic interest and what is termed within the appellants' Heritage Statement 'a rare surviving example of early 18th century country house design'. Additionally, historic interest is derived from Pill House being a remnant of a wider, high-status country house estate. The former parkland and agricultural lands once associated with the wider estate are inextricably linked with Pill House's origins as a high-status, rural manor and are therefore also part of its historic interest.
8. The extent of the agricultural estate and the sense of rural isolation of Pill House have changed over time. Not least, the building has been subdivided into flats; the functional connection between the building and its former estate lands largely severed and its curtilage reduced; while 20th century housing, road and other infrastructure have evolved nearby. Despite these changes, to this day, the soft, green, open and undeveloped nature of the appeal site has endured. So too has the driveway itself ostensibly been the preserve of Pill House and the ancillary structures associated with it.
9. Albeit partially screened by mature planting, the tangibly soft, green and open characteristics of the appeal site are appreciable from Pill House, and from its ornamental front garden, and distinguish the approach to it. Indeed, the appeal site is part of the verdant surroundings from which the asset is experienced and certainly comprises a part of its setting. More so, the appeal site and the extant driveway are historic remnants of the former Pill House estate and also contribute to its significance and special interest as a highly graded designated asset.

The effect on the listed building

10. The proposal is to introduce six detached dwellings with associated garaging and gardens located towards the north-eastern corner of the appeal site. Access to the dwellings would be via a new shared driveway that would be widened and upgraded, and two-metre wide pavements installed to connect with Bishops Tawton Road. Metal railings and tree planting is proposed along the length of the driveway, while the remainder of the site would feature an attenuation pond and wildflower and grass meadow.
11. Fundamentally, the scheme would be an urban intrusion onto the appeal site, which would substantially erode a significant portion of the undeveloped field on the north side of the driveway. Not only would the proposals cause further encroachment of development towards Pill House, the characteristically open, green and undeveloped nature of the appeal site would be undermined. As a consequence, legibility of the appeal site as a vestige of rural estate lands associated with Pill House would be diminished.
12. The provision of a shared driveway, rumble strips, new footway and the widening and upgrading of the existing drive would combine to intensify an urbanising impact. Together with the relatively standard design of the houses, the proposal would be a contrived arrangement akin to a suburban cul-de-sac and completely at odds with the soft, informal qualities of the appeal site. Additionally, the branching-off of the existing driveway to serve a discrete, new housing development would weaken the historic link this route has enduringly maintained with Pill House.
13. It is argued that there would be no inter-visibility between Pill House and the proposed development, and that supplementary tree planting would evoke something of the former estate parkland. Be that as it may, visibility and setting are not one and the same. The provision of individual gardens and additional tree and meadow planting on the wider site would not fully mask or distract from the houses either on approach to Pill House or from within its closer confines. Even if the vegetation did obscure the development from Pill House, neither trees nor the provision of landscaped borders alongside the driveway would mitigate the harmful impact that hard, urban forms would have on what has endured as an open, undeveloped field.
14. All things considered, the proposed development would harm the setting and thereby significance and special interest of the Grade II* listed building. Failing to preserve the special interest of the Grade II* listed building runs contrary to the clear provisions of Section 66(1) of the Act. The scheme also conflicts with policies ST15 and DM07 of the LP, which give great weight to the conservation of historic features of natural importance and their setting; and seek to conserve and enhance heritage assets and their settings.
15. The degree of harm to the designated heritage asset would, given the nature and scale of the development proposed, be less than substantial. To outweigh that harm, the Framework requires clear and convincing justification and wider public benefits. I turn to this in the overall planning balance.

Trees

16. A Tree Preservation Order (TPO) dated 1987 for 'Driveway to Pill House' specifies seven trees: Horse Chestnut (T1 – T4); Lime (T5 and T7) and a

Sycamore (T6) situated close to the driveway entrance off Bishops Tawton Road. My own observations on site support the appellants' claim that a number of those trees no longer exist. However, trees T5 and T7 do appear to be the Limes marked on the TPO plan, 1986. Additionally, the site's mature vegetal perimeter boundaries are identified in the Ecological Assessment (EA) as being of significant value. I agree that the extant trees and hedgerows provide an important green edge to the appeal site, making a positive contribution to the visual amenity of the site itself and the verdant setting of the listed building.

17. The rear garden of proposed plot 6 would be located close to the tree canopy of one tree T7, part of it under its spread, while T5 is close to where the proposed two-meter-wide footway is proposed. It is attested that the spread and trunks of these two Lime trees have been surveyed, and that the distances to the proposed development would ensure no adverse impacts. However, I am mindful that damage to trees can be caused by, amongst other things, cutting the roots, compaction of the soil structure, or changes in ground level.
18. I note that the ground level around one of the limes is 'dished' and so a 'no-dig' method of construction for the proposed path would ensure the root system is not disturbed. However, the proposed plans do not clearly show a root protection zone or full tree survey to give suitable assurance that trees would not be affected indirectly.
19. Whilst trees may not necessarily be an impediment to development, the evidence before me does not provide sufficient certainty that there would not be harmful impacts on trees. I do not consider that such matters should be left to be controlled by condition, given the potential consequences harm to trees could have on the character and appearance of the site and setting of the Grade II* listed building.
20. Therefore the proposals currently fail to demonstrate accordance with Policy DM04 of the LP and paragraph 170 the Framework, insofar as they seek to ensure proposals reinforce the key characteristics and special qualities of the area in which the development is proposed, and retain and integrate existing landscape features, and to enhance the natural and local environment.

Protected species

21. A Preliminary Ecological Assessment (EA) was undertaken in June 2014, and the site was re-surveyed in 2017. No protected species were identified as being present during those surveys. A cover letter recommended that the site undergo management during the winter of 2017/18 so as to avoid it attracting reptiles such as Slow Worms and Grass Snakes. I do not know whether such management was undertaken, and without a more up-to-date survey, it casts doubt over whether the appeal site continues to be of low ecological value.
22. Furthermore, the EA raises the possibility of trees to the south of the appeal site having the potential for housing bat roosts. Additionally, interested parties have reported sighting bats flying nearby. Bats and their roosts are protected by law and I am not fully assured that the proposed development would not affect bats, their breeding sites or resting places.
23. The information before me therefore does not convincingly demonstrate that the scheme would not cause harm in respect of protected species. Conflict therefore arises with Policy ST14 of the LP and paragraph 174 of the

Framework, insofar as these seek to ensure developments conserve European protected species and the habitats on which they depend, and to protect and enhance biodiversity.

Planning balance and public benefits

24. Having regard to the circumstances of the case and given the nature and scope of the impact the proposed development would have on the setting of the listed building, the overall harm to the significance of the heritage asset would be less than substantial. Paragraph 194 of the Framework states that any harm to the significance of a designated heritage asset from, amongst other things, development within its setting, should require clear and convincing justification. Paragraph 196 of the Framework goes on to establish that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
25. The proposal would provide several benefits. Not least, six open-market dwellings inside the development boundary of Barnstaple that would contribute to housing supply and the choice of homes in the District. The location of the proposed development would provide access to a range of services, amenities, leisure facilities and public transport in Barnstaple. There would be economic benefits associated with the construction phase, related employment for its duration, and as future occupiers feed into the local economy, supporting existing local services and businesses. There is also potential for parts of the appeal site to present an opportunity for ecological and landscaping enhancements.
26. However, six is not a great number of additional dwellings and would not make a significant contribution to boosting housing supply. Indeed, the benefits of the proposals are those that could be expected from a well-located, small-scale residential development within the development boundary. An absence of harm in relation to living conditions, flood risk or highway safety are neutral factors, which weigh neither for nor against the proposal in the overall planning balance.
27. Much has been made of the benefits of supplementary tree planting and landscaping enhancements. While the landscaping may have been developed by local horticultural specialists, other than reference to historic maps, it is unclear how the wider landscaping proposals have been informed by an understanding of the site, its history, or the species and location of trees most appropriate for it. There is also little evidence to indicate the likely beneficial extent of any extra ecological provision. In large part, the proposed ecological and landscape enhancements would be in mitigation for the proposal. With this in mind, the sum purported landscape and ecological enhancement would not absolve a fundamental concern over the urbanising effect of the scheme or justify the wider harm the development would cause.
28. On the other hand, the overarching statutory duty imposed by s66(1) of the Act and the presumptive desirability of preserving the asset and its setting must be given considerable importance and weight. This duty is imposed on the decision-maker and so applies irrespective of whether the inclusion of the appeal site within the development boundary for Barnstaple was not expressly objected to by Historic England or the conservation officer; and where the harm to the heritage asset is found to be less than substantial. The proposal is not predicated on securing the optimum viable use of the designated heritage

asset and, even cumulatively, the sum of public benefits associated with the scheme would not be sufficient to outweigh the considerable importance and weigh that even less than substantial harm to the heritage asset carries.

29. Additional to heritage impacts, the proposals give rise to potential additional harms to trees and protected species. Overall, I do not find there to be material considerations sufficient to outweigh the conflict with the development plan and Framework taken as a whole.

Other matters

30. I have taken into account the site's inclusion inside the Barnstable Settlement Boundary, however, this does not mean that the site could or should be developed or in any way de-value the statutory duty to preserve the listed building and its setting. That the impact on the setting of the listed building was not identified during previous applications responses or as part of the LP adoption has not influenced my decision, which has been made on the basis of the plans and evidence before me. Furthermore, the characteristics of each site, the significance of individual listed buildings, and the contribution made to that significance by their settings is inevitably unique. I therefore do not find the apparent similarities to one site should be used as justification or an indication on an approach to evaluating the impacts of a proposal at another.

Conclusion

31. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR