
Appeal Decision

Site visit made on 10 March 2020

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 April 2020

Appeal Ref: APP/F0114/W/19/3243245

**Land between 1 - 7 Horseshoe Walk and 49 - 59 Sydney Buildings,
Widcombe, Bath**

- 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 Mr Martin Brennan against Bath & North East Somerset Council.
 - The application Ref 19/00126/FUL, is dated 10 January 2019.
 - The development proposed is a new four-bedroom dwelling within current residential garden; minor alterations to vehicular access, demolition of existing timber sheds, erection of new timber clad bicycle and waste/recycling bin store, plus associated landscape alterations.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The Council had not determined the application prior to the appeal; during the course of which, the it confirmed that the proposed development would have been recommended for refusal.
3. Based on the evidence and submissions provided, I consider the main issues in this appeal are the effect of the proposed development on the character and appearance of the area, with special regard to the effect on the Bath Conservation Area (CA) and the City of Bath World Heritage Site (WHS).

Reasons

4. The appeal site is a roughly triangular, flat parcel of undeveloped land within the CA and WHS. The site also lies adjacent to the Kennet and Avon Canal (the Canal) and is proximate to various Grade II listed buildings, including fronting Sydney Buildings. The appeal site is situated within the urban area of Bath, where the principle of residential development is acceptable.
5. The CA is extensive and can be broadly characterised by its handsome 18th and 19th century townscape and later industrial infrastructure, interspersed with pockets of green space, all within a dramatic landscape setting. Throughout the CA, there is a discernible built response to the natural contours of the landscape, which reflects the built evolution of the City. The relationship of planned built development to the landscape contributes to the Outstanding Universal Value (OUV), authenticity and integrity, of the WHS and underpins the special interest of the CA as a whole.

6. The appeal site falls within the North Road and Cleveland Walk Character Area of the CA. Built form locally is distinguished by semi-detached or detached early 19th and inter-War dwellings addressing streets that respond to the rising landform, with gardens extending rearwards. Pockets of green space are visible through gaps between houses, and along the Canal, reflecting the built evolution of this part of the City and a planned built response to the local landscape.
7. The appeal site is part of a larger pocket of incidental green space, populated by trees, shrubs and used as gardens. Ostensibly, since the late 19th century and, at the very least, the designation of the CA and WHS, the appeal site has been open, green and devoid of substantial or permanent urbanising structures. Plans for development prior to the construction of the Canal obviously never came to fruition and the site's northern boundary forms part of the green buffer beside the Canal, giving a soft, green backdrop to the Canal's edge.
8. The site is otherwise bounded by the rear gardens of Sydney Buildings and Horseshoe Walk dwellings. Forming an area of green punctuation between buildings along these routes, the appeal site both alleviates built form and accentuates the relationship between development and the local topography. The appeal site therefore makes a positive contribution to the character and appearance of the area; the authenticity and integrity, of the WHS; and special interest of the CA as a whole.
9. The proposal would introduce a substantial, detached four-bedroomed dwelling, associated parking and car turning area and new access track onto the appeal site. The existing rudimentary sheds close to the site's entrance would be re-purposed for bin, cycle and other storage.
10. The proposed dwelling would be oriented to face a substantial garden area and would stand at the end of a long, private access track. Divorced from other dwellings, the proposal would be starkly at odds with the prevailing built response to routes and the local topography. I take no issue with an overtly contemporary design per se. That said, the proposed 'boxy' form and unrelenting timber cladding would contrast with the common materials and domestic character of nearby dwellings, where similar design responses, even in extensions, are in the exception. In combination with its position and orientation, the overall form of the proposal would challenge, rather than promote or reinforce, local distinctiveness.
11. Irrespective of any surface treatment, the proposed driveway, parking and turning areas, would emphasise a distinctly urban intervention on the site. So too the associated stores close to the Canal-side entrance. Whilst much of the wider area would remain undeveloped, the proposal would nonetheless elicit a domestic encroachment causing a harmful reduction in its verdant, undeveloped qualities. Even with the vegetal screening, and its supplementation, the proposal would advance a domestic intrusion onto the appeal site that would erode its soft, informal character.
12. Harm to character does not rely on visibility. While the site's low-lying position and dense vegetal boundaries would screen the development from certain vantages, the urbanising and incongruous impact of the proposal would be intermittently obvious. The submitted Landscape and Visual Impact Assessment evaluates a dwelling in a different location to that now proposed.

From certain vantages such as at points along public footpaths through Bathwick Meadows, the tow path alongside the Canal, and between Sydney Buildings and Horseshoe Walk houses, their rear gardens and windows, the harmful effect of the proposal would be noticeable.

13. Overall, I consider that the proposal would undermine the contribution that the appeal site makes to the character and appearance of the area, which would fail to preserve or enhance the special architectural or historic interest of the CA as a whole. Disrupting the planned relationship of built development to the landscape, the proposal would likewise fail to respect the integrity or OUVs of the WHS. I conclude from this that the significance of both the CA and WHS would be, albeit in a small way, harmed.
14. Considering its location, relative confinement and scale, the proposed development would result in less than substantial harm to the CA and WHS as designated heritage assets. Paragraphs 193 and 196 of National Planning Policy Framework, revised February 2019 (the Framework), requires that any harm should be weighed against the public benefits of the proposal.
15. The proposal would provide a single open-market dwelling, contributing to housing supply and the choice of homes inside the built-up area boundaries of Bath. There would be economic benefits associated with the construction phase and through future occupiers feeding into the local economy. The proposed dwelling would be built to energy-efficient 'Passivhaus' standards, thereby providing some small benefit supporting a lower-carbon future. Matters of ecology, trees, highway safety, flood risk and living conditions, or the setting of listed buildings are not in dispute. Based on the evidence provided, I see no reason to disagree. Tidying the site, additional planting and any associated ecological benefits are in large part mitigation for the development.
16. Even cumulatively, the sum of social, economic, environmental or other public benefits associated with a single dwelling are limited and, collectively, not of sufficient magnitude to outbalance the less than substantial harm to the significance of the identified designated heritage assets.
17. The proposed development would cause harm to the WHS and CA. There would be conflict with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Also with Policies B4 and CP6 of the Bath and North East Somerset Core Strategy, July 2011; and Policies D1, D2, D3, D5, NE2, and HE1 of the Placemaking Plan District-wide Strategy and Policies, July 2017 that seek to ensure high-quality design, including in respect of the site context and local character; to protect, conserve and enhance local landscapes and the historic environment; and to protect the OUVs of the WHS. For the same reasons, the proposal would fail to accord with the good design and historic environment policies within Sections 12 and 16 the Framework. Amongst other things, these seeks to ensure development that is sympathetic to the surrounding built environment and landscape setting and give great weight to the conservation of heritage assets.

Other matters

18. The Council registered the planning application with a signed Certificate A and matters regarding land ownership are applicable to legislation that deals with private legal rights. The ongoing dispute regarding land ownership has therefore not had any material bearing on my assessment of the planning

issues in this case. I have determined the appeal scheme on its merits and considering the site-specific circumstances. Therefore, conclusions of another Inspector (APP/F0114/W/16/3260550) on a nearby but different site have not influenced my own.

Conclusion

19. This appeal follows a series of design iterations and frustrated attempts on the part of the appellant to satisfy the Council's officers. However, the appeal site is in a highly sensitive location, where the CA and WHS designations require the decision maker-apply great weight to the conservation of heritage assets, any harm to which, the law determines, carries considerable importance and weight. For the reasons given above, and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

H Porter

INSPECTOR