



Appeal Decision

Site visit made on 14 October 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Appeal Ref: APP/F0114/W/20/3253206

Land adjacent to Kennet House, Sydney Road, Bath BA2 6NR

- 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 Moore of The Trevor Osborne Property Group against the decision of Bath and North East Somerset Council.
 - The application Ref 19/01391/FUL, dated 29 March 2019, was refused by notice dated 10 January 2020.
 - The development proposed is described as erection of new dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on designated heritage assets, including: whether the development would preserve the settings of listed buildings; preserve or enhance the character or appearance of Bathwick Conservation Area (the Conservation Area); and conserve Bath World Heritage Site (the WHS).

Reasons

3. The site has a frontage on Sydney Road, and until relatively recently formed the front garden of Kennet House, a Grade II listed building. Insofar as it relates to this appeal, the special interest and significance of Kennet House resides in its picturesquely Gothic Revival design, the fact that the dwelling is detached, as too the fact that it was originally set within a spacious plot. These attributes hold particular significance within the local context, given that they illustrate the 'late Georgian rejection of the classically conceived terrace'. Examples of such terraces can be seen nearby, play an important role in characterising the broader historic townscape of Bath, and were originally planned along Sydney Road itself.
4. In this regard Kennet House forms part of a small group of Grade II listed buildings within Sydney Road. Aside from Kennet House, these are Kildare, which lies towards the east, and buildings listed as Sydney Gardens Hotel and Ravenswell, immediately opposite. These are of broadly similar date, and each exhibits similar characteristics in terms of their non-terraced design, spacious layout and landscaping, and stylistic diversity. These 3 listed buildings (the group) thus draw significance as a group, both viewed together within Sydney Road, and viewed relative to their broader setting within the historic townscape.

5. Cleveland House, a Grade II* listed building in classical style, stands to the north of the site, but does not form part of the group. It is however visible from within the site, and the site forms a component of the view of Cleveland House within Sydney Road. Insofar as it relates to this appeal, the special interest and significance of Cleveland House resides in its visual, physical and historic relationship with the canal over which it is constructed, its prestige design as a purpose-built Georgian office building, and its prominence within the streetscene. This prominence is accentuated by the open frontages located adjacent, including that of Kennet House, and by the fact that the building stands somewhat apart from other buildings of classical design.
6. All the above listed buildings lie within the Conservation Area. Insofar as it relates to this appeal, the special interest and significance of the Conservation Area resides particularly in the planned layout, buildings and spaces related to the unfinished Pulteney Estate. This includes Sydney Road, which occupies one side of Sydney Gardens, and which, as outlined above, was originally to have been lined by terraces. In this context, special interest and significance also resides in the evidence of subsequent phases of historic change. This is particularly apparent in the bisection of Sydney Gardens by a canal and railway line; the former being functionally related to Cleveland House, and each helping to define the land on which Kennet House, and the group as a whole, were built. For these and the above reasons, historic development within Sydney Road, including Kennet House, makes an important contribution to the special interest and significance of the Conservation Area.
7. The site is additionally located within the WHS. The WHS's Statement of Outstanding Universal Value (SOUV) relates specifically to the Roman and Georgian phases of development in Bath, with a particular focus on the planned eighteenth century townscape. In this context, as noted above, Sydney Road holds significance as a component of the planned layout of Pulteney Estate, albeit one whose intended design was never fully realised.
8. A fence, whose lawfulness has been challenged, has been erected around part of the site. A large unkempt hedge also runs along the front boundary. These each partly obstruct views into the site. Given that the site occupies the majority of the space between the front elevation of the house and the pavement, it nonetheless has a clear spatial and visual relationship with Kennet House. This is appreciable from within Sydney Road, from within which it is obvious that the site once formed the front garden of the house. This impression is reinforced when viewing the site alongside Kildare, which is similarly set back from the road behind landscaped space. The site is therefore readily perceived as forming both an integral aspect of the historic layout of Kennet House, and of the plot pattern in Sydney Road more generally. As such it directly contributes towards the significance of Kennet House, both individually, as part of the group, and forms an important component of the historic townscape of the Conservation Area.
9. The proposed development would involve the construction of a substantial building within the space between the front elevation of Kennet House and Sydney Road. This would immediately compromise the historic openness of the frontage, and the spaciousness of the plot layout within Sydney Road. It would also obstruct the spatial and visual connection of Kennet House with Sydney Road, producing both an awkward and incongruous juxtaposition of built forms. The adverse visual effects would be made worse by the relatively small gap left

between the proposed building and the frontage of Kennet House, and the unusual octagonal form and classical treatment proposed. Each of the latter would indeed be wholly at odds with the design of Kennet House and the group as a whole, further undermining and obscuring their identity, and the important role they play in evidencing processes of past change within the broader historic townscape of the Conservation Area.

10. The proposed dwelling would additionally occupy part of a space across which Cleveland House is currently viewed, and could be viewed if the existing front hedge was trimmed or removed. The former could occur during the simple course of maintenance, whilst the latter is anticipated as part of the development. The development would therefore form part of the same view as Cleveland House when travelling towards it along Sydney Road. In this respect the development would appear intrusive, detracting from the prominence of Sydney House within the streetscene. The effect would again be accentuated by unusual form and stylistic treatment proposed, which would both draw attention, and erode the visual distinctiveness of Cleveland House.
11. The construction of a classically styled octagonal structure within a space where terraces of presumably classical design had originally been planned, would further confuse appreciation of the layout and composition of the eighteenth century townscape. In this context the SOUV of the WHS specifically states that there is a need for new developments to respect the planning of the Georgian terraces. The proposed development would therefore fail in this regard.
12. The appellant nonetheless states that the proposed building would help to screen the rectilinear form of the Orthodontics building next door to Kennet House, and would provide a more sympathetic front boundary treatment. However, notwithstanding the fact that the Orthodontics building is an intrusive form, its partial screening by an even more intrusive form would bring no benefit. An improved boundary treatment would be beneficial in itself, and would potentially complement other historic boundary walls within Sydney Road, some of which are independently listed. However, when considered in combination with the rest of the proposed development, the overall effect would be resoundingly negative.
13. A number of relatively recent developments are visible from within Sydney Road, and have been highlighted by the appellant. Whilst I do not have the full details of their background history, they all occupy different locations within the townscape and streetscene, and none resembles the proposed building. In this regard, even if similar planning and statutory considerations were applicable in these cases, the appeal scheme must ultimately be assessed on its own merits. Consequently, the fact that development has occurred elsewhere within the townscape at large, does not alter my view of the particular merits of the appeal scheme.
14. The site has been severed from Kennet House. The appellant states that in the event the appeal is dismissed it will be held in anticipation of future development, during which time there will be no short term rationale for improving its appearance. As the site is a garden space, this presumably implies that it will not be maintained. Indeed, this may help to explain the currently unkempt state of the boundary vegetation. Here paragraph 191 of the National Planning Policy Framework (the Framework) states that where there is

evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in the decision. I consider that this policy is applicable given the site's long-standing relationship with Kennet House, and its position within both the Conservation Area and WHS. In this respect, the modest visual harm that arises from the current condition of the site, or which might arise due to lack of maintenance in the future, does not attract weight in favour of the scheme.

15. In view of my findings above, the development would not preserve the settings of Kennet House, Cleveland House or the group as a whole, preserve or enhance the character or appearance of the Conservation Area, or conserve the WHS. On this basis I find that the proposed development would cause less than substantial harm to the significance of Kennet House, Cleveland House, Kildare and Sydney Gardens Hotel and Ravenswell (the listed buildings), the Conservation Area, and the WHS. I attach considerable importance and weight to the harm that would be caused to the significance of the listed buildings and the Conservation Area, and great weight to the harm that would be caused to the WHS. In accordance with the paragraph 196 of the Framework, it is necessary to balance this harm against the public benefits advanced in favour of the appeal scheme.
16. Insofar as the design attributes of the scheme have been advanced as benefits, these have been considered above and clearly do not attract any weight in favour of the scheme.
17. The development would provide a single new energy efficient dwelling in a sustainable location, helping to address a broad general need for housing. The contribution would however be very small and otherwise unremarkable in terms of type. That being so, I attach very little weight to the broader social, economic or environmental benefits of the scheme's provision of new housing.
18. The appellant states that the development would make more efficient use of the site, reflecting an objective set out within the Framework. However, insofar as paragraph 122 of the Framework directly addresses this matter, it sets it within the context of the desirability of maintaining an area's prevailing character and setting, including residential gardens. In view of my reasons above, the appeal scheme would fail in this regard. This consideration does not therefore attract weight in favour of the scheme.
19. The scheme could incorporate tree planting, which the appellant states would help to absorb carbon dioxide. This is undoubtedly true, however any border environmental benefit would be negligible, and most likely cancelled out by the removal of other vegetation on site. Again therefore, this consideration does not attract weight in favour of the scheme.
20. In summary the benefits advanced in favour of the scheme would not outweigh the harm that would cause to designated heritage assets.
21. I am mindful of the fact that the Council did not identify harm in relation to the settings of Kildare, and Sydney Gardens Hotel and Ravenswell. Given their group value with Kennet House, consideration of their settings however clearly falls within the scope of the duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. For this reason, given that the matter otherwise received detailed consideration within the appellant's submissions, and because the level of harm I have identified in relation to

other designated heritage assets is more than sufficient to outweigh the benefits of the development, I am satisfied that no prejudice arises from my consideration of the matter.

22. For the reasons outlined above I conclude that the development would have an unacceptable effect on designated heritage assets, failing to preserve the settings of the listed buildings, preserve or enhance the character or appearance of the Conservation Area, or conserve the WHS. The development would therefore conflict with Policy HE1 of the Bath and North East Somerset Local Plan 2011-2029: Placemaking Plan (PP) and Policy CP6 of the Bath and North East Somerset Core Strategy, which each broadly support the above objectives; and Policies D1 and D2 of the PP, which amongst other things each expect development to contribute positively to local distinctiveness and history.

Other Matters

23. Planning permission was refused partly on the basis that no bat roost assessment had been submitted, and that full consideration could not therefore be given to the impact of the scheme on bats. Further information was however submitted subsequently, and considered by the Council's ecologist. On this basis the Council is content that the matter can be satisfactorily addressed by the imposition of suitable conditions. That being so, and in view of the fact that I am dismissing the appeal on other grounds, it is not necessary to give the matter any further consideration.

Conclusion

24. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR