
Appeal Decision

Site visit made on 17 November 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2020

Appeal Ref: APP/G1630/W/20/3252374

6 The Square, Toddington, Cheltenham GL54 5DJ

- 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 David Philips against the decision of Tewkesbury Borough Council.
 - The application Ref 19/00865/FUL, dated 30 August 2019, was refused by notice dated 18 February 2020.
 - The development proposed is construction of 3 no. outbuildings comprising a garden room, double garage and gazebo.
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Decision

1. The appeal is allowed in relation to the gazebo and planning permission is granted for gazebo at 6 The Square, Toddington, Cheltenham GL54 5DJ in accordance with the terms of the application, Ref 19/00865/FUL, dated 30 August 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 5 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan: 19.021.150; Drawing 19.021-201.
2. The appeal is dismissed in relation to the garden room and double garage.

Procedural Matters

3. In exceptional circumstances it may be appropriate for councils to use a condition to grant permission for part of a development. The Council has issued two decisions in relation to this application, one decision giving permission for the gazebo and one decision refusing permission for the garage and garden room. These decisions have different descriptions of development and neither reflects what is on the application. Whether the Council was procedurally correct to issue two decisions rather than one decision with conditional permission is outside the remit of this appeal.
4. In any case, Section 79 (1) of the Town and Country Planning Act 1990 (the Act) sets out that on an appeal made under Section 78 of the Act, the whole proposal is before me to determine. As such, I have dealt with the appeal as if the application was before me in the first instance.
5. The Council's decision refers to Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) yet as far as I can ascertain this is not

an application for listed building consent. Moreover, during the appeal the appellant confirmed that The Square was not in the same ownership as Toddington Manor at the time the Manor was listed. As such, it is not curtilage listed. Consequently, I presume that the reference to Section 16 is an error. I have proceeded on the basis that the relevant Section of the Act is Section 66(1).

6. Alternative designs for the garden room have been submitted with this appeal. However, it could be prejudicial to the interests of other parties to take these into account.
7. Although not referred to in the decision, the officer's report and design and access statement note that the site is located within an Area of Outstanding Natural Beauty (AONB). I have included reference to the AONB in my reasoning.
8. A gazebo has been built on the appeal site. I have based my reasoning on the submitted drawings.

Main Issues

9. The main issues are:

- Whether the development would be harmful to the architectural and historic significance of the Grade I listed St Andrew's Church, the Grade II* Toddington House, the Grade II listed Corner Cottage (also known as The Square) and the Grade II listed Toddington Manor Park and gardens, or their settings; and,
- The effect of the development on the character and appearance of the AONB, including protected trees.

Reasons

Heritage Assets

Significance

10. The now ruined Toddington House (the House) was formerly the focus of a very large estate formed in the 10th century and which stayed within the same family until the 20th century. A sizeable and intact portion of that landed estate is now a Grade II listed Park, which contains the Grade I listed Toddington Manor (the Manor), built in the Gothic revival style after the House burnt down in the early 19th century. The remnant limestone wall of the House is located within the Park, a short distance from the end of the lane that runs between St Andrews Church (the church) and The Square.
11. The Square was built as a stable block around 1800. It comprises a rectangular stone building with a hipped slate roof, enclosing a courtyard. It has subsequently been developed as separate dwellings which are largely hidden from the public domain when viewed from the nearby lane by garden vegetation and structures, particularly on the eastern elevation. The appeal site is the garden of one of those dwellings, 6 The Square (No 6).
12. The church and its surrounding churchyard are located opposite The Square, across a narrow country lane which terminates at the Park boundary, from

- where there are near views of the House's remaining stone wall with its arched entrance and crenelated detailing.
13. The 19th century Manor can be seen in views from the churchyard. It is some distance from the church, the House and the Square and sits on elevated ground to the north in a setting of terraced gardens, framed by parkland and specimen trees.
 14. The Square has an imposing centrally pedimented façade of ashlar stone on its northern elevation, facing the lane. It has ground floor gothic arched windows, a stone string course above, and hooded circular windows beneath a stone parapet and hipped slate roof.
 15. Although the basic typology of No 6's west facing elevation broadly reflects that of The Square's north facing elevation, the window surrounds are plainer and there is no string course. Moreover, the building stone is coursed limestone rubble rather than squared ashlar. On this basis I conclude that the northern elevation is The Square's principal elevation, positioned to have maximum visibility from the approaches to the House.
 16. My reasoning in this regard is reinforced by The Square's relationship to the lane and the short distance to the House. This underlines its former functional association with, and proximity to, the House's occupants.
 17. The narrow lane is not a through route and mature vegetation on the roadside, in adjacent plots and particularly in the churchyard oversails its unbound verges, giving it an enclosed, tranquil and undeveloped rural character. This special character makes a considerable contribution to the appreciation of this cluster of listed buildings and the adjoining Park.
 18. The western boundary of No 6's garden abuts the Park. When viewed from both the garden and the nearby lane, the Park comprises a broad vista over extensive and highly manicured grassland seemingly extending to the horizon, with mature parkland trees and informal tree belts alongside the meandering river.
 19. An informal cluster of mature trees runs parallel to No 6's western plot boundary. The continuation of grassland under the timber post and rail fence, together with the trees gives the impression that this part of the garden is within the Park. The trees provide a buffer and informal screen between the Park and the converted dwellings of The Square. This impression is reinforced by the hedge lined path which broadly separates two distinct areas of garden and marks the transition to a more domestic garden adjoining No 6's frontage. This dichotomy was also highlighted in the submission from The Garden History Society.
 20. I conclude that the significance of The Square arises from its distinctive Georgian architecture with its restrained ornamentation and its intact historic fabric. There is also significance derived from The Square's spatial relationship and proximity to the cluster of heritage assets around this location which reflects its position at the heart of the estate until the early 19th century. I also find significance in the relationship of No 6's garden to the Park, and the contrast between the enclosed and intimate space of the garden next to the dwelling and the contrast with the western section which has wide views over the adjoining Park.

21. It is unclear whether The Square had any functional links with the Manor, once that was built, but this does not diminish its importance in relation to the House, the church or the Park.
22. The Park has a separate listing in Historic England's park and gardens category. It is a late 18th century deer park with pleasure grounds and formal gardens extended and improved around the time that the Manor was built. The deer park's gently rolling and well mown grassland directly abuts the appeal site and the churchyard. The Park's significance arises from its maintained bucolic landscape, its mature trees and the spatial relationship with other structures within the estate.
23. The current church was built towards the end of the 19th century, and has ashlar walls and tower, below a stone slate spire. Although largely built around the same time as the Manor, the listing indicates that there are monuments to the estate owners and fragments of earlier construction dating back to the 17th century. Consequently, it seems likely that there has been a church on this site for some considerable period, which would tie in with the estate's long history and the proximity of the House to the churchyard.
24. As such, the significance of the current church arises primarily from its historic fabric and historic association with the estate and its owners. There is also a spatial, social and functional relationship with the House and the Manor. I also find significance in the quite ambience of the lane and the churchyard which contributes to the underdeveloped and rural character of the area.
25. The only remains of the original House are part of the eastern façade of the Jacobean gatehouse. Its significance arises from its historic fabric, and its location which formed the former hub of the estate. There is reciprocal significance with The Square and the church.
26. The listing information notes that The Square has group value with the church and the House. Although I have considered each listing and significance separately, the proximity of the buildings to each other and their position relative to the Park, there are clearly layers of inter-related and overlapping influences. Each asset is linked to the evolution of the Toddington estate and makes a collective and cumulative contribution to the significance, and consequently the settings, of these heritage assets.

Proposals and effects

Garden Room

27. The garden room would have a crown roof with an asymmetric lantern located between the canopies of mature trees beside the post and rail fence that separates No 6's garden from the Park. As such it would be a wholly domestic intrusion into the visual envelope of the historic Park, and would also detract from the expansive setting of the House. My reasoning in this regard is reinforced by the appeal statement which notes that from within the park, *the garden room would be seen against the backdrop of mature trees and not viewed in the same context as the host dwelling*. The garden room would diminish the significance of the Park and the House, and would be detrimental to their settings.

28. I appreciate that revised designs have been submitted but my reasoning is concerned with location, scale and mass rather than the details of design and even if I took these revisions into account, it would not alter my reasoning.
29. Moreover, the garden room would sit entirely within the root protection zones of several trees, some of which are protected by the TPO. Excavations and compaction would be likely to cause damage to these trees and have an adverse effect on their future health and longevity. This would in itself be detrimental to the significance of the Park as well as the character and appearance of the AONB.
30. It is proposed that a narrow access track could lead through the trees for construction, but this appears very restricted in width and extent. I am not satisfied that construction access could be contained within that space, even if small excavators were to be used.

Garage

31. The Square's principal elevation faces a broad gravelled hardstanding which extends across its entire façade. This is set back from the lane and separated from it by a clipped hedge. The extent and broad symmetry of this attractive façade is visible from and prominent in the street scene.
32. The hipped roof double garage would sit forward of The Square's principal elevation and building line, very close to the lane boundary. It would be dominant and prominent in the street scene and its suburban appearance would jar with the understated period elegance and generous proportions of The Square's principal elevation, creating a visual distraction.
33. The garage would also be prominent in the narrow vista that leads from The Square along the lane to the Park and the House. It would appear incongruous with the special and rural character of this section of the lane and the opposing churchyard.
34. I appreciate that the garage could be timber clad but this would not disguise its overall bulk, form or position. My observations also lead me to conclude that existing vegetation would be insufficient to screen the garage from the lane or its intrusion forward of the building line.
35. A dwelling on the other side of The Square has had a garage built close to the lane. However, this is not in the same visual context as The Square's principal elevation, the Park, the House or the church. The situations are not comparable. In any case, each appeal is determined on its merits.
36. I conclude that the garage would be detrimental to the significance of The Square, the Park, the church and the House and would have an adverse effect on their settings.

Gazebo

37. The gazebo would have an open form, a hipped roof to reflect the host building and an artisanal timber frame which would reflect No 6's gothic windows.
38. I see no reason to disagree with the Council that the proposed gazebo would not be detrimental to the setting of The Square, or the other nearby heritage assets. It would be well set back from the lane and visible in glimpsed views only from the lane. Moreover, its openness would reduce its visual impact.

39. However, the building of the garage and garden room would represent less than substantial harm to the setting of heritage assets. Under the provisions of Section 66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 (the Act), I have a statutory duty to consider all heritage assets affected by the development, irrespective of whether they have all been mentioned on the decision notice. In any case, the heritage impact statement refers to these assets. Although the site is a domestic garden it is also within the overlapping settings of more than one listed building and a listed Park. I disagree that the Council has overstated the significance of the setting of each of the relevant heritage assets.
40. Paragraph 193 of the National Planning Policy Framework (the Framework) states great weight should be given to the conservation of heritage assets, irrespective of the degree of potential harm. Moreover, Paragraph 196 of the Framework states that harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimal viable use. In this case the benefits arising from this aspect of the development would be private.
41. The fact that Toddington House is not included on national heritage trails or have visitor amenities does diminish the statutory protection afforded by its listing. Grade II* listing is given to a very small percentage of listed buildings on the basis that they are particularly important buildings of more than special interest¹. Nor is visibility from the public domain determinative when considering the significance of a heritage asset.
42. The gazebo would not be detrimental to the setting of the Square, the Park, the House or the church. As the elements are severable, and in line with the Council's decisions, I have found it appropriate to issue a split decision.
43. In the light of the above I conclude that the garage and garden room would fail to preserve features of historic interest, including setting, of The Square, the Park, the House and the church. This would be contrary to Section 66 (1) of the the Act, Section 16 of the Framework which is concerned with heritage assets, and Policy SD8 of the Core Strategy (CS) which is concerned with safeguarding the built, natural and cultural heritage of the district, amongst other considerations.
44. Policy HOU8 of the Local Plan (LP) is concerned with domestic extensions and safeguarding the character, scale and proportion of the original dwelling. The settings of The Square and the other listed heritage assets are integral to the area's underlying character of the area. Consequently, the garage and garden room would also be contrary to LP Policy HOU8.

Protected Trees and AONB

45. The mature trees in the western section of The Square's garden, including those that are protected, form a screen and buffer between the expanse of the Park and the more obviously domesticated part of No 6's garden.
46. Individually and collectively this group makes a highly positive contribution to the setting of the listed buildings and the Park, and to the character and appearance of the AONB.

¹ Historic England

47. I have outlined above my concerns in relation to the impact of the garden room on their future health and longevity. The garden room only would therefore be detrimental to the character and appearance of the AONB, contrary to CS Policy SD8 as set out above, and Paragraph 172 of the Framework which requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs. The garage and gazebo would not be contrary to CS Policy SD8 or Paragraph 172 of the Framework.

Conditions

48. I have imposed conditions in relation to the gazebo. It is unclear why the Council imposed a five year time condition in their permission for the gazebo but in the interests of consistency I have done the same. I have also imposed a condition relating to the drawings for the avoidance of doubt. This is to safeguard the setting of the heritage assets and the character and appearance of the AONB.

Other matters

49. I am unclear why the appeal statement states that protection of the overall character (of the area) is not covered by planning legislation, as the Act sets out that the decision maker shall have special regard to the desirability of preserving the building or its setting. In my experience this frequently includes consideration of the underlying character of the area around a heritage asset. In any case, the Framework states that setting is the surroundings in which a heritage asset is experienced. I see no reason why this should not include the character of the surroundings.
50. It is argued that the Council should have assisted the development of the garden room design to a greater extent than was the case. However, it is not within the remit of the appeal to assess whether the Council has adopted a positive approach and this argument weighs neither for nor against the appeal.

Conclusion

51. In the light of the above I conclude that the garage and garden room would fail to accord with the provisions of the Act, national guidance or relevant local policies and that the appeal should be dismissed.
52. With regard to the gazebo I conclude that the development would not be contrary to the provisions of the Act, national guidance or relevant local policies and that the appeal should be allowed.

A Blicq

INSPECTOR