
Appeal Decisions

Site visit made on 22 March 2021

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

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal A: APP/F0114/W/20/3262717

The Old House, Northend, Batheaston, Bath BA1 8ES

- 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 and Mrs Humphrey against the decision of Bath and North East Somerset Council.
 - The application Ref 19/05507/FUL, dated 20 December 2019, was refused by notice dated 7 May 2020.
 - The development proposed is described as erection of parking area gate mechanism, boundary pier and replacement walling.
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Appeal B: APP/F0114/Y/20/3262716

The Old House, Northend, Batheaston, Bath BA1 8ES

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Humphrey against the decision of Bath and North East Somerset Council.
 - The application Ref 19/05508/LBA, dated 20 December 2019, was refused by notice dated 7 May 2020.
 - The works proposed are described as erection of parking area gate mechanism, boundary pier and replacement walling.
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Decisions

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

Procedural Matters

3. As set out above, there are 2 appeals on this site. Each relates to the same scheme but they address separate applications for planning permission in the case of Appeal A, and listed building consent in the case of Appeal B. I have considered each on its individual merits, however, to avoid duplication I have dealt with the Appeals together, except where otherwise indicated.
4. The description of development/works in the headings above is limited insofar as it does not specifically identify the full range of works shown on the submitted plans. These include the extension of the front boundary wall across the north and east sides of a courtyard, and demolition/alterations to a dividing wall on the south side of the courtyard, including construction of a bin/log store. Having additionally noted surfacing works, the Council assessed the scheme on the basis of all the above. as the appellants have also confirmed

that the scheme was intended to cover all these works, I have assessed the Appeals on the same basis.

5. The scheme includes a combination of works already undertaken, and minor works which are proposed. The works already undertaken were unauthorised. Insofar as the works would have attracted the need for listed building consent, it is an offence to execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. In this context, and insofar as it is relevant, were Appeal B to be allowed, any consent granted would be for retention of works only, and would have no bearing on the legality of their initial execution.
6. The Council has raised concern that a Landscape and Visual Impact Assessment (LVIA) has been submitted at appeal. However, the nature of the concern is not explained and is not otherwise obvious. I have therefore taken the LVIA into account in my reasons below.

Main Issues

7. The main issues are:
 - the effect of the scheme on the character and appearance of the area, including the Cotswolds Area of Outstanding Natural Beauty (the AONB); and
 - the effects of the scheme on designated heritage assets, including whether the scheme has preserved, or would preserve a Grade II listed building, its setting, or any of the features of special architectural or historic interest that it possesses; and, in relation to Appeal A, whether the development has conserved or would conserve the setting of the Bath World Heritage Site (the WHS).

Reasons

Character and appearance

8. The Old House is located to the north of Batheaston, at the end of a sparse ribbon of development, within a strongly rural setting. Those parts of the property relevant to the Appeals consist of the main dwelling, whose design is formal, and an attached north range, which is of contrasting vernacular character. These face onto a single track lane, and are enclosed across their frontages by a boundary wall. The character of the wall directly reflects that of the main dwelling and north range, being in part formal, and in part vernacular.
9. The section of wall enclosing the frontage of the north range has been demolished and rebuilt. This has involved removal of a pre-existing modern gate whose installation was apparently authorised, and whose design held no particular merit. A new gate has been installed within an enlarged access. This gate appears to be largely freestanding, and is mounted on a motorised track.
10. Given the constrained nature of space within the courtyard, the sliding mechanism represents a logical alternative to the use of a hinged gate, and is not in itself obtrusive. The gate is however a substantial solid structure, of suburban design and appearance. This starkly contrasts with the prevailing pattern within the surrounding rural area, within which both agricultural and

domestic accesses are typically fitted with timber field gates. It also fails to complement the vernacular character of the wall within which it is set, and that of the north range. In the above regards the gate appears harmfully incongruous. Whilst cosmetic modifications are proposed, these would not address the harm identified in any meaningful way, given that the essential characteristics of the gate would remain unchanged.

11. The appellants accept that the alternative of installing a pair of sliding field gates exists. This would indeed suit the proportions of the access and complement both the immediate and broader setting. The appellants however state that this was discounted on safety grounds given the combination of gaps and the sliding mechanism. However, the risk and likelihood of becoming stuck within the gaps of a slow-moving gate appear to be slight. Moreover, such gaps could be secured if necessary, for instance, through use of netting. In the absence of any other evidence, safety therefore appears to offer no clear justification for the design of the gate as both installed and proposed.
12. My attention has been drawn to a sliding gate installed at a property known as Valley View, some distance away. The proportions and character of the access at Valley View are however different from those of the access at The Old House, and the gate itself is of a different design and dimension. Its existence does not in any case alter the prevailing pattern, or the fact that the gate installed at The Old House appears incongruous viewed within its own immediate context and setting.
13. The general character and construction of the rebuilt wall itself appears to be very similar to that which existed previously. Quoins have however been employed either side of the enlarged access, and a cock and hen detail has been omitted from the top.
14. As the previous cock and hen detail was not of a typical traditional type, but rather a perimeter finish used to contain soil for planting, its omission has not caused harm. At the time the Council determined the applications a flat coping had been installed, but this has since been substituted by a 'cement roll'. The latter can be seen elsewhere within the immediate area on walls of similar type. As such it appears acceptable. The proposed rounded edges to the wall in place of the quoins, and narrowing of the entrance, would likewise achieve an acceptable appearance. That said, in neither regard do these measures appear to be essential in order to achieve such an effect. Indeed, quoins are a feature of the construction of the north range, and, as noted above, the dimensions of the access roughly equate with those of a double field gate. As both existing and proposed therefore, the character and appearance of the wall causes and would cause no harm.
15. Insofar as the wall has been extended along the north and east sides of the courtyard in front of the north range, this serves to better enclose the space. For this reason, when viewed close at hand, the new sections of wall do not appear incongruous.
16. Given the exposed position of the property on the side of a valley, the walls also have a broader visual presence within the surrounding open landscape. As such, and as the site is located within the AONB, I have had regard to the statutory purposes of the AONB's designation, and paragraph 172 of the National Planning Policy Framework (the Framework), which states that great weight should be given to conserving and enhancing landscape and scenic

beauty. In this context, the walls can be seen from the footpath to the north. However, they are perceived directly in relation to the built form of The Old House, which is far more noticeable. Whilst vegetation may have been cleared to enable their construction, it appears that new vegetation is becoming established alongside the walls. Even its absence however, the walls would not appear obtrusive or intrusive, or indeed have an 'urbanising' effect. As such, no harm arises to the landscape and scenic beauty of the AONB.

17. Additional concern has been raised in relation to the paving of the courtyard. However, whilst formal, it does not appear clearly suburban in character. It would appear even less so if provided with either the proposed brushed concrete finish or black bitumen finish. Again therefore, harm neither does nor would arise.
18. For the reasons outlined above, taken as a whole I conclude that the scheme subject of Appeal A both has and would have an unacceptably harmful effect on the character and appearance of the area. It therefore both conflicts and would conflict with Policies CP6 of the Core Strategy (the CS) and D2 of the Placemaking Plan (PP), which amongst other things seek to secure design which reinforces and contributes to its specific local context.

Heritage Assets

19. The Old House is Grade II listed. Insofar as it is relevant to the Appeals, the special interest and significance of the listed building resides in its eighteenth century origin, its historic function as a farmhouse, and the formal architecture of the main dwelling, which is clearly distinct from the more functional vernacular character of the later attached north range.
20. Listing also extends to any structure that is within a listed building's curtilage which has existed since before 1st July 1948. In this regard, given the overall age of walls across the frontage, and their direct relationship to the principal listed building, they both were and remain covered by the listing. Prior to works being undertaken, and insofar as it is relevant to the Appeals, the special interest and significance of the walls, and the contribution they made to that of the principal listed building, was derived from their fabric, and the historic role they played in both providing enclosure, and differentiating the main dwelling from the north range. As covered above, this was expressed in terms of differences in design and construction, directly reflecting differences in the past status and presumed functions of the main dwelling and north range. It was further expressed in terms of the clear separation of frontage space by a length of dividing wall which aligned with the junction between the main dwelling and north range, and the corresponding junction between the formal and vernacular walling across the frontage. This wall appears to have been constructed from ashlar and featured a coping detail similar to that on the parapet of the main dwelling. In this regard its fabric and design directly complemented that of the main dwelling.
21. The works to the front wall have included the construction of a pier at the junction between the sections of formal and vernacular walling. The pier generally matches those which stand either side of the front gate serving the main dwelling. It has however been installed partly in place of the dividing wall, which has otherwise been demolished and rebuilt to the rear. Though elements of the historic fabric appear to have been reused, the wall now follows a different alignment, incorporates an opening, and forms the back of the bin/log

- store. As such it has not been reinstated in its previous form, and no longer performs its previous function. This has diminished its historic integrity and identity, and obscured the historic layout of frontage space, thus undermining the historic distinction between the main dwelling and north range. The harm caused is exacerbated by use of the wall to form the bin/log store. In the above regards, works to the dividing wall, including its partial substitution by the pier, have not preserved its special interest or conserved its significance, or the contribution that it made to that of the principal listed building.
22. As already considered within the context of character and appearance above, the section of boundary wall to the front of the north range has also been demolished and rebuilt. In this case however, it follows the same alignment, continues to perform the same function as previously, and for the most part matches its previous construction. To the extent that it differs, and to the extent that further alterations are proposed, I identified no harm above, and the same applies within the context of the listed building. The extension of the wall along the north and east sides of the courtyard, is likewise compatible with the established layout, and so too gives rise to no harm. Nor either does the paving.
23. The installed gate is nonetheless an incongruous feature which, as again outlined above, is incompatible with the character of both the wall within which it is set, and the north range. It would remain so if modified as proposed. In these regards it detracts from, and thus harms appreciation of the special interest and significance of the principal listed building, and in so doing it fails to preserve its setting.
24. The site is located within the indicative setting of the WHS. Insofar as it is relevant to the Appeals, and insofar as it has been identified by the Council, the particular contribution the area makes to the setting is in terms of its landscape character. In this regard I have already considered the effects of the scheme on the landscape above, and found them to be acceptable. I therefore find that the setting of the WHS would be conserved, and that as such no conflict arises with Policy B4 of the CS.
25. In view of the harm I have identified above, the scheme as a whole both fails and would fail to preserve the special interest and setting of a listed building. As such it conflicts and would conflict with the expectations of the Act, and paragraphs 193 and 194 of the Framework, which set out the great weight to be attached to the conservation of designated heritage assets, and the need for clear and convincing justification for any harm.
26. With further reference to paragraph 196 of the Framework, I find that the scheme both causes and would cause less than substantial harm to the significance of the listed building and its setting. I attach great weight to the harm that is and would be caused to the significance of the listed building, and considerable importance and weight to the harm that is and would be caused by a failure to preserve its setting. In accordance with the Framework it is necessary to balance this harm against the public benefits advanced in favour of the scheme.
27. It is claimed that the scheme has helped to enhance highway safety by moving parked vehicles out of the lane, enabling a vehicle to clear the highway more quickly, and by allowing manoeuvring space within the courtyard. However, the lane is evidently not a busy route, waiting in the lane is still required whilst the

gate slides, and both the removal of parking from the lane, and the potential for manoeuvring within the courtyard, are each reliant on the continuous availability of adequate space within the courtyard itself. The latter is however limited and cannot be guaranteed. The level of any broader public benefit is therefore doubtful. In any case, the design of the gate, as opposed to the fact that it slides, and works to the dividing wall, have no obvious bearing upon delivery of the identified benefit. As such it attracts no weight.

28. 'Reinstatement' of the boundary wall across the front of the courtyard is also claimed as a benefit. However, in view of my assessment above, this aspect of the scheme has no more than a neutral effect. As such, and given that it again has no bearing on the design of the gate and works to the dividing wall, it attracts no weight.
29. The scheme both did and would generate minor work for contractors. However, given that the scheme relates to unauthorised works, I attach no weight to the negligible economic benefits. Consequently, the public benefits of the scheme both are and would be insufficient to outweigh the harm caused in relation to both Appeals A and B.
30. For the reasons outlined above I conclude that scheme as a whole both has failed and would fail to preserve a Grade II listed building and its setting, thus having an unacceptable effect on a designated heritage asset. In relation to Appeal A, and insofar as it is relevant to Appeal B, the scheme therefore conflicts with Policy HE1 of the PP and Policy CP6 of the CS, which broadly support the above objectives. In relation to both Appeals the scheme would otherwise fail to satisfy the requirements of the Act, and heritage policy set out within the Framework.

Other Matters

31. The site is located within the Avon Green Belt. In this regard, conflict with Policy CP8 of the CS, which seeks to protect the openness of the Green Belt from inappropriate development in line with national policy, is cited in the decision notice related to Appeal A. However, the associated officer report does not set out any explicit assessment of the scheme's appropriateness in Green Belt terms, and nor has the Council subsequently sought to dispute the appellants' view that the development subject of Appeal A is not inappropriate. In this case I am satisfied that the exception set out in paragraph 145(c) of the Framework is applicable. This states that the extension or alteration of a building is not inappropriate provided that this does not result in disproportionate additions over and above the size of the original building. Taking the 'original building' as the full extent of the boundary walls as they existed previously, the part rebuilding and extension of the circuit around the courtyard, together with formation of a bin/log store against it, has not entailed disproportionate additions. No conflict with Policy CP8 therefore arises.
32. Insofar as the Green Belt is addressed within the officer report related to Appeal A, this is with regard to the scheme's effects on its 'visual amenity', as covered by Policy GB1 of the PP, which is also cited in the decision notice. It is however unclear how the visual amenity of the Green Belt should be properly understood in the context of the purposes of its designation, and of national policy. Furthermore, the Council's assessment is not differentiated in any meaningful way from that of the effects of the scheme on the character and appearance of the area more generally. Whilst I am therefore unable to reach a

finding in relation to Policy GB1, the scheme subject of Appeal A remains unacceptable as otherwise outlined above.

Conclusion

33. The scheme causes and would cause unacceptable harm to a designated heritage asset. In relation to Appeal A, it additionally causes and would cause unacceptable harm to the character and appearance of the area. In each regard conflict arises with the development plan in relation to Appeal A. There are no other considerations which alter or outweigh these findings. Therefore, for the reasons set out above, I conclude that Appeals A and B should be dismissed.

Benjamin Webb

INSPECTOR