
Appeal Decision

Site visit made on 5 May 2021

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/K0235/W/20/3262934

The Manor at Pertenhall, Kimbolton Road, Pertenhall, BEDFORD, MK44 2SP

- 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 E Williams against the decision of Bedford Borough Council.
 - The application Ref 19/02060/FUL, dated 17 September 2019, was refused by notice dated 27 August 2020.
 - The development proposed is described as 'In-ground outdoor swimming pool'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the special architectural and historic interest of the Grade II listed building known as The Manor.
 - The effect of the proposed development on the special architectural and historic interest of the Grade I listed Church of St Peter.
 - The effect of the proposal on existing protected trees.

Reasons

Background

3. The Manor at Pertenhall is a Grade II listed building located in the village of Pertenhall. It is a fine and attractive dwelling. The listing details record that the house dates from the late C16th and was altered in the C19th. It notes its E plan design and vernacular architectural detailing and materials.
4. The house is situated on the north side of Kimbolton Road and within large landscaped grounds that create a parkland type setting. The house is sited a long distance back from the road, positioned more or less centrally and towards the rear of its grounds. There is a mature wooded area occupying the front of the grounds (closest to the road) and lawned garden areas nearer to the house.
5. Immediately to the east side of the house is a walled garden. It is roughly square shaped and has a formal arrangement of rectangular beds with lawn paths in between. Whilst some of the beds have been grassed over, the formal

pattern is still discernible. Its western boundary, closest to the house, is formed by a low wall. There are substantial red brick walls enclosing the garden on its north and east sides. Beyond the north wall is the Church of St Peter, a very fine Grade 1 listed building, which dates mainly from the C15th. Beyond the east wall is a track / footpath which leads from Kimbolton Road to the church. To the front (south) of the walled garden, there is a large lawned area.

6. The appeal proposal would introduce a rectangular 'in ground' swimming pool measuring 5 metres wide by 12 metres long, with 600 mm wide flagstones around its perimeter. It would be sited more or less centrally in the northern part of the garden, adjacent to a greenhouse structure that is attached to the garden wall. Manufacturer's details of pool linings and a colour palette of pool covers were submitted as part of the application.
7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
8. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 189 states that applicants should be required to describe the significance of any heritage assets affected by development, including any contribution made by their setting.
9. The Framework's paragraph 193 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Paragraph 194 says that any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification. Paragraph 196 adds that, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Listed building – The Manor

10. Based on the evidence before me and my site inspections, the walled garden is a significant component of the setting of The Manor and makes a positive contribution to it. Whilst there is limited detail concerning its precise date and origin, it is certainly old and has a long association with the listed building. I note that Bedford Borough Council (the Council) says the garden appeared in a similar format in the first edition Ordnance Survey map. Its age is further evidenced by the historic high walls on its east and north sides, the latter being quite ornate and defining the boundary with the church beyond. As such, this part of the listed building's setting is significant to its appreciation and understanding and therefore highly sensitive to change.
11. Whilst the pool, being an essentially below ground structure, would not be visually intrusive, its formation in this sensitive location would be unwelcome and harmful to the immediate setting of the designated heritage asset. It would disrupt and denude the historic structure, formality and character of this part of the listed building's setting by introducing a discernibly modern recreational facility constructed of concrete, flagstones and man-made materials, including

- a synthetic fabric cover. Whilst I recognise that careful choice of colours for the lining and cover could mute the impact to some extent, it would not fully mitigate the harm.
12. I consider that the harm would be less than substantial in terms of the provisions of the Framework and the Planning Practice Guidance (Guidance) and, as such, it must be weighed against the public benefits of the proposal. As the development is for a private recreational facility, there are no significant public benefits that will arise that would outweigh the harm.
 13. In making my assessment, I have taken into account the fact that the walled garden is private and out of public view. However, whilst that may be so, it does not provide the basis for allowing development which is judged to be harmful. I have also considered the appellant's submissions regarding the neglect of the garden and the lack of any obligation to maintain it in its historical format and function but, again, that does not provide a reason for allowing harmful development.
 14. I have also noted the appellant's submissions concerning the existence of a swimming pool at the listed The Old Rectory (to the north-east of the church). This appears to have been in place for a long time and the Council states that there is no record of any planning application. Whatever the precise planning history of that pool, and its date of installation, I do not consider that it would provide a basis for allowing the appeal proposal today. I have also noted the appellant's submissions regarding exchanges and negotiations with officers and the consideration of other sites within the grounds.
 15. On this main issue, I conclude that the appeal proposal would not preserve, and would be harmful to, the immediate setting of The Manor, which is a Grade II listed building, and there are no public benefits that outweigh that harm. As a result, the proposal conflicts with policies 29(iii) and 41S of the Bedford Borough Local Plan 2030 (adopted January 2020) (BBLP) which seek to protect and, where appropriate, enhance heritage assets and their settings and ensure that any identified harm is outweighed by public benefits. For similar reasons, the proposal conflicts with chapter 16 of the Framework.

Listed building – Church of St Peter

16. The Grade I listed church lies to the north of the proposed pool and on the other side of the garden brick wall, which is at its highest at this point (up to 4.6 metres according to the appellant's statement of case). Between the wall and the listed building is an intervening churchyard area which is largely grassed, but includes a number of gravestones and a path leading up to the south porch of the church.
17. There is no inter-visibility between the location of the proposed pool and the immediate setting of the Grade I listed church. Indeed, the immediate setting of the church is clearly defined on its south side by the substantial garden walling, such that the proposal would not be visible and would preserve that setting. In terms of experiencing the church from in its wider setting, the below ground nature of the proposal would mean that all views would be maintained.
18. I have noted some references from the Council to the possibility that noise from use of the pool may impact on the peaceful setting of the church, but there is no evidence before me to demonstrate that this may be the case.

19. On this main issue, I conclude that the proposal would not harm the setting of the listed Church of St Peter and that its setting would be preserved. I therefore find no conflict with policies 29(iii) and 41S of the BBLP which seek to protect heritage assets and their settings.

Trees

20. The Council's second reason for refusal states that no information has been provided to show how trees will be protected during construction and it says this is contrary to BBLP policy 39 concerning the retention of trees.
21. There are trees covered by Tree Preservation Orders (TPO) in the wider vicinity, but none of these are near to the site of the proposed pool. Indeed, a distinguishing feature of the walled garden is a lack of trees, as the area has traditionally been used for vegetable, herb and flower growing. Whilst noting the Council's concern about temporary storage of excavated material, there is no reason to suggest that this would occur within the assumed root protection areas of important trees. Given the amount of open space available to the appellant, were this appeal to succeed, a planning condition could require details of tree protection measures and a construction methodology.
22. On this main issue, I conclude that there is no evidence to indicate that the proposal would be harmful to TPO trees and that appropriate protection and working methods during the construction period could be addressed by a suitable planning condition, in circumstances where this appeal were to succeed.

Conclusions

23. I have found that any concerns relating to the effect of construction works to protected trees could be addressed by a suitable planning condition. I have found that the proposal would not be harmful to the setting of the Grade I listed Church of St. Peter and would therefore preserve it. However, the development would be harmful to the setting of the Grade II listed The Manor and would not preserve or enhance it. That harm would be less than substantial but it is not outweighed by any notable public benefits. Given the statutory duty to have special regard to the desirability of preserving the setting of the listed building, and the associated conflicts with policies contained within the development plan and the Framework, the appeal must fail. Accordingly, the appeal is dismissed.

P. Staddon

INSPECTOR