



Appeal Decision

Site Visit made on 28 September 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/F0114/W/21/3277287

1 Darlington Mews, Bathwick, Bath BA2 4EW

- 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 Dennis Moody against the decision of Bath and North East Somerset Council.
 - The application Ref 20/04954/FUL, dated 23 December 2020, was refused by notice dated 15 April 2021.
 - The development proposed is construction of a two bedroom dwelling on the site of the current commercial garage and workshop together with the associated change of use.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The setting of the Grade II listed buildings at No 1, Nos 2-5 and Nos 6-10 Edward Street, Nos 1-12 Darlington Mews, Nos 1-5 Vane Street and Nos 42-52 Great Pulteney Street, and on the Bath Conservation Area (CA); and
 - The living conditions of the occupiers of properties on Edward Street, with particular regard to outlook and daylight.

Reasons

The significance of adjacent listed buildings and the CA

4. The listed buildings at No 1, Nos 2-5 and Nos 6-10 Edward Street (No 1, Nos 2-5 and Nos 6-10), Nos 1-12 Darlington Mews (Nos 1-12), Nos 1-5 Vane Street (Nos 1-5) and Nos 42-52 Great Pulteney Street (Nos 42-52) form a four-sided perimeter block of four storey properties within the city's expansive CA.
5. They are characterised by limestone ashlar exterior walls, sash windows, chimney stacks and coped parapet walls. The rear of the listed buildings face a large courtyard space, mostly screened from public view by their scale and tight arrangement. The appeal building, a commercial garage, sits within this inner

courtyard. Collectively the significance of these heritage assets is derived from the way they combine to form a striking geometric street block, their imposing scale upon adjacent front and rear spaces, and the largely ordered architectural detailing they have retained.

6. The appeal building along with other structures that face the inner courtyard are predominantly single storey in scale, incorporating either flat, shallow mono-pitches or hipped roofs. They have a low key, functional appearance that contrasts with the more historic and grander rear elevations of the listed terraces. Despite their unremarkable appearance and limited architectural interest, they retain an important function in marking-out and enclosing the shallow amenity land to the rear of the listed buildings (Nos 8 and 9 Edward Street in the appeal building's case), while, through their appearance, helping to reveal the higher status of the listed buildings in the context of the inner courtyard's built hierarchy. This relationship makes a valued contribution to the setting of the listed buildings and accordingly their significance.
7. The CA has a remarkable degree of visual homogeneity. Its significant attributes include a large proportion of neo-classical buildings arranged in uniform crescents, squares and terraces, and interspersed by a hierarchy of complex and delicate spaces and landscaping. In this context, the appeal building along with the other unlisted buildings that border the inner courtyard strengthen and define the boundary between the private and communal spaces in this part of the CA. Moreover, their modest scale and simple, utilitarian form helps to reveal the grander rear aspects of the listed terraces from within the courtyard. Accordingly, the appeal site makes a small albeit important contribution to the significance of the CA.

The effect on the setting of the listed buildings and on the CA

8. The appeal proposal would create a second storey of accommodation through the addition of a mansard style roof. This bulkier roof profile would contrast perceptibly with the flat and hipped roof courtyard buildings. Positioned between the taller, pitched roof of No 2 Darlington Mews and the flat roof single storey garage to the north, the proposed mansard roof would appear jarring in scale and contribute to a disorderly roofscape that would unsettle the existing typology in this row of courtyard buildings to the rear of Edward Street.
9. Furthermore, the domestic treatment of the proposal's front elevation would alter the appeal building's utilitarian and functional character, resulting in a tension architecturally, with the simple treatment (largely garage doors) of the other courtyard buildings. Consequently, the proposal would appear dysfunctional and cluttered in the context of its surroundings and would harmfully detract from the more ordered appearance of the rear of the listed terraces, particularly Nos 2-5 and 6-10 Edward Street where the proposal would be sited closest.
10. From public vantage points the appeal property occupies a discreet location within the perimeter block's inner courtyard. It is only glimpsed through the courtyard's covered entrance off Darlington Street. Despite its discreet location, the proposal would be highly visible from the many upper floor windows facing the inner courtyard. Consequently, it would undermine the distinctive order in the pattern of development of the CA.
11. It is acknowledged that the proposal would become more comparable to the height of the existing two-storey mews properties at Nos 1 and 2 Darlington Mews. However, these are an exception and an earlier addition to the rear of the

courtyard, in contrast to the appeal building and the shorter, lower key buildings that help define the setting of the listed terraces.

12. For these reasons, I find that the setting of Nos 2-5 and 6-10 Edward Street, the desirability and preservation of which the Act requires that special regard to be given, would be harmed. The proposed development would also fail to preserve the character of the CA, to the desirability of which the Act requires that special attention is paid.
13. The proposed development would conflict with Policy CP6 of the Core Strategy¹ and Policies D1, D2, D3, and HE1 of the Placemaking Plan². These seek sensitive management of Bath's historic environment by positively responding to the site context in terms of layout, building forms, features and roofscapes which will be expected to enhance or better reveal the significance of heritage assets.

Living Conditions

14. Part of the appeal building's rear wall along with that of the taller two-storey No 2 Darlington Mews enclose the garden of No 9 Edwards Street (No 9) while also forming its rear boundary. The appeal building's shorter rear wall allows for views out of No 9's garden and ground floor windows of the tall courtyard trees beyond. That lower portion of the rear boundary also offers some relief to the outlook of this dwelling's occupiers as the shallow rear garden is enclosed by the host four-storey dwelling and taller boundary walls. Those taller structures have a more obstructing effect on the views out of No 9's rear garden and ground floor windows.
15. The addition of the mansard roof would add a further storey to the appeal building while bringing it roughly level with the roof eaves of No 2 Darlington Mews. Although the highest part of the roof would be stepped away marginally from the boundary to No 9, it would nevertheless have an imposing presence when viewed from its garden and ground floor windows. The proposal's additional height and mass would also significantly diminish views of the courtyard trees against the backdrop of the sky, while having an enclosing effect which would reduce the outlook from the rear garden and ground floor windows. Furthermore, the proposal's greater height would also unacceptably reduce the amount of daylight entering the garden space, making it darker and less appealing for residents.
16. I acknowledge that the appellant's section drawing shows that the proposal would not breach the 25-degree test for daylight and sunlight (BRE guidance) from the nearest ground floor window. However, my concerns, relate to the loss of daylight to the garden area, therefore the lack of harm to daylight levels within rooms would weigh neutrally in my assessment of this matter.
17. The unacceptable harm to the living conditions of the occupiers of No 9, in terms of outlook and daylight would place the proposed development in conflict with Policy D6 of the Placemaking Plan. This, in part, requires that development achieves appropriate levels of outlook and natural light.

Other Matters

18. The appellant's case refers to historical, visual and structural details that the appeal building was at one time taller and comparable in height to the adjoining building at No 2 Darlington Mews. Whilst this may have been the case, I have not

¹ Bath and North East Somerset Local Plan 2011-2019 – Core Strategy and Placemaking Plan, Core Strategy adopted July 2014 (Core Strategy)

² Bath and North East Somerset Local Plan 2011-2019 – Core Strategy and Placemaking Plan - District-Wide Strategy and Policies, adopted July 2017 (Placemaking Plan)

been presented with any clear physical or documentary evidence of the building's original form in the context of No 2. On this basis, it is not possible to make an informed comparison.

19. Further associations have been made between the height of the appeal proposal and a scheme approved by the Council to increase the roof height of the garage at No 17 to the north³. Yet this roof differs in being consistent with the profile of others in the courtyard, while also maintaining a single storey and functional appearance. Also, having seen the approved drawings in relation to that scheme, the proposed mansard roof would, in my view, jar further against the altered roof profile of that neighbouring garage.
20. The appeal building currently operates as a small commercial repair garage. It has been put to me that its redevelopment as a dwelling would remove a use that has occasionally attracted complaints from nearby residents in relation to noise nuisance. However, I have no specific details of the nature or frequency of those complaints and whether or not they have been resolved or deemed to be harmful. Therefore, this matter attracts limited weight in favour of the proposal.

Planning Balance and Conclusion

21. I have found that the proposed development would harm the setting of the listed buildings referred to and the character of the CA, as well as the living conditions of the occupiers at No 9 Edward Street.
22. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given my findings above, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
23. I acknowledge that the development would bring 1 two-bedroom dwelling in a sustainable location. This attracts significant weight as a public benefit. However, this would not outweigh the harm identified above to the significance of the heritage assets, the conservation of which the Framework indicates that great weight should be given. I conclude therefore that the proposal would fail to preserve the setting of adjacent listed buildings and the special character of the CA. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and it would not be in accordance with the development plan.
24. For the reasons given I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR

³ 19/05336/FUL