
Appeal Decisions

Site visit made on 5 January 2022

by S Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal A: APP/Q4245/W/21/3272646

Bowdon Old Hall, Langham Road, Bowdon, Cheshire WA14 3NS

- 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 & Mrs D Ryan against the decision of Trafford Borough Council.
 - The application Ref 99931/FUL/20, dated 30 January 2020, was refused by notice dated 16 November 2020.
 - The development proposed is erection of one dwelling with associated landscaping, access, infilling of outdoor pool and reconfiguration of existing garage.
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Appeal B: APP/Q4245/Y/21/3272645

Bowdon Old Hall, Langham Road, Bowdon, Cheshire WA14 3NS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr & Mrs D Ryan against the decision of Trafford Borough Council.
 - The application Ref 99932/LBC/20, dated 30 January 2020, was refused by notice dated 16 November 2020.
 - The works proposed are erection of one dwelling with associated landscaping, access, infilling of outdoor pool and reconfiguration of existing garage.
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Decisions

1. Appeal A: The appeal is dismissed.
2. Appeal B: The appeal is dismissed.

Main Issues

3. Bowdon Old Hall (the Hall) is a Grade II listed building dating from the late C17 or early C18 and is thought to have replaced an earlier dwelling on the site. It lies within the Bowdon Conservation Area.
4. The proposal seeks planning permission for the construction of a dwelling within the garden of the listed building and listed building consent for works to structures within the grounds, structures which are considered to be part of the listing on the basis of their age. Given that there are matters common to both appeals I have dealt with them in one decision letter to avoid repetition.
5. The main issue in this case is therefore, whether the proposal would preserve the listed building, its setting and any of the features of special architectural or

historic interest that it possesses and, linked to that, whether the proposal would preserve or enhance the character or appearance of the conservation area.

Reasons

Setting of the Listed Building

6. The starting point for the consideration of the appeal is s.66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act) which requires that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.
7. The significance of the listed building, as set out in the Heritage Statement accompanying the appeal, lies largely in its history, including the role it played in the historic development of the village, and in its architecture. The house is one of the earliest in Bowdon and was originally associated with the nearby Dunham Massey Estate. The north frontage, 5-bays wide and of brick with stone quoins, is of particular significance as a rare surviving example of a late C17 or early C18 elevation. There is also some significance in the historic development of the building and specifically the alteration of the south elevation, which was remodelled in a Victorian style in the C19 and which has a rendered finish and features bay windows and a central projecting porch.
8. The Hall is set in an elevated position within a substantial garden adjacent to Langham Road, a busy road through the settlement, separated from it by a high red brick boundary wall. From the evidence before me the garden is only part of the land originally associated with the house, the remainder having been sold off and developed for housing in the late C19. The garden, which has a spacious, open character, was re-landscaped at the time of the remodelling of the south elevation and whilst elements of it have changed over time, its layout, which incorporates a series of paths, walls and changes in level, has remained largely unchanged since around 1876. It is one of the larger plots in the area and the size of the garden around the Hall reflects the original social status of the building. To my mind, the fact that a proportion of the original land has already been lost makes that which remains even more valuable.
9. In addition to that, outbuildings within the garden, including a World War 2 air raid shelter, the remains of a glasshouse and a summer house, assist in understanding the development of the site and how it was historically used. Whilst there are some negative elements within the garden including the swimming pool and its surrounds and the pool house, considered as a whole the garden makes a high level of contribution to the significance of the Hall as a designated heritage asset.
10. The proposed dwelling would be two storeys in height and would be sited to the south east of the Hall, positioned at the base of an embankment formed to facilitate a former tennis court. Most of the house would be positioned at this lower level and would comprise two rectangular 'wings' constructed in red brick with elements of concrete, connected by a glazed link. The upper floor would be constructed in a steel frame and clad in glazing. The building would have flat 'green' roofs.

11. The existing access arrangements off Langham Road would be utilised for the new dwelling so that there would be no further intervention in the boundary wall to the front. Two car parking spaces would be provided in tandem form behind existing gates for residents of the new house, and the existing garage/pool house would be adapted to provide 3 parking spaces for use by occupiers of the Hall. The existing pathway from that area would be widened and re-laid with a reinforced grass surface to provide access to the lower part of the garden for maintenance.
12. Paragraph 200 of the National Planning Policy Framework 2021 (the Framework) advises that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that any such harm should have a clear and convincing justification. The siting of the building and its massing make good use of the topography in order to minimise the physical impact of the dwelling on the site. Furthermore, whilst I have noted the Council's concerns about the design and materials of the structure it seems to me that the contemporary low form and visually lightweight design of the building is a good example of carefully considered and well-planned modern architecture, which would contrast but not compete with the design of the Hall. The use of concrete, which is only a limited element of the building, is part of the contemporary design approach and the red brick would reflect the materials of the Hall and other local buildings. I am therefore satisfied that in design terms the house is not inappropriate in this context. In that respect the proposal satisfies Policy L7.1 of the Core Strategy which requires that in relation to matters of design, development must be appropriate in its context.
13. Nevertheless, the proposal would introduce a substantial building into the garden in an area where built development is limited to the summer house, a small domestic outbuilding. Whilst I acknowledge that the area of garden immediately around the house would remain as it is and that the building would be constructed in an area already altered by the former tennis court, the proposal would nevertheless have an impact on the openness of the site in spatial terms. In visual terms, there are a number of mature evergreen trees on the upper terrace which would help screen the top part of the dwelling in views from the Hall. However, the building would be highly prominent from areas within the lower parts of the garden, including from the former orchard area, and from some windows in neighbouring properties. Accordingly, in both visual and spatial terms the dwelling would have an impact on the open character of the garden.
14. Moreover, the proposal would introduce a functionally separate residential unit, and the domestic activity associated with it, into the grounds of the Hall. On that basis the development would undermine the historic relationship between the house and its gardens and thereby diminish the contribution the gardens make to the significance of the asset. I acknowledge that the gardens have historically accommodated various outbuildings including, at one time, a glasshouse from which the proposed dwelling takes some reference. However, these are and were generally small-scale ancillary buildings, incomparable in terms of their size, scale and function to that of the dwelling before me.
15. I acknowledge that the proposed dwelling would be smaller than some of the dwellings around it, including the Hall, and would occupy a modest proportion of the site considered as a whole. In addition, the proposal does not include

walls and fences that would physically subdivide the garden and I note that the appellant intends to retain the dwelling within the same ownership as the Hall. Whilst a restriction on walls and fences could be secured by planning condition, I am unconvinced that this would be reasonable, particularly given that the proposed house would be a three bedroomed dwelling capable of being occupied by a family who could reasonably expect to be provided with private defensible space. Moreover, there is no legal mechanism before me that would preclude the sale of the house in future or that convinces me this arrangement would be held in perpetuity. Accordingly, whilst I acknowledge the attempts to minimise the amount of subdivision within the plot, I am unconvinced on the basis of the evidence before me, that this is an appropriate practical solution in the longer term.

16. In addition to that, whilst the Highways Authority raise no objections to the parking and access arrangement from a highway safety perspective, I am unconvinced that the proposal constitutes a satisfactory practical layout in terms of the distance between the parking area and the house and the lack of direct vehicular access to it. It seems to me that deliveries, and the need to access vehicles during wet weather for example, would be particularly inconvenient. Furthermore, whilst the proposal provides a sufficient number of parking spaces to serve the development, the tandem arrangement of the spaces behind the gates, which would result in an amount of vehicle manoeuvring, is also unlikely to be a satisfactory long-term arrangement particularly given the distance of the parking area from the house. It seems to me likely therefore that future occupiers of the dwelling would soon seek a more convenient arrangement to improve accessibility.
17. I acknowledge that there are benefits to the proposal in terms of enhancing the setting of the building and its contribution to the significance of the Hall. The existing swimming pool, not currently in use, and the hardstanding associated with it have limited value in heritage terms. The area is currently in a disused state and has a slight negative impact in visual terms on the setting of the listed building, albeit that it indicates the development of the gardens for leisure purposes. Accordingly, there is no objection by the Council to its removal and replacement with a grassed area and I have no reason to disagree. Proposed landscaping works including the planting of an orchard to the lower level of the garden, where there was originally a kitchen garden/orchard, and the reinstatement of an earlier pattern of footpaths which have been lost over time are also positive benefits of the scheme. These benefits attract limited weight.
18. I am, however, unconvinced by the argument that the rearrangement of the existing parking area, to be used by occupiers of the Hall, is a benefit of the scheme, particularly as there would be no mechanism to prevent parking in front of the Hall as happens currently. Furthermore, whilst there is no objection to the proposed new access to the lower terrace, the existing steps and path make a neutral rather than harmful contribution to the setting of the heritage asset, and the proposed change would in itself be neutral.
19. Accordingly taking these matters together, the benefits of the scheme, which cumulatively carry limited weight, do not outweigh the harm to the setting, and thereby significance of the heritage asset, harm which carries considerable importance and weight. Accordingly, the proposal would fail to preserve the

setting of the listed building. The proposal would therefore be contrary to the statutory requirements of s.66 (1) of The Act.

20. For these reasons the proposal would also be contrary to policies L1.10, L2.2c, and R1.2 and R1.6 of the Trafford Core Strategy 2012 (the Core Strategy) which seek amongst other things, to ensure that where development proposals would involve the use of domestic gardens due regard will be paid to local character and conservation considerations; that development is appropriate in its context and that development will protect, preserve and enhance heritage assets such as listed buildings including their wider settings.
21. In this respect the main parties agree that Policy R1 of the Core Strategy, which is referred to in the Council's decision notices, is not entirely consistent with the requirements of the Framework in that it does not set out the tests of 'substantial' or 'less than substantial' harm. Accordingly, that policy carries less weight in the decision-making process.

Listed Building

22. As set out above, there are a number of structures within the grounds which, because they pre-date 1 July 1948, are part of the Listed Building. As such the application for Listed Building Consent included works to garden walls, specifically, works to the wall at west side of the air raid shelter, and works to a short section of the brick retaining wall at the east end of the terrace.
23. S.16 (2) of the Act requires that in considering whether to grant listed building consent for any works, the local planning authority or Secretary of State shall have regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses, such as those outlined above.
24. It is clear from all I have seen and read that the wall to the west of the air raid shelter is in a poor state of repair. The proposal would see the rebuilding of the collapsed section and the introduction of a secondary brick wall adjacent to that structure with the intention of providing stability and to avoid the need to underpin it. This would enable the provision of the sloped access into the lower garden to replace existing steps. However, there are limited details of the proposed new wall, and how it would relate to the existing wall, before me. Whilst I am satisfied that the materials of the wall could be agreed as part of a condition, it seems to me that the wall could affect or obscure the existing structure. Accordingly, without evidence to the contrary, the proposal would, in this respect, have slight adverse impact on the special interest of the listed building.
25. The proposal would also see the removal of a 400mm section of retaining wall to the east end of the terrace, and the construction of a new section of wall using matching materials, at 90 degrees to the existing, to take account of the difference in levels between the terrace and the ground floor of the proposed dwelling. This is a minor change to the garden structure but nevertheless the loss of historic fabric would also have a slight adverse effect on the listed building.
26. The Council has drawn my attention to the loss of a rockery and embankment to facilitate the development. However, it seems that the embankment was created relatively recently and, even if these features were to be considered a

free-standing object or structure, they do not form part of the listed building because of their age. Even if they did it, it seems to me that these elements make a neutral contribution to the significance of the asset and their alteration would not therefore cause harm.

27. However, for the above reasons, on the basis of the evidence before me, the proposal would fail to preserve the listed building and features of special interest and would therefore be contrary to the statutory requirements of s.16 (2) of The Act.

Conservation Area

28. The site is located within the Bowdon Conservation Area, the character of which is assessed in the Bowdon Conservation Area Appraisal 2016. That document notes that between the 16th and mid-19th centuries, the land within the conservation area remained agricultural in nature characterised by farmsteads, with the concentration of settlement continued around the church and Bowdon Hall. Within the character area in which the appeal site lies, Character Zone B, the appraisal notes that nearly all of the buildings are two storey and often quite low. They are compact in size and with the exception of Bowden Old Hall and a few others, occupy quite small plots. Bowdon Old Hall is noted as a residence of social standing and importance, which is of a different scale to those around it and set back from the road in spacious grounds.
29. Given its importance to the historical development of the settlement, the Hall and the space the gardens create in an otherwise built up area makes a significant positive contribution to the character and appearance of the conservation area. Moreover, the fact that the surrounding area, particularly those areas to the south and west of the site are now developed with housing, adds to its significance.
30. The proposed dwelling would not be prominent in views from Langham Road because of the high boundary wall and the siting of the dwelling at a low level within the site. Nevertheless, as set out above, it would be visible from the Hall and from surrounding properties. Notwithstanding this it seems to me that the significance of a heritage asset does not necessarily depend on its ability to be seen. Harmful incremental changes can erode those characteristics of an area which make it special. In this case, whilst I acknowledge that the building would be of a high design quality, it would be sited in a backland position and would erode the spatial quality of the site. Moreover, the proposal would see the introduction of a separate dwelling, which has no functional or historical relationship with the Hall, into the space around it, space which for the reasons outlined above makes a significant positive contribution to the conservation area. In that way, whilst I have acknowledged that the site would not be subdivided by walls and fencing the development would fail to preserve the site as a whole.
31. Historic England, in their formal response to the applications, stated that the proposal would reduce the sense of openness and greenery within the conservation area although the overall impact that this would have on the wider significance of the conservation area would be limited. On review of the information provided by the appellant, to the effect that there would be no alteration to the north-west section of the site to allow a new access, Historic England's comments were withdrawn with the caveat that additional works will not be needed either as part of the construction phase of the works or post

completion to make the house viable, particularly in relation to elements such as the potential need to create defensible private space to support the new dwelling.

32. The comments of Historic England carry substantial weight. Nevertheless, it is a matter of judgement and I find that the introduction of an unrelated dwelling into the remaining gardens of the Hall would cause harm to the character of the area. Moreover, as set out above, whilst it is not the intention to physically subdivide or sell the site, I am unconvinced that this is a practical arrangement or one which, on the evidence before me, could be secured in perpetuity.
33. Accordingly, the proposal would neither preserve nor enhance the character or appearance of the conservation area and as such would not meet the statutory duty set out in s 72 (1) of the Act which sets out the desirability of preserving or enhancing the character or appearance of the area.
34. Furthermore, for these reasons the proposal would be contrary to Policies L1.10, L2.2c, and R1.2, R1.3 of the Core Strategy which seek, amongst other things, to prevent harm to the character or amenity of the surrounding area, complement existing features of historic significance, preserve or enhance the conservation area and, where development proposals would involve the use of domestic gardens, due regard is paid to local character and conservation considerations.

Heritage balance

35. The approach in the Framework is that where a proposal will cause less than substantial harm to the significance of a heritage asset that harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
36. For the reasons set out above, the proposal would cause less than substantial harm to both the listed building and its setting. In addition, there would be less than substantial harm to the conservation area as a designated heritage asset. The main parties do not agree on the precise degree of harm that would be caused but nevertheless the Framework does not set out the need to identify a scale of harm within the category. For the reasons set out it seems to me that the degree of harm to the setting of the listed building would be significant, that there would be a low level of harm to the listed building and a limited degree of harm to the conservation area. Notwithstanding this, the Framework is clear that great weight should be given to the asset's conservation irrespective of the level of harm identified.
37. The provision of an additional unit of residential accommodation in the borough, in a location which has good accessibility to services, facilities and the public transport network is a benefit of the scheme. Although the proposal is for only a single unit, this carries moderate weight in support of the proposal given the acknowledged shortage in housing provision and delivery in the area. In addition, there would be an, albeit limited, social benefit from the proposal and some limited economic benefits accruing from the construction period and beyond.
38. I have considered the heritage benefits of the proposal including the removal of some negative elements of the gardens and reinstatement of landscape features in my overall assessment of the impact of the proposal on the setting

of the listed building. Nevertheless, even if I were to consider such benefits separately, I am of the view that they would carry limited weight.

39. The proposal could be said to make more efficient use of the site, as the land is currently under used by the appellant. However, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character. In any event, the continued viable use of the Hall as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use, that would not cease in the absence of additional development.
40. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification. I have found that the public benefits of the proposal considered cumulatively attract moderate weight and would not therefore outweigh the harm to the listed building, its setting and the conservation area, which in accordance with the Framework is required to be attributed great weight.
41. Accordingly, I conclude that the proposal would not preserve the listed building or its setting and would neither preserve nor enhance the character or appearance of the conservation area.

Other Matter

42. The appellant has drawn my attention to an approved scheme some distance away in Liverpool for a dwelling of a similar design within the grounds of a grade II listed building. However, I do not have the full details of that case or the circumstances that led to its approval before me and I cannot be certain therefore that the case is directly comparable to the appeal proposal. Moreover, it is incumbent on me to deal with the case before me on its own merits.

Overall Planning Balance

43. There is no dispute between the parties that the Council cannot demonstrate a 5-year housing land supply and as such the policies most important for determining the appeal are considered out-of-date. However, in light of my finding in relation to heritage matters, paragraph 11d) i. of the Framework applies. Accordingly, as the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, the proposal is not sustainable development for the purposes of the Framework and therefore, the presumption in favour of sustainable development does not apply.
44. I have already identified the benefits of the scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage assets. In terms of harm, the proposed development would not comply with development plan policy in respect of the harm to the special historic interest of the grade II listed building, its setting and the character and appearance of the Bowden Conservation Area.

Conclusion

45. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

S Ashworth

INSPECTOR