



## Appeal Decisions

Site visit made on 22 June 2023

**by A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 September 2023**

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### **Appeal A Ref: APP/Z0116/W/23/3314107**

#### **Land at Junction of Redcatch Road with St Agnes Avenue, Knowle, Bristol BS4 2HQ**

- 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 Ms Misha Simmonite against the decision of Bristol City Council.
  - The application Ref 22/00679/F, dated 10 February 2022, was refused by notice dated 26 August 2022.
  - The development proposed is the erection of dwelling (Renewal of planning permission granted on appeal ref APP/Z0116/W/18/3196399 - BCC 16/06418/F - self build).
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### **Appeal B Ref: APP/Z0116/Y/22/3309868**

#### **Land at Junction of Redcatch Road with St Agnes Avenue, Knowle, Bristol BS4 2HQ**

- 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 Ms Misha Simmonite against the decision of Bristol City Council.
  - The application Ref 22/02712/LA, dated 10 February 2022, was refused by notice dated 26 August 2022.
  - The works proposed are the demolition and re-positioning of curtilage listed stone wall with brick capping.
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## Decisions

### *Appeal A*

1. The appeal is allowed and planning permission is granted for the erection of dwelling (Renewal of planning permission granted on appeal ref APP/Z0116/W/18/3196399 - BCC 16/06418/F - self build at Land at Junction of Redcatch Road with St Agnes Avenue, Knowle, Bristol BS4 2HQ in accordance with the terms of the application, Ref 22/00679/F, dated 10 February 2022, subject to the conditions appended to this decision.

### *Appeal B*

2. The appeal is allowed and listed building consent is granted for the demolition and re-positioning of curtilage listed stone wall with brick capping at Land at Junction of Redcatch Road with St Agnes Avenue, Knowle, Bristol BS4 2HQ in accordance with the terms of the application, Ref 22/02712/LA, dated 10 February 2022, and the plans submitted with it including 9703.02 Plans and Elevations of Curtilage Listed Stone Wall, subject to the conditions appended to this decision.

### **Applications for costs**

3. An application for costs was made by Ms Misha Simmonite against the Council. This application is the subject of a separate decision.

### **Preliminary Matters**

4. The appeals follow a previously consented scheme on the same site, allowed at appeal<sup>1</sup>. There is no dispute between the main parties in respect of the principle of the construction of a dwelling in this location. I have no reason to disagree with those findings. I am also dealing with other appeals<sup>2</sup> on the same site. Those are subject to separate decisions.
5. I have used the Council's description of development and works for both appeals as they more accurately describe the proposal.
6. Although development and works have taken place on the site, I cannot be certain that these relate to the scheme before me. As such, I am assessing the appeals based on the plans before me. I note that drawings 9703.02 Drainage Plan and 9703.02a Plans and Elevations of Curtilage Listed Stone Wall have similar drawing numbers. As what is shown on the drawings, and their titles, are different, I am satisfied in this respect.
7. The appeal site is located within the vicinity of the Convent of the Sisters of Charity<sup>3</sup> and the Boundary Wall and Gates to the Convent of the Sisters of Charity<sup>4</sup>, which are Grade II\* and Grade II listed buildings. Comments submitted by the Council's conservation officer cites the effects of the proposal on the settings of these listed buildings. However, this is not expanded upon in the officer's report and is not referenced in the singular reason for refusing the planning permission and listed building consent. I also note that Historic England were not notified of the proposal. However, mindful of the statutory duty set out in Section 66(1) of the Act, I have had special regard to the desirability of preserving their settings. From the evidence before me, and my observations on site, the physically and functionally separate relationship between the appeal site and those listed buildings would be maintained and their historic and architectural interest would remain unaffected by the proposed development.

### **Main Issue**

8. The main issue is whether the proposed development and works would preserve the Grade II listed building, St Elizabeth's, 100 Redcatch Road, or its setting or any features of special architectural or historic interest which it possesses.

### **Reasons**

#### *Special interest and significance*

9. The appeal site comprises a corner plot positioned at the junction of Redcatch Road with St Agnes Avenue. It lies to the south of St Elizabeth's (also referred to as The Gothic Mansion) and to the east of St Saviour's House.

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<sup>1</sup> APP/Z0116/W/18/3196399; APP/Z0116/Y/18/3198072

<sup>2</sup> APP/Z0116/W/23/3315189 and APP/Z0116/W/23/3315183

<sup>3</sup> List Entry Number: 1218650

<sup>4</sup> List Entry Number: 1282159

10. St Elizabeth's forms part of a group of religious charitable buildings. The complex has a distinct character and presence in the streetscene due to its architectural form, set back from the road and verdant setting.
11. Based on the evidence before me, the building's special interest and significance is largely derived from its early 20<sup>th</sup> century architecture, which has a strong presence on Redcatch Road. Important contributors in these regards, which are pertinent to the appeal, are the use of traditional construction techniques and materials, as well as the building's dominant appearance within its setting. The appeal site itself (the corner plot) makes only a limited contribution to the setting of St Elizabeth's, and therefore its significance, appearing as a physically and functionally separate entity. Within the previous Inspector's decision, the wall was held not to be a significant contributor to the significance of the listed building. I have no reason to disagree with those findings.

*Appeal proposal and effects*

12. The current proposal seeks to renew the previous consent on the site, whilst also including some modifications to that scheme, including an increased ridge level. The changes, however, primarily relate to the realignment of the north boundary wall and adjoining path connecting St Elizabeth's with St Agnes Avenue. The removal of that wall was consented previously, with demolition having subsequently occurred. Under the previous scheme, the masonry of that demolished wall would be incorporated within the north elevation of the new dwelling, which would follow the angled line of the former wall.
13. The scheme before me illustrates that the north elevation of the proposed dwelling would comprise of a perpendicular rather than angled position, and therefore would not follow the line of the historic boundary wall, as previously consented.
14. The Council sets out that the 'squared off' building line of the proposed dwelling and realignment of the historic wall, would fail to respect and respond to the historic layout of the wider St Elizabeth's site, particularly in respect of an alleged historic connection between the site and St Saviour's House, on the opposite side of St Agnes Avenue.
15. However, I have no evidence before me detailing the historic arrangement of the garden at St Elizabeth's or to demonstrate the historic connection between the St Elizabeth's site and St Saviour's House. Whilst stone pedestrian gateways of a similar style face onto St Agnes Road within the boundary of each property, their misaligned position relative to one another does not suggest an obvious historic connection. From that perspective, the proposed squaring off of the dwelling and realignment of the wall would not diminish the legibility of the historic layout of the site. As such, the special interest of the building would be preserved and its significance would not be harmed.
16. The proposed changes to the detailed design of the dwelling itself, particularly when considered in the context of the previously consented scheme, are reasonably minimal and would preserve the special interest of the listed building and its setting, and would therefore not result in any harm to its significance. The Council raises no objection to the proposed use of materials based on the outcome of the previous appeal. However, this matter would be satisfactorily dealt with by condition.

17. Overall, I conclude that the proposal would preserve the Grade II listed building, St Elizabeth's, 100 Redcatch Road, its setting, or any features of special architectural or historic interest which it possesses, in accordance with the requirements of Section 16(2) and Section 66(1) of the Act and the relevant provisions within the Framework which seek to conserve and enhance the historic environment. The proposed works would also accord with the relevant provisions of Policy BCS22 of the Bristol Development Framework Core Strategy (2011) and Policy DM31 of the Site Allocations and Development Management Policies (2014), which in summary seek that works sustain the significance of heritage assets.
18. As there would be no harm to the heritage asset it is not incumbent on me to consider any wider public benefits that the proposals may bring.

### **Other Matters**

19. I note the comments raised by occupiers of neighbouring properties in respect of design and heritage concerns, and in respect of consultation processes. Matters relating to design and heritage have been addressed above. Matters relating to the Council's consultation exercise have not led me to conclude differently on the main issue and concerns relating to any unauthorised works would be a matter for the Council. There is no dispute between the Council and appellant in respect of highways and trees and I have no reason to disagree with those findings.

### **Conditions**

20. I have had regard to the conditions set out in the previous appeal at the site, having assessed those with reference to the advice in the Framework and Planning Practice Guidance. Although some details have been provided with the appeal in respect of previously imposed conditions, it is unclear whether the Council has seen that information and/or approved it previously. Accordingly, the Council may be prejudiced if I were to accept that information where uncertainty remains.
21. In addition to a condition relating to the statutory timeframe, I have imposed a condition to ensure the development is carried out in accordance with the approved plans, for certainty. In the interests of visual amenity, conditions are imposed relating to material samples, architectural details, tree protection measures and landscaping.
22. Further conditions are imposed to control external lighting, permitted development rights, refuse and to mitigate ground contamination, in the interests of the living conditions of future and adjoining occupiers. Conditions are imposed in respect of car and cycle parking in the interests of highway safety and sustainable transport. A condition is imposed in the interests of mitigating the effects of climate change.
23. On the basis that the Council have reviewed the submitted drainage plan, which is listed as an approved drawing, and have raised no objection to the scheme from a sustainability or flood risk perspective, a previously imposed condition requiring further drainage details is not included.

**Conclusion**

24. For the reasons given above, having regard to all other matters raised, I conclude that both appeals should be allowed.

*A Price*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

### *Appeal A*

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9703.01 Location and Block Plan, 9703.02 Drainage Plan; 9703.02a Plans and Elevations of Curtilage Listed Stone Wall, 9703.05 Basement and Ground Floor Plans, 9703.06 First and Second Floor Plan, 9703.07 Sections AA and BB, 9703.09 Proposed Elevations, 9703.14 Junction Details and Typical Windows, 9703.17 Garden Design, 9703.18 Garden Design.
- 3) A report detailing the lighting scheme and predicted light levels at neighbouring residential properties shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun. The detail thereby approved shall be carried out in accordance with that approval.
- 4) Detailed drawings at an appropriate scale of the following shall be submitted to and be approved in writing by the Local Planning Authority before the relevant part of work is begun. The detail thereby approved shall be carried out in accordance with that approval.
  - a) Example windows and doors, including cross sections showing depth of reveals;
  - b) Eaves details;
  - c) All material junctions;
  - d) Details of canopy above the door.
- 5) Samples of all external materials, including bricks, render, showing colour and texture, and roof tiles shall be submitted to and be approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved samples before the building is occupied.
- 6) A scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the works are commenced. The approved scheme shall be implemented so that planting can be carried out during the first planting season following the occupation of the building or the completion of the development whichever is the sooner. Any trees or plants that are removed, die, are damaged or become diseased within five years of planting shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 7) No work of any kind shall take place on the site until the protective fencing has been erected around the retained trees in accordance with the submitted Tree Protective Fencing details. The Local Planning Authority shall be given not less than two weeks prior written notice by the developer of the commencement of works on the site in order that the council may verify in writing that the approved tree protection measures are in place when the work commences. The approved fencing shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be

maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced area(s) there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals and no retained trees shall be used for winching purposes. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the council.

- 8) The development shall be carried out only in accordance with the submitted arboricultural method statement. Supervision of the approved works by a properly qualified arboricultural consultant shall take place in accordance with the method statement. Copies of written site notes and/or reports detailing the results of site supervision shall be submitted to the Local Planning Authority in writing within two working days. Method statements for any unexpected remedial works necessitated by the scheme shall be submitted to and approved in writing by the Local Planning Authority prior to their implementation. All remedial works shall be carried out in accordance with the agreed details under the strict supervision of the arboricultural consultant.
- 9) The development hereby approved shall be implemented in accordance with the Sustainability Statement and Energy Efficiency Ref NV-10047revD. The measures included in the strategy shall be installed at the development and shall be operational prior to the occupation of the development hereby approved, and shall thereafter be maintained.
- 10) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', and where remediation is necessary a remediation scheme must be prepared which ensures the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Following completion of measures Identified In the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.
- 11) No building or use hereby permitted shall be occupied or the use commenced until the refuse store, and area/facilities allocated for the storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.

- 12) No building or use hereby permitted shall be occupied or the use commenced until the car/vehicle parking area shown on the approved plans has been completed, and thereafter, the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.
- 13) No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse hereby permitted, or any detached building erected, without the express permission in writing of the council.

*Appeal B*

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.