



Appeal Decision

Site visit made on 16 October 2023

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13th December 2023

Appeal Ref: APP/N4205/Y/23/3322318

21 Third Street, Bolton, BL1 7NN

- 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 S Marsden against the decision of Bolton Council.
 - The application Ref 15457/23, dated 11 February 2023, was refused by notice dated 21 April 2023.
 - The works proposed are described as 'demolition of dwarf wall to front to allow parking of vehicle on hardstanding'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the works are in a conservation area and relate to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
 3. There is no appeal relating to planning permission before me. Section 7 of the Planning (Listed Buildings & Conservation Areas) Act 1990 (the Act), states listed building consent is required 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. Neither the Council nor the appellant have presented any substantive evidence to suggest that listed building consent is not required, I have therefore determined the appeal on its merits on the basis of the evidence before me.
 4. Reference is made by both the Council and the appellant to the appeal relating to the listed building at Third Street, 29-34, Bazley Street (Ref: 1387900) and also to the listed building at Second Street, 18-23, Bazley Street (Ref: 1387899). However, it is clear from the listing descriptions that Nos 19-23 Third Street (which includes the appeal property) are included within the listing under reference 1387899. Accordingly, I have considered the appeal on this basis.
 5. The dwarf wall has already been removed and at the time of my visit the garden area of the appeal property was being used to park a motorbike. The works that have taken place appear to be the same as those which were applied for and shown on the submitted plans/information. I have dealt with the appeal on this basis.
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Main Issues

6. The main issues are whether the works preserve a grade II listed building Second Street, 18-23 Bazley Street (Ref: 1387899) any features of special architectural or historic interest that it possesses; and whether they preserve or enhance the character or appearance of the Barrow Bridge Conservation Area, and whether they preserve the settings of nearby listed buildings.

Reasons

7. The appeal property forms part of a grade II listed building which is also within the Barrow Bridge Conservation Area and is close to other listed terraces within the model village of Barrow Bridge.
8. The Act requires special regard to be given to the desirability of preserving a listed building or its setting and any features of architectural or historic interest it possesses. Furthermore, paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The listed building, the conservation area and the settings of the listed buildings

9. The appeal property is a mid terrace house which forms part of the listed building that takes in the terrace at Third Street, a row of former workers' cottages. Built in around 1830 but subsequently altered the terrace is constructed of coursed and squared stone with a slate roof over two storeys. It forms part of the model village which was established in around 1831 by Robert Gardner to serve the adjacent Dean Mills complex.
10. The workers' terraces are separated by garden areas which were originally allotments for the mill workers but now form small front gardens for each property. Third Street has a wide stone flagged pavement directly in front of the houses which separates them from their garden areas beyond. Some of these are delineated from the pavement by dwarf walls. Whilst a number of the garden areas have modest sheds and outbuildings and areas of hardstanding, for the most part they are vegetated and green. The appeal property's garden area is partially covered in stone sets with planting to the edges.
11. The listing for the terrace includes any free-standing object or structure erected before 1 July 1948 within the curtilage of the listed building under Section 1(5) of the Act. This is irrespective of whether or not it has been explicitly identified in the list description. In this instance this includes the dwarf garden walls because these structures are within the historic curtilage of the listed building, and appear to have been erected prior to 1948. Whilst the listing description does not mention the walls, I am conscious that the list entry is intended primarily for identification purposes and is not a definitive description of the features of interest that are present.
12. From the evidence before me, insofar as it relates to this appeal, I find that the special interest of the listed building is drawn from its age and historic fabric as well as from its modest architectural features and simple proportions. It is also derived from the building's characteristic relationship with the other terraces nearby including the distinctive arrangement of its garden areas in the context

- of the model village. All these elements are important overall to the special interest of the building in terms of this appeal.
13. The appeal building is within the Barrow Bridge Conservation Area. This covers much of the settlement which is an early example of an industrial model village. Although the original mill buildings have now been demolished the modes stone houses and cottages built for the mill workers remain. Despite its industrial origins Barrow Bridge is experienced as a rural village in the wooded and landscaped setting of Dean Valley.
 14. The Conservation Area Appraisal (CAA) notes that the workers' terraces in the south west corner of the conservation area have an urban appearance influenced by the marked regularity of the streets which is however softened by the gardens and groups of mature trees. The CAA also recognises that the workers' dwellings have very strong boundaries marked by the allotment gardens.
 15. Thus I consider that the significance of the conservation area, in so far as it relates to this appeal, is mainly derived from the impressive uniform collection of high quality historic buildings and use of traditional materials in the long established distinctive planned townscape. It is also drawn from the model village's characteristic layout and spaces including the regular grid street pattern and purposefully provided garden areas associated with the cottages.
 16. Third Street and the surrounding terraces of workers' cottages are in tight knit rows and have changed little. The appeal building forms an integral part of the terrace which along with the other terraces nearby has a strong presence in this part of the conservation area where its simple vernacular form and garden area are integral to the close and regimented pattern of development and the village's grid layout. Thus the appeal building contributes positively to the historic character and appearance of the conservation area and its significance as a heritage asset in relation to this appeal.
 17. Turning to the nearby listed buildings, the Council indicates that the nearby terraces comprising First, Second, Fourth and Fifth Street are all Grade II listed. Together with the appeal building these form a consolidated group of historic buildings which are key features of the settlement. Accepting that they all have their own particular features of interest and significance, there is a strong cohesiveness to this concentration of traditional buildings.
 18. The significance of these buildings, insofar as relating to this appeal, is derived from their historic interest, traditional appearance and relationship with each other and the distinctive garden areas, which collectively provide evidence of the role of the settlement and its historic development. The settings of these buildings, and the contribution they make to the significance of those assets, insofar as they relate to this appeal, is derived from the traditional historic townscape of the settlement and the characteristic pattern of development including the garden areas. This contributes positively to their understanding and the special interest and significance of those buildings along with the ability to appreciate them.
 19. The Framework defines setting as the surroundings in which a heritage asset is experienced. The collection of listed buildings described are close to the appeal building and its garden and there is inter-visibility to varying extents between them and the appeal site. Furthermore some contextual views of the nearby

listed buildings include the appeal building and its garden. As such, the appeal building has a close and direct visual relationship with the nearby terraces and therefore contributes positively to their settings. I have also had special regard to this matter in considering the appeal.

The effect of the works

20. The works have seen the demolition of a dwarf wall between the pavement area in front of the terrace and No 21's front garden area in order to allow the parking of a motor vehicle. The central part of the garden area is already laid with stone sets and has planting to the edges.
21. The wall was low in height, and the Council finds that in itself it was likely to have low heritage significance. Nevertheless the wall served to enclose and define the appeal property's front garden area and separate and depict it from the pavement. The wall's role in providing a robust boundary and clearly delineating and containing the garden, helped to set apart and strengthen its appearance as an important and distinctive feature of the appeal building.
22. The removal of the wall has opened the appeal property's garden area up to the pavement. Despite the different arrangement and pattern of the paving, in practical terms it now appears as a continuation of the footway. Not all of the properties on the terrace have a dwarf wall, and as such I appreciate that the works have not disrupted or broken a continuous row of enclosures to the gardens. However, where they remain, the low stone walls are positive features of the terrace which clearly denote and contain the gardens. They serve to reinforce and formalise their important role and ensure that their appearance as historic former allotment areas is maintained.
23. The use of the garden area in front of the appeal property for the parking of a vehicle has altered the use and function of the garden area. The stationing of a vehicle there erodes the appearance of the area as a historic garden and detracts from its open nature and the existing greenery and landscaping there. It also undermines the role of the garden in providing an area of softness or relief from the somewhat urban character of the surrounding terraces.
24. Whilst the works to demolish the wall are relatively minor, I am mindful that the area is subject to an Article 4 Direction which removes permitted development rights. Paragraph 4 of this Direction specifically refers to the construction of hardstanding for the parking of vehicles. The appellant indicates that cars are parked to the front of Third Street and that this is typical in the other terraces nearby. That said, the Council confirms that although there are some limited incursions of parking in the front gardens, these are unauthorised and there is no record of permissions for hardstandings to park vehicles in the immediate area.
25. I am mindful that the Council has been consistent in resisting similar proposals both at the appeal site and nearby. A similar proposal was made at the appeal property and whilst it was recommended for approval by officers it was refused by members in 2010. The Council also refers to a refusal for similar works at No 34 Fourth Street. Additionally, whilst a hardstanding has been created at neighbouring No 20 Third Street, the Council confirms that this does not have permission and is the subject of enforcement action.

26. In this context, I have some sympathy with the Council's argument that if the appeal scheme were to be allowed it would set an undesirable precedent which would make it more difficult for the Council to resist similar development and works in the area. Based on the information provided as part of the appeal and given the pressure for parking in the area, I consider that there is a reasonable prospect of similar development being repeated. If this were to occur the cumulative effect would cause further harm.
27. Taking all these factors into account, I find that overall the works have diminished the definition and status of the distinctive garden area and eroded the sense of its former use and intended historic purpose as an allotment. In doing so the works have served to undermine the strong boundary of the former allotment garden and diminished the garden's important role in softening the regularity of the streets in the model village. Thus I conclude that in detracting from the traditional distinctive garden area the works reduce the host terrace's integrity and authenticity and fail to preserve its special interest.
28. As previously described, the appeal property and its garden contributes to the character and appearance of the conservation area and the settings of the nearby listed buildings. The settings of the nearby listed buildings are associated with the historic townscape in this part of the settlement including the traditional buildings, patterns of development and distinctive gardens there. In unacceptably eroding these elements which contribute positively to the special interest and significance of those buildings, the works detract from the settings of the nearby listed buildings.
29. In undermining the settings, which also contribute to the historic significance of the conservation area, and in detracting from the quality of the historic gardens and the long established historic townscape, the works also detrimentally affect how the conservation area is experienced. I therefore consider that the works cause harm to the significance of the conservation area and fail to preserve its character and appearance.
30. In coming to this view I have had regard to the comments of the Design and Conservation Officer with regard to the previous application at the appeal property. However, I have considered the works on their own merits and made my own assessment as to their impact.

Heritage balance

31. I therefore conclude on the main issues that the works fail to preserve the special interest of the listed building and the significance of the conservation area and do not preserve the settings of the nearby listed buildings. I give this harm considerable importance and weight in the balance of this appeal.
32. The Framework states at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
33. I find the harm to the heritage assets as identified to be less than substantial in this instance, but nevertheless of considerable importance and weight.

34. Paragraph 202 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
35. The appellant argues that there is no alternative parking provision close to the appeal site. I appreciate that parking is at a premium on the surrounding streets. Reference is also made to the creation of a more useable area of amenity space. However, whilst the works may have freed up an on-street parking space, the public benefits in these regards are not significant.
36. Taking all these factors into account, I therefore find that the public benefits arising from the works do not outweigh the harm to the significance of the designated heritage assets I have identified. For these reasons the works fail to satisfy the requirements of the Act and paragraph 197 of the Framework.
37. Whilst the decision notice refers to Policy CG3 of the Bolton Core Strategy and the General Design Principles Supplementary Planning Document, I am mindful that listed building appeals are not subject to Section 38(6) of the Planning and Compulsory Purchase Act 2004 and so do not need to be determined in accordance with the development plan.

Other matters

38. The appeal scheme is a re-submission of an application that was withdrawn and was submitted after additional information came to light. However, no further details have been provided in this regard. I confirm in any event that I have considered the works on their own merits and made my own assessment as to their impacts.
39. In the event that the parking is found to be unacceptable, the appellant suggests the use of a condition to prohibit the use of the garden area for the parking of a vehicle such that it would remain as private amenity space (but with the wall removed and not reinstated). However, I have found the works to be harmful in their entirety. I am also mindful that it is unreasonable to impose a condition which would nullify the benefit of the permission. The works are described as 'demolition of dwarf wall to front to allow parking of vehicle on hardstanding'. To impose a condition prohibiting the use of the hardstanding for parking would have the effect of invalidating the works as sought and would directly contradict any consent. Thus I consider that it is unreasonable to impose a condition which prevents the use of the area for parking.

Conclusion

40. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

E Worthington

INSPECTOR