



Appeal Decisions

Site visit made on 12 December 2023

by **A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decisions date: 26th January 2024

Appeal A Ref: APP/Z0116/W/23/3315189

100 Redcatch Road, Knowle, Bristol BS4 2HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Misha Simmonite against Bristol City Council.
 - The application Ref 22/04927/F is dated 10 October 2022.
 - The development proposed is described on the application form as '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/23/3315183

100 Redcatch Road, Knowle, Bristol BS4 2HQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Ms Misha Simmonite against the decision of Bristol City Council.
 - The application Ref 22/04928/LA is dated 10 October 2022.
 - The works proposed are described on the application form as 'erection of dwelling (Renewal of planning permission granted on appeal ref APP/Z0116/W/18/3196399 - BCC 16/06418/F) - self build - and the demolition and re-building of curtilage listed stone wall with brick capping in the same position as the existing wall.'
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for erection of dwelling (renewal of planning permission granted on appeal ref APP/Z0116/W/18/3196399 - BCC 16/06418/F) - self build at 100 Redcatch Road, Knowle, Bristol BS4 2HQ in accordance with the terms of the application Ref 22/04927/F, dated 10 October 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-building of curtilage listed stone wall with brick capping in the same position as the existing wall at 100 Redcatch Road, Knowle, Bristol BS4 2HQ in accordance with the terms of the application Ref 22/04928/LA, dated 10 October 2022, and the plans submitted with it, subject to the condition appended to this decision.

Applications for costs

3. Applications for costs were made by Ms Misha Simmonite against the Council. These applications are the subject of separate decisions.

Preliminary Matters

4. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (19 December 2023). This does not materially change the planning policy context in respect of the main issue.
5. Notwithstanding the description of works set out above in respect of application reference 22/04928/LA, it is clear from the plans and accompanying details that the proposed works comprise the demolition and re-building of curtilage listed stone wall with brick capping in the same position as the existing wall. This more accurately and concisely describes the proposed works.
6. The appeals follow previously consented schemes on the same site, allowed at appeal¹. 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.
7. Although some 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 and on the basis that the proposed scheme has not been commenced.
8. The submitted evidence refers to the presence of Grade II and Grade II* listed buildings within the vicinity of the site, including Convent of the Sisters of Charity² and the Boundary Wall and Gates to the Convent of the Sisters of Charity³. Mindful of the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving the settings of these listed buildings. The special interest and significance of these assets largely stem from their historic and architectural interest. Given the nature and position of the proposed development and works, I consider that the settings of these designated heritage assets would be preserved and the contribution they make to the assets' significance would not be harmed.

Main Issue

9. The Council have not provided a decision notice or any putative reasons for refusal.
10. As such, based on the evidence before me and my observations on site, I consider the main issue to be 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.

¹ APP/Z0116/W/18/3196399; APP/Z0116/Y/18/3198072; APP/Z0116/W/22/3314107; and APP/Z0116/Y/22/3309868

² List Entry Number: 1218650

³ List Entry Number: 1282159

Reasons

Special interest and significance

11. 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.
12. St Elizabeth's⁴ is a Grade II listed building and 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, its set back position from the road and its verdant setting.
13. Based on the evidence before me, the building's special interest and significance is largely derived from its early 20th century architecture, which has a strong presence on Redcatch Road. Important contributors in these regards, which are pertinent to the appeals, 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.
14. Within the previous appeal decisions, the now demolished historic wall to the immediate north of the site, a curtilage listed building, 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

15. The appeal proposals seek to renew previous consents on the site, whilst also including some modifications to those schemes.
16. The main differences between the most recently allowed appeals at the site and the scheme before me are the increased basement area, to include plant rooms, together with an angled rather than perpendicular northern boundary wall, which would involve some minor changes to the external appearance of the proposed dwelling. Under the most recently allowed appeal scheme, that wall was realigned to be 'squared off' so as not to follow its historic alignment. This is not the case under this scheme, where the historic alignment of the wall would be maintained.
17. As was the case under those previous appeals, I have no evidence before me detailing the historic arrangement of the garden, and therefore the former garden wall, at St Elizabeth's or to demonstrate the historic connection between the St Elizabeth's site and St Saviour's House. Nevertheless, the Council do not object to this aspect of the scheme. I have no reason to disagree with those findings. Consequently, the proposed alignment of the wall under this scheme 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.
18. I have considered the detailed design of the dwelling itself, such as its increased height relative to some previous schemes. When considered in the context of those previously consented schemes, the proposal before me would

⁴ List Entry Number: 1202483

preserve the special interest of the listed building and its setting, and would therefore not result in any harm to its significance.

19. The Council raises an objection to the proposed use of materials, in particular the roofing materials. However, these details were allowed at the site under a previous appeal and, in any case, this matter would be satisfactorily dealt with by condition.
20. Overall, I conclude that the proposal would preserve the Grade II listed building, St Elizabeth's, 100 Redcatch Road, its setting, and 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 development proposals conserve, and where appropriate enhance, any effected heritage assets or settings.
21. As there would be no harm to the significance of this designated heritage asset, it is not incumbent on me to consider any wider public benefits that the proposals may bring.

Other Matters

22. I note the comments raised by occupiers of neighbouring properties, including in respect of design and heritage concerns. Matters relating to design and heritage have been addressed above.
23. Concerns relating to any unauthorised works and the maintenance of boundary treatments and landscaping along the highway 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.
24. Comments in respect of the site being used for commercial operations are based on hypothetical eventualities. I am assessing the scheme based on the plans before me, as a domestic development.

Conditions

25. I have had regard to the conditions set out in the previous appeals 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. As set out above, I consider the development has not commenced. As such, the pre-commencement conditions can be effective.
26. 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.

27. Further conditions are imposed to control external lighting, permitted development rights, refuse, drainage and to mitigate ground contamination, in the interests of the living conditions of future, adjoining occupiers and waste-water management. Conditions are imposed in respect of car and cycle parking in the interests of highway safety and sustainable transport. A further condition is imposed in the interests of mitigating the effects of climate change. The sustainable drainage condition is pre-commencement as it is necessary to ensure that any potential mitigation is properly designed in prior to the commencement of development.

Conclusions

28. For the reasons given above, having regard to all other matters raised, I conclude that both appeals should be allowed and planning permission and listed building consent be granted.

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 Curtilage Listed Wall Plan, 9703.05 Basement and Ground Floor Plans, 9703.06 First and Second Floor Plans, 9703.09 Elevations, 9703.11 Sectional Plan, 9703.14 Junction Details and Typical Windows.
- 3) No development shall take place until a detailed design of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the building.
- 4) 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.
- 5) Detailed drawings at an appropriate scale of the following 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.
 - 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.
- 6) Samples of all external materials, including bricks, render, showing colour and texture, and roof tiles shall be submitted to and 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.
- 7) 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 a similar size and species to those originally planted.
- 8) 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.

- 9) 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.
- 10) 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.
- 11) 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.
- 12) No building hereby permitted shall be occupied 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.

- 13) No building hereby permitted shall be occupied 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.
- 14) No building hereby permitted shall be occupied 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.
- 15) 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.