



Appeal Decisions

Site visit made on 20 November 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2024

Appeal A Ref: APP/J0405/W/23/3315596

55 Well Street, Buckingham MK18 1EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs M Olex against the decision of Buckinghamshire Council.
 - The application reference is 22/01692/APP.
 - The development proposed is refurbishment and alterations to the roofing, walls, flooring, windows, doors, interior and external finishes and a flood barrier.
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Appeal B Ref: APP/J0405/Y/23/3315543

55 Well Street, Buckingham MK18 1EP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr & Mrs M Olex against the decision of Buckinghamshire Council.
 - The application reference is 22/01693/ALB.
 - The works proposed are refurbishment and alterations to the roofing, walls, flooring, windows, doors, interior and external finishes and a flood barrier.
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Decision – both appeals

1. The appeals are dismissed.

Preliminary Matters

2. The appeals relate to a Grade II listed building within a conservation area. I have therefore 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. The latest version of the National Planning Policy Framework (“the Framework”) dates from 19 December 2023. Following the July 2024 general election, the new Government announced a consultation on further changes to the Framework. The amendments made in December 2023 and now proposed have little bearing on the issues in this appeal compared to the July 2021 version extant at the time of the Council’s decisions. Where I have referred to specific paragraphs of the Framework, the numbering is that of the December 2023 version.

Main Issues

4. The main issues are:
 - Whether the proposal would preserve the Grade II listed building known as “The Old House and Attached Outbuilding”, or any features of special architectural or historic interest that it possesses, and whether the proposal would preserve or enhance the character or appearance of the Buckingham Conservation Area (“the BCA”); and

- The effect of the proposal on protected species, specifically bats, or their habitats.

Reasons

Heritage Assets

5. The appeal property forms part of the larger Grade II listed building encompassing Nos 55 and 56 Well Street, described in the official list entry¹ as “The Old House and Attached Outbuilding”. The building dates from the early- to mid-18th century, though with later 18th century and 19th century alterations. It has two storeys, plus attic, and is constructed of red brick in Flemish bond, with a plain-tiled roof, and brick chimney stacks at either end. The building has been divided into two houses, which the appellant suggests may have taken place in the early 20th century². A generous private garden at the rear slopes gently down to the River Great Ouse.
6. The principal elevation to Well Street is six bays wide; as seen from the street No 56 occupies the first two bays from the left at ground floor level (though only a bay and a half at first floor – the two freeholds “interlock” in this part of the building). The parts of the building now forming part of No 56 do not fall within the scope of the appeal scheme, though they are described here for completeness.
7. The second ground floor bay has a doorway (serving No 56) with moulded wood surround and straight hood on shaped brackets; the fourth bay has the doorway to the appeal property, under a 19th century stuccoed porch with an elliptical-arched head. Other bays have “window” recesses (those on the ground floor with segmental-arched heads), although the fifth bay on the ground floor, and all but the first and fourth on the first floor, are blanked; the four first-floor blanks have “dummy” painted windows. Where there are windows, they are 12-pane timber vertical sliding sashes. At roof level, there are small hipped dormers with two-light casement windows to the first and third bays. Internally, the list description refers to chamfered spine beams with scooped stops, the principal staircase with mahogany stick balusters, column newels and ramped handrail, and the stone cellar.
8. Attached to the right-hand end of the building is the two-storey “outbuilding”, which the evidence before me indicates was originally a stable or coach house (it is also referred to in some of the submissions as the “west wing”). This part of the building is also in red Flemish bond brickwork, with a hipped plain tile roof and small gabled roof dormer. It has been through a variety of subsequent uses including a veterinary surgery and vehicle garage, before at some point (there is nothing to indicate when) becoming part of the residential No 55 to which it is connected internally at ground floor level. The rear part of this section was extended in the 1970s; it has stretcher bond brickwork at ground floor level with timber weatherboarding above, and modern uPVC double-glazed door and window frames. The corner at the junction of Well Street and Brooks Court was partially rebuilt following a vehicle crashing into the building; this work included the insertion of brick and steel piers, and new steel frames to the upper floor³.

¹ List entry number 1205468

² Though the submitted heritage statement gives the late 19th century as an alternative date for this subdivision.

³ LPA Ref: 10/02375/ALB

9. The heritage statement submitted with the applications provided very little description of the significance of the listed building, and indeed this formed part of the first reason for which planning permission and listed building consent were refused. However, from the evidence before me, I find that the building's special interest and significance so far as it relates to this appeal to be mainly derived from its historic and architectural interest as a notable 18th century domestic property within the town. Its age, the traditional construction and surviving historic fabric of considerable parts of the building, and its architectural form and design, all make important contributions to the building's heritage interest.
10. The BCA covers the historic core of Buckingham, on a raised promontory within a sweeping bend of the River Great Ouse, as well as the fringes of the town centre. The special interest and significance of the BCA is largely derived from the preservation of much of the medieval street pattern, and the survival of many of the buildings erected when the town was substantially rebuilt following a devastating fire in 1725. It is therefore a good example of an 18th century market town. Because of its age and architectural integrity, as well as its important location close to the parish church in the centre of the town, the appeal property adds to the historic and aesthetic quality of the town, and makes a positive contribution to the character and appearance of the BCA.
11. The proposal is the extensive refurbishment of the building, encompassing a wide range of works. These include alterations to or repair of the roof, brickwork, windows, floors and walls. The scheme also includes the erection of a wall, which would serve as a flood protection barrier, within the rear garden.
12. It is not clear whether the blanked window openings on the Well Street frontage stem from the time the house was built (when a "window tax" would still have been in force), or if they were a later alteration during the Victorian period, though the visibility of reveals and cills internally (as in the first-floor bedroom F1, for example) perhaps suggests the latter. The proportion of blanks (five out of twelve openings, including the two doors, on the listed building as a whole) may be considered high for the principal street elevation. However, they are a distinctive feature of the Well Street frontage, and have clearly been in their present form since well before the building was listed; they contribute in a positive way to the property's historical and architectural integrity, and thus to its special interest and significance.
13. I acknowledge that the "dummy" windows in the first-floor blanked openings are not in a good condition as far as either their base render or their paintwork is concerned, and that they are not in their present state a positive feature of the front of the building. However, this is not in itself a justification for the installation of new windows, and the opening up of four of the five blanks would diminish the legibility and evidence of the building's development, as well as resulting in a loss of original or historic fabric.
14. The sash windows proposed would reproduce the "six over six" pattern of existing windows on the front elevation. Even if the installation of new windows were to be justified, however, there is an absence of certain information (notably cross-sectional drawings) which would show exactly how they would look and be fitted. They would be in prominent positions on the street frontage, and the information before me is not sufficient for their potential impact to be fully and robustly assessed. There would also be an associated alteration of

- internal ceiling heights to accommodate the new windows, with a risk of loss of or damage to historic lath and plaster ceilings.
15. The proposal to repair or replace the roof coverings and structure would entail stripping off all of the plain tiles, removing any failed or rotting timbers and replacing them with new or reinforcing structure, and replacing salvaged tiles. It is envisaged that around 10% of removed tiles could not be reused, and that they would be replaced by salvaged tiles or those removed from the Coach House section as part of earlier repairs.
 16. There is no disagreement that the existing roof and ridge is undulating; as I saw during my site visit, the ridge of the Coach House section appears to be particularly uneven. However, while this may be indicative of some timbers having failed or rotted, in historic buildings it may also simply be indicative of the structure, or elements of it, having settled over time. There is no evidence of recent movement, and the need for the complete lifting of the roof tiles and a rebuild of the roof as proposed has not been demonstrated. At the same time, the undulating roof and ridge provides a visual illustration of the building's age, authenticity and evolution, and the loss of its form would harm these attributes. It would also, of course, be likely to result in a loss of original or historic fabric.
 17. Some of the internal walls within the Old House have been lined with polystyrene-backed plasterboard; it is proposed that this would be removed as part of the scheme. The removal of this treatment would not be unacceptable in itself; it is an incongruous and insensitive addition to the building. However, in the absence of detailed evidence showing how it might be carried out there would be a risk of this operation (along with the removal of built-in cupboards and wardrobes) causing damage to the underlying lath and plaster walls, and a loss of historic fabric.
 18. While proposals to remove an insensitive internal ramp linking floors at different levels would not be unacceptable in principle, the scheme includes the opening up of *all* existing floors to install insulation and other services. Again, there is a lack of information as to the full extent of these works, and an associated risk of damage to or loss of historic fabric.
 19. The appellants' statement commented that the Council had not considered alterations to the scheme, including the omission of roof works and the proposed opening "D43" between the first floor⁴. In their final comments in response to the Council's statement, the appellants stated that they "would concede" the requirement for retaining an undulating ridgeline, and that they "may concede" to carrying out an indicative roof condition survey. At the same time, in respect of the proposal to open up the front windows, they further commented that they are "reconciled to retaining the blank windows".
 20. As a consequence of the changes proposed there are considerable discrepancies between the scheme drawings, the other supporting information such as the heritage statement, the design and access statement, and the submitted schedule of works⁵. It is difficult to discern precisely what would make up the appeal scheme. I cannot therefore confidently determine whether the scheme would meet the requirements of the Act's statutory duties, nor

⁴ As shown in drawings 6580-49 and 6580-48 respectively, both dated 22 November 2022

⁵ Document 6580-SW1, dated 31 August 2022

whether it would comply with the relevant sections of the Framework or development plan policies. Based on the evidence before me I consider that the proposal would cause at least less than substantial harm to the significance of the designated heritage asset.

21. Paragraph 207 of the Framework states that where a proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Planning Practice Guidance advises that putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation. It goes on to state that if there is only one viable use, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result subsequent wear and tear and likely future changes⁶.
22. The appellants wish to refurbish and renovate the property, to improve its energy efficiency and to bring it back into use as a family home. There is nothing before me to suggest either that the optimal viable use of the building is anything other than as private housing (though this need not necessarily be as a single dwelling). I acknowledge that some parts of the building have not been sensitively altered or carefully looked after over its long existence, and consider that there is the potential for an acceptable scheme to be devised which would achieve the appellants' aims. I consider that removing some of the least sensitive elements of the earlier alterations such as uPVC windows and the polystyrene-backed plasterboard wall linings, as well as the reduction in greenhouse gas emissions which might arise from improving the building's energy use would be likely to be the main public benefits of the proposal.
23. Great weight should be given to the conservation of a heritage asset, and any harm requires clear and convincing justification. While I give considerable weight to the potential public benefits of the proposal, there is also a very significant degree of uncertainty over the extent, and much of the detail, of the proposed scheme. The justification for various elements of the proposal has not been adequately demonstrated. As a consequence, the harm to the significance of the listed building would not be outweighed by the public benefits.
24. I have considered whether it would be possible to issue a split decision, allowing some elements of the proposed works, as the appellants have requested. However, in view of the uncertainties described in the previous paragraphs, I do not consider that this would be an appropriate course of action.
25. Having had special regard to the listed building's preservation and giving great weight to the designated heritage assets' conservation, I conclude that it has not been satisfactorily demonstrated that the proposal would preserve the Grade II listed building known as "The Old House and Attached Outbuilding" (or any features of special architectural or historic interest which it possesses) or the character and appearance of the Buckingham Conservation Area. I therefore cannot be certain that the proposal would meet the requirements of sections 16(2), 66(1) and 72(1) of the Act, or comply with the provisions of the Framework which seek to conserve and enhance the historic environment. Nor

⁶ Paragraph: 015 Reference ID: 18a-015-20190723

can I be certain that it would accord with Policy BE1 of the 2021 Vale of Aylesbury Local Plan ("the VoALP") which, among other things, seeks to ensure that development conserves and enhances the significance of the local historic environment, including listed buildings and conservation areas.

Protected Species

26. An assessment submitted to the Council in September 2022 identified the building as having moderate bat roost potential, and noted that further bat surveys would therefore be required to determine the presence or absence of bats. There is limited information before me on this matter; it appears to relate to the main roof of the building, though the appeal statement also indicates that the weatherboarding to the exterior of the Coach House part of the building could also be a potential bat roost.
27. It is suggested by the appellants that the potential omission of works to the main roof would allow a second bat survey to be carried out. However, it also appears that the removal and replacement of the weatherboarding remains part of the project⁷. It may sometimes be possible to secure mitigation of this matter by condition. However, given the uncertainty about the scope of the proposed works (described in the previous section), I cannot be certain that adequate mitigation measures would be achieved via conditions were I to allow these appeals.
28. As I cannot conclude that the proposal would have an acceptable effect on protected species, it would conflict with Policy NE1 of the VoALP. Among other things, that policy seeks to ensure that priority species and their habitats are protected, and damage or loss only permitted in exceptional circumstances. The proposal would conflict with paragraphs 180 and 186 of the NPPF which seek to minimise impacts on biodiversity and state that planning permission should be refused where significant harm to biodiversity cannot be adequately mitigated. It would also conflict with paragraph 99 of Circular 06/2005⁸ which states that necessary measures to protect the species should be in place, through conditions and/or planning obligations, before permission is granted.

Conclusion

29. For the above reasons, and having regard to all other matters raised, I therefore conclude that both appeals should be dismissed.

M Cryan

Inspector

⁷ Although the appellants' initial statement says that the weatherboarding is "unlikely to be considered for removal before a second stage bat survey", their final comments appear to suggest that it would remain part of the proposal.

⁸ *Biodiversity and geological conservation: Circular 06/2005*, Office of the Deputy Prime Minister 2005