



Appeal Decision

Site visit made on 30 July 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th October 2024

Appeal Ref: APP/F0114/W/24/3342641

21 Darlington Place, Bath BA2 6BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr James Pullan against Bath and North East Somerset Council.
 - The application Ref is 24/00332/FUL.
 - The development proposed is demolition of existing conservatory; erection of a two-storey side extension, replacement roof covering; revisions to fenestration and associated retrofitting works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing conservatory; erection of a two-storey side extension, replacement roof covering; revisions to fenestration and associated retrofitting works at 21 Darlington Place, Bath BA2 6BX in accordance with the terms of the application, Ref 24/00332/FUL, subject to the conditions in the Schedule to this decision below.

Background and Main Issue

2. The appeal site, also known as Bathwick Cottage, is located in a sensitive location with a range of heritage assets. It is within the Bath Conservation Area (CA), and Bath World Heritage Site (WHS), and close to Grade II listed buildings on nearby Sydney Buildings and Darlington Place.
3. The appeal results from the failure of the Council to determine the application within the prescribed period and so there is no formal decision notice. The Council has confirmed that it would have granted planning permission had it been empowered to do so. However, third parties have made representations including in respect of the effect of the proposal on the character and appearance of the area, the CA, WHS and the nearby listed buildings. Accordingly, this is the main issue.

Reasons

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to have special regard to the desirability of preserving listed buildings or their settings, or any features of special architectural or historic interest. Section 72 of the Act requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

5. The CA covers much of the City of Bath and so has a broad and varied character. In the vicinity of the appeal site, the area consists primarily of early 19th Century houses, at the lower slopes of Bathwick Hill and meadow. As such, the area forms a transition between the urban centre of Bath and its surrounding hills and countryside. Relevant to the appeal, its significance is its historic and pleasing buildings, layouts, street scenes and green open spaces.
6. The listed buildings were built in the early 1800s and follow the contours of the land, being higher than the nearby Kennet and Avon Canal. Dwellings are primarily terraced but with some semi-detached and detached properties, particularly on Darlington Place. In the context of this appeal, their significance is their age and attractive appearance. The outstanding universal values of the WHS include its Georgian architecture and the green landscape setting of Bath.
7. The appeal site is steeply sloping. It once contained Bathwick Dairy, a rural cottage. However, it was replaced in the 1970s with the appeal dwelling, subsequently confirmed to be lawful. Its form, design, materials and flat-roofed garage reflect its era and are discordant features in the surrounding townscape. The dwelling reads separately from other nearby properties, because of its relatively isolated position and contrasting design. Public views of it, including from Sydney Buildings and a well-used Public Right of Way (PROW), are partially filtered by vegetation, giving a verdant appearance despite some recent clearance.
8. The proposal seeks to erect a two-storey extension to the dwelling, clad in timber and with a pitched roof. Although at the same elevated level as the house, the extension would have lower eaves and ridge heights, and a narrower depth and length. The existing large dormers would be simplified, improving their current bland appearance. The proposed narrow ground floor window and an elongated first floor window would give the extension a vertical emphasis, breaking up its mass and bulk. For these reasons, the extension would appear proportionate to its host.
9. The use of untreated timber cladding would weather naturally and reflect the sylvan appearance of the site and its surroundings. In this context, it would not appear out of place. The proposal and light spill from the additional openings would not particularly draw the eye any more than the existing dwelling and its use. It would also be somewhat screened by vegetation, in particular from the nearby Cotswolds National Landscape¹.
10. For the reasons given above, the proposal would not make the property significantly more prominent in the street scene or in the wider landscape and would have some beneficial effects. Similarly, the proposal would not compete with the listed properties at Sydney Buildings to any materially greater extent than now. For the same reasons, it would not adversely affect the outstanding universal values of the WHS.
11. Planning permission was refused in 1973 to increase the height of the garage, but this is not relevant to the proposal, which does not affect the garage. I can understand the desire of some people for the buildings to be replaced, or other improvements made, but these are not the proposal before me. Concurrent planning applications made at the same property are also not a matter for me.

¹ Previously known as an Area of Outstanding Natural Beauty.

12. Consequently, the proposal would preserve and enhance the character and appearance of the area, the CA as a whole and the nearby listed buildings and their settings, and would not affect the outstanding universal values of the WHS. As such, it would comply with Policy CP6 of the Core Strategy, adopted July 2014, and policies D2 and D5 of the Placemaking Plan (PMP), adopted July 2017. These require proposals to sustain and enhance the historic environment, to not harm local character and distinctiveness, and to complement and enhance the host building.
13. For the same reasons, the proposal would accord with the similar requirements of the National Planning Policy Framework (the Framework) and meet the statutory duties of the Act. PMP Policy H1 has been referred to in third party representations, but it relates to supported housing for those with specific needs. As the policy is not relevant to the proposal, I find no conflict with it.

Other Considerations

Bats

14. The site lies relatively close to components of the Combe Down and Bathampton Downs Mines Site of Special Scientific Interest (SSSI) and Brown's Folly SSSI which form part of the Bath & Bradford-on-Avon Bats Special Area of Conservation (SAC). The SAC is protected pursuant to the Conservation of Habitats Regulations 2017 as amended (the Habitats Regulations).
15. The qualifying features of the SAC are populations of Greater Horseshoe and Bechstein's bats, with lesser horseshoe bats also being a feature of it. The conservation objectives include maintaining or restoring the extent, distribution, structure, population and function of the qualifying species and their habitats. The site is also adjacent to the Smallcombe Farm Site of Nature Conservation Interest.
16. The evidence before me is that the surveys found potential for roosting within the site. By increasing the amount of accommodation at the site, the proposal may result in additional lighting that could affect the commuting and foraging opportunities for bats. As a result, alone and in combination with other development, a likely significant effect to the SAC resulting from the proposal cannot be ruled out. As such, in accordance with the Habitats Regulations and as competent authority in the context of this appeal, I must undertake an Appropriate Assessment (AA).
17. A planning condition could be used to secure details of suitable lighting measures and prevent the installation of harmful lighting. The proposals do not involve any significant new landscaping but would include construction works and so wildlife mitigation and enhancement measures would also be necessary. However, details of these could also be secured by a planning condition.
18. Consequently, in undertaking the AA, the information before me indicates that mitigation in the form of planning conditions would reduce the impact of the proposal on the integrity of the SAC to a de minimis level. It would therefore accord with the Habitats Regulations and the requirement of the Framework for biodiversity to be protected and enhanced.

Other Matters

19. The removal of trees at the site may have resulted in increased surface water run-off. However, I have no substantive evidence to suggest that the proposal itself would have an adverse effect on nearby properties with respect to surface water. The separation distances between the proposal and nearby dwellings are sufficient to ensure that the occupiers of neighbouring properties would retain adequate living conditions in respect of privacy.

Conditions

20. A condition requiring adherence to the approved plans is necessary for certainty. Details of wildlife protection and enhancement are required for the reasons I have already given. They are required prior to the commencement of development because works at an early stage of construction may affect species. In the interests of the character and appearance of the area, details of tree protection are required. A pre-commencement condition is also necessary because below-ground works may affect trees. For the reasons already given in respect of bats, a condition is required regarding lighting.
21. In the interests of the character and appearance of the area, it is necessary to require samples of external materials and details of the meeting of the timber cladding with the walls and roof. For similar reasons, it is necessary for any further extensions or alterations to the property to require planning permission to allow for full consideration of their effects.
22. The use of motorised vehicles on the PROW is controlled by other legislation. No changes to it are proposed and so any damage caused to the PROW itself or its handrail, for example during construction, are a matter between the Council and the appellant. On this basis, I see no need for the condition suggested by the Council in respect of the PROW.

Conclusion

23. For the reasons given, I conclude that the appeal should be allowed.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with proposed drawing numbers 1111-P3, 1121-P6, 2101-P6, 2102-P5, 2104-P1, 2105-P1, 3002-P2.
- 3) No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with the approved report entitled 'Preliminary Ecology Appraisal' dated February 2023 by Seasons Ecology and the approved 'Bat Survey' report dated May /August 2023 by Seasons Ecology insofar as the recommended measures are applicable to the approved development, and shall include:
 - (i) a method statement for pre-construction and construction phases to provide full details of all necessary ecological protection and mitigation measures, including where applicable proposed pre-commencement checks and update surveys, for the avoidance of harm to wildlife, and proposed reporting of the findings to the Local Planning Authority prior to commencement of works;
 - (ii) detailed proposals for implementation of the wildlife mitigation and enhancement measures and features, including wildlife-friendly planting and landscaping details; provision of bat and bird boxes and integral features; and provision of features and habitats to benefit wildlife. Details shall include proposed specifications; materials; dimensions; models; design; fixings (as applicable); and proposed numbers, heights and positions. Specifications for fencing and boundary treatments shall include provision of gaps or wildlife access points at intervals, to allow movement of wildlife;
 - (iii) all details shall be fully incorporated into the scheme and accurately shown on all relevant plans and drawings.

All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and retained and maintained thereafter. The development hereby approved shall not be occupied until report confirming adherence to the Wildlife Protection and Enhancement Scheme has been submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) Internal and external lighting shall be in accordance with the sensitive lighting measures described in the approved ecological reports and in accordance with the standards and lux level thresholds described in ILP Guidance Note 08/23 'Bats and artificial lighting in the UK'. No new external lighting shall be installed without full details of the proposed lighting design being first submitted to and approved in writing by the Local Planning Authority. These details shall include:

(i) proposed lamps and lamp models, with manufacturer's specifications; proposed lamp positions; numbers and heights, with details also to be shown on a plan;

(ii) light spill modelling, in accordance with the standards and best practice guidelines as described in ILP Guidance Note 08/23, including details of predicted light spill and lux levels within and beyond site boundaries, onto adjacent land and onto boundary vegetation and all ecological habitats and sensitive features within and adjacent to the site, on both vertical and horizontal planes, with details of predicted light levels to also be shown on a plan, and at heights using sections and drawings;

(iii) details of lighting controls; proposed hours, frequency and duration of use; details of all measures and features to contain light spill, the prevention of upward light spill, onto trees and boundary vegetation and adjacent land; to limit use of lights when not required; and to avoid harm to bat activity and other wildlife.

The lighting shall be installed, maintained and operated thereafter only in accordance with the approved details.

- 6) No construction of external walls of the proposal shall take place until samples of all walling and roofing materials to be used, and details of the timber cladding and how this will meet the walls and roof, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and samples.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration, or enlargement of any part of the dwellinghouse shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

End of Schedule