



Appeal Decision

Site visit made on 16 October 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/F3545/W/24/3339588

6 Southgate Green, Bury St Edmunds IP33 2BL

- 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 Ms Clarissa Corfe against the decision of West Suffolk Council.
 - The application Ref is DC/23/1491/FUL.
 - The development proposed is a single storey 2 bedroom house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the scheme on the significance of each of the heritage assets, on highway safety, on public safety and on biodiversity.

Reasons

Effect on heritage assets

The significance of 6 Southgate Green

3. No 6 and its adjoining neighbour are a pair of semi-detached 3 storey townhouses that together form a Grade II listed building. They date from the early 19th Century, though have been subsequently altered and extended. To the rear, a sizeable back garden supports the impression that No 6 had been a house of some status in the town when built. Based on the information available the Council said there is evidence to support that this site was formally associated with the medieval hospital and cemetery of St Petronilla which dates back to the 12th Century.
4. The rear garden of No 6 abuts Beech Rise, and along this boundary runs a wall. As it is a structure within the curtilage that forms part of the land and has done so since before 1948, then under Section 1(5) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the Act) it is part of the listed building.
5. The lower portion of this wall rises to about 2.5m in height and is apparently made of flint and cobbles/stone with brick buttresses. This, the Council contended, is believed to date back to the 18th Century with ties to the 12th Century medieval cemetery. The appellant has provided no evidence to refute this, accepting it to be ancient. At some point over the intervening years, possibly in the 19th Century, the wall has been extended upwards by an additional metre or so of brickwork being placed on top. Beyond the appellant's garage this wall is breached only once, by a small pedestrian gate, but otherwise runs continuously along the south side of the carriageway for

some distance. This unbroken length reflects the fact that it was originally enclosing a large institution of some kind.

6. The appellant has said the significance of the building is found in the listing details. However, those details are primarily for identification purposes. As such, whilst they are undoubtedly of assistance in this regard, I consider an asset's significance, namely its value to this and future generations, can go beyond them and be established by wider factors. In my opinion, and insofar as this appeal is concerned, the significance of this listed building, and its special architectural and historic interest, is partly historic, as the built form there now displays how the site has evolved over the years from a medieval hospital to a 19th Century house of some status. Moreover, there is also an architectural significance derived from the design and construction details that are apparent and date back many centuries.
7. Although no application for listed building consent has been submitted, that has no bearing on my assessment. Rather, Section 66 of the Act says that when considering planning proposals that affect a listed building or its setting, special regard shall be given to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses.

The effect on the significance of No 6

8. The proposed dwelling would be set back from the main rear elevation of No 6, at the western end of the curtilage. As a result, a back garden of sufficient depth would remain to reflect the status of the existing house.
9. However, most of the western boundary to the garden of No 6 would no longer be the verdant belt of planting that it now is, but, instead, would be the side elevation of the new single storey dwelling. With the strong horizontal emphasis of the proposal and its long hipped roof with rooflights, to my mind this pattern of development would not relate well to the ensemble of historic buildings and structures that currently enclose much of this rear garden and so form the context to No 6. Moreover, this impact would be emphasised by the elevated nature of that part of the plot. As a result, the setting of the listed house would be diminished by this unsympathetic and dominant intrusion, and so there would be less than substantial harm to its significance.
10. Turning to the boundary wall, to allow access to an intended parking bay on the site this would have an opening, up to 4m wide, created in its lower, older part, while the upper brick element above would remain. An opening of this size towards the middle of the wall would severely compromise the sense of enclosure it now offers and has displayed over the years, undermining its apparent origins as a boundary to a major institution.
11. I have no structural evidence to demonstrate whether the various elements of the wall could withstand such a significant intervention or what the implications would be. Although the appellant has said the wall would be fully restored if any wider damage was caused to it, I have nothing to show the form this would take. Furthermore, there are few details of how the walling immediately around the opening would be treated to support any gates or the retained brickwork above. There is a similar sized gate in the wall, nearer to the junction with Southgate Street, but that has pronounced brick pillars to either side on which the gates are hung, with the bricks overhead being carried on an arch. Nothing comparable has been illustrated in this instance. Consequently,

I am unclear as to the effect the creation of this opening would have on the wall's structure and appearance.

12. Moreover, the details I have of the proposed folding gates to the parking bay are limited, and not sufficient for me to conclude they would not harm a wall of this significance. Similarly, to achieve adequate visibility for emerging drivers, the appellant has offered to have mirrors around this entrance. I discuss below the merits of this offer in connection with highway safety, but as far as this issue is concerned, I have no details of where such mirrors would go, their design or their dimensions. In my opinion, mirrors that were of a size and location to be of value in this regard would appear as notable, alien and discordant elements in the context of such a wall.
13. For these reasons, I therefore find that the works would fail to preserve features of special architectural and historic interest that this listed building possesses and its setting, causing harm, albeit less than substantial, to its significance.

The effect on the archaeological remains

14. The Council said that the proposal is to be on part of the graveyard for the former hospital, and again this was not challenged by the appellant. No further evidence has been submitted on this matter beyond me being informed that human remains had been found in the garden in the past, close to the surface. Consequently, I do not know the extent of the graveyard, its layout or the intensity of its use.
15. It was not said the garden had any specific designation because of this history. However, based on what I have been told, it is reasonable to assume that it is a non-designated heritage asset of archaeological interest, which is demonstrably of equivalent significance to scheduled monuments, and so should be considered subject to the policies for designated heritage assets. Such interest would not only be found in human remains, but could also include artefacts as well as other information concerning the layering or location of the evidence.
16. The appellant has said they were given insufficient time to undertake an archaeological investigation. Even if that is so, it does not negate the need for one. They have suggested too that a later investigation could be secured by condition. However, the development would be highly intrusive, as there would not only be excavations to form the foundations and service runs in connection with the house, but also the removal of a sizeable volume of earth to create the parking area. Given this, and mindful of the potential importance of the site, I consider archaeological implications should be more firmly established before any planning permission is granted. In the absence of such an investigation, I conclude it is possible the proposal would cause less than substantial harm to the significance of this asset.

The effect on the conservation area

17. The Bury St Edmunds Town Centre Conservation Area is a large conservation area covering the centre of Bury St Edmunds. Its significance lies partly in the way it shows a tremendous yet sympathetic diversity and range of buildings, that reflects its growth through the years and the town's changing roles and prosperity over that time.

18. The appeal site is at the conservation area's extreme southern tip. However, with its prestigious dwelling, its old boundary wall, its graveyard and its associations with the medieval hospital, the site demonstrates the change that has taken place and so makes a positive contribution to the conservation area's significance.
19. The proposed dwelling would be concealed to a great extent from the public domain by the boundary wall. However, it would be visible from No 6 and also through the intended opening. I anticipate it would also be apparent from the upper floors of the houses on the opposite side of Beech Rise. In these views, I see little in the design of the proposal, and its location above a parking bay, that means this pattern of development would integrate into the historic context. When taking into account as well the harm I have identified to the setting of No 6, to the boundary wall and, possibly, to the graveyard, I consider it would fail to preserve the character and appearance of the conservation area, causing less than substantial harm to its significance.

Conclusions on this issue

20. The *National Planning Policy Framework* (the Framework) says that heritage assets are an irreplaceable resource. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset requiring clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any asset, that harm should be weighed against the public benefits.
21. In this instance less than substantial harm has been identified to the significance of the listed building and also to the conservation area. Moreover, it has been identified as well in connection with the graveyard which, although non-designated, should be considered against the policies for a designated heritage asset. Any justification offered for the harms is limited, and no public benefits have been identified that outweigh the great weight given to these harms. I therefore find that the scheme is contrary to Policies DM2, DM15 and DM17 in the *Joint Development Management Policies Document* (DMPD), which together seek to recognise key features of townscape character, safeguard listed buildings and their settings, and preserve and enhance conservation areas. It is also contrary to the Framework.

Highways

22. Beech Rise, as it passes the proposed parking bay, is a relatively narrow road. When I visited there were parked cars opposite the site of the proposed entrance to the bay, and as there appeared to be limited off-street parking in the vicinity, I have no reason to consider this is not a regular occurrence. The narrowness of the road and the presence of these parked cars would mean entering and leaving the proposed parking bay would be difficult, and could require a degree of manoeuvring on the carriageway. To my mind this would compromise highway safety to an unacceptable degree.
23. Whilst the appellant has said this could be addressed by extending the parking restrictions further along Beech Rise, so preventing on-street parking at that point, there is no mechanism before me to ensure this would happen, and it could also take a while to implement. Moreover, by losing one space at the kerbside to facilitate the single space on the appeal site, there would be no net

gain in parking provision in the area. I have therefore given this suggestion limited weight.

24. Furthermore, there is no pavement on the side of Beech Rise closest to the appeal site, but rather the carriageway is separated from the boundary wall by a narrow verge. As a result, there would be exceptionally poor visibility for drivers as they left the parking bay, and again this could result in a conflict with on-coming traffic and an associated highway danger.
25. The appellant suggested visibility could be improved by the use of mirrors. This though is a contrived solution, and it would be difficult to ensure they were retained at the appropriate angles and so maintain any effectiveness they may have. In any event, there are no details as to where such mirrors would go in order to enable adequate visibility, given the intended presence of gates and the fact that drivers may be leaving in either forward or reverse gear, depending on how they entered. As such, this solution would not allay my concerns.
26. It was also suggested the requirement for parking on the scheme could be relaxed, thereby addressing not only this issue but the harm to the wall and the archaeological remains discussed above. That though is not the basis on which the scheme has been submitted, and so is not before me. The benefits of delivering a house have not been shown to be so great as to justify such an approach, and I have no details to indicate the implications that omitting the parking bay would have for the development or for parking pressures in the area. The appellant also suggested enlarging the access to the existing parking at No 6. I am unclear as to what was meant by this, but no details have been submitted for me to consider. Neither of these suggestions has therefore been afforded any appreciable weight.
27. The appellant already parks in a garage that opens directly onto the road, while 1A Beech Rise also appears to have opportunity for off-road parking. However, these are historic arrangements and it does not follow they should now be replicated. Moreover, the carriageway seems to be slightly wider by those 2 parking places, and parking restrictions are in place opposite. Any issues they create are therefore not as acute as those that would arise from the parking provision now proposed.
28. Accordingly, I conclude that the development would have an unacceptable effect on highway safety, in conflict with Policies DM22 and DM46 in the DMPD, which together seek to provide suitable parking, and the Framework, which aims to avoid such harm.

Public health

29. The appellant's report into contamination recorded none to be present within 25m of the site, but the Council said that the land could potentially be affected by biological contamination resulting from the graveyard. It is possible that such contamination may not exist, but the Council's concern seems to be reasonable given what I have been told of the site's history. The fundamental effect it may have on the scheme, and the need for me to be satisfied the site is suitable for the proposed use, mean I consider this should not be left to be resolved by condition once planning permission had been granted. Rather, the nature of this possible contamination should be explored beforehand.

30. Accordingly, I conclude it has not been shown the development would not result in unacceptable impacts on public health, and so it is contrary to DMPD Policy DM14, which aims to safeguard development from such hazards.

Biodiversity

31. Government guidance in Circular 06/2005 says

it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

It goes on to advise that undertaking surveys after planning permission has been granted should only be done in 'exceptional circumstances'.

32. Enough information should therefore be submitted for the effect of the development on protected species and their habitats to be fully considered before determination. This does not mean that some elements cannot be subject to conditions, but rather there should be sufficient evidence when considering the proposal to assess any likely negative effects there may be.
33. The appeal site currently contains a mature established landscaping, with an appreciable buffer of planting on the western side. To my mind there is a strong possibility that protected species are present, but any information that has been submitted to explore this has not been sufficient. It has been said the house would be sited to avoid critical areas but it has not been explained how these have been established. Moreover, whilst the gardener might not have noticed bat roosts I consider that is not a substitute for an investigation in line with recognised procedures and practices. Given the nature of the site and the lack of information, and mindful that I have no reason to find this is one of the exceptional circumstances to which Circular 06/2005 alludes, it would therefore be inappropriate to resolve this matter by means of a condition.
34. Accordingly, I conclude that the presence or otherwise of protected species and the extent that they may be affected by the proposed development has not been established, and so in this regard the development is in conflict with DMPD Policies DM11 and DM12, which seek to safeguard biodiversity and protected species.

Planning balance and Conclusion

35. Accordingly, I have found harm to the heritage assets that is not outweighed by public benefits. I have also found a harm to highway safety and have concluded it has not been shown there would not be harm to public health and biodiversity. I am aware of no material considerations that would justify a decision otherwise than in accordance with the development plan conflicts that come with each of these concerns. I therefore conclude the appeal should be dismissed.

JP Sargent

INSPECTOR