



Appeal Decision

Site visit made on 29 May 2025

by **Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal Ref: APP/F0114/D/25/3363097

23 Kelston Road, Newbridge, Bath, Bath and North East Somerset, BA1 3QH

- The appeal is made under of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Matthew and Aimee Bates against the decision of Bath & North East Somerset Council.
 - The application reference is 24/004493/VAR.
 - The application sought planning permission variation of condition 7 (plan list) of planning permission 23/01633/FUL (Erection of a single storey and three storey side extension following demolition of existing single storey side extension) to allow changes to materials without complying with a condition attached to planning permission 23/01633/FUL dated 22 November 2024.
 - The condition in dispute is condition 4 which states the development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.
 - The reason given for the condition is to define the terms and extent of the permission.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the impact of the proposal upon the host dwelling as a non-designated heritage asset.

Reasons

3. The appeal site is a semi-detached dwelling, dating from the 19th century, which due to its age and architectural quality is considered by the Council to be a non-designated heritage asset. The site is noted to stand outside of the Bath Conservation Area but is within the World Heritage Site of Bath. In terms of materials the existing dwelling is constructed of Ashlar Bath Stone with a slate roof and deep bracketed eaves detailing. Planning permission was granted, in November 2004 (23/01633/FUL) for the erection of a single storey and three storey side extension following demolition of existing single storey side extension.
4. The appeal that is before me seeks to vary that planning permission in order to allow a change in the approved materials from the use of Ashlar Bath Stone, to match the existing building, to the use of hand moulded buff brick (such as Weinerberger Marziale) (indicative imagery within the design and access statement submitted as part of the original application documents). I understand that discussions were held/had during the original application (23/01633/FUL) in relation to the use of buff brick rather than the approved Ashlar Bath Stone. Officers advised that the use of buff brick would not be supported, and this then led to

revised plans being submitted, omitting buff brick and utilising the approved Ashlar Bath Stone which resulted the original planning permission (which this appeal seeks to vary) being granted.

5. 21 and 23 Kelston Road, of which the application appeal site is part of, forms part of a large, detached, villa known as Portledge House which has been subdivided into two properties. The property is noted to be consistent with the architectural style and material reflects the suburban development of Bath in the 19th Century resulting in larger properties in larger gardens on the outskirts of the city. The appeal site is typical 19th Century domestic architecture in the city due to the use of Ashlar Bath Stone which is laid with thin mortar joints and regular course heights. This gives an unbroken visual appearance that is characteristic of the area with brick not being a material found on typical higher status buildings in the city.
6. The proposal, to change the approved materials, would introduce different scale, texture and finish as a result of buff brick not having the same seamless appearance characteristic of the Ashlar Bath Stone. The change in materials would introduce brick detailing, such as soldier courses, which would be uncharacteristic in the context of the host dwelling and Portledge House (21 and 23 Kelston Road) overall. The size, scale and bulk of the extensions which have been approved as a result of 23/01633/FUL are not insignificant and, in this case, I find that the use of buff brick as proposed would result in the extensions visually detracting from the host building which would be detrimental to the architectural quality and character of the building itself. The design and access statement includes imagery which I find confirms the visual contrast which would occur between the existing and proposed materials. I find that the difference between materials on the existing and extended elevations would diminish the architectural quality of the host building itself and result in extensions which detract from the host dwelling.
7. The proposed combination of buff brick, and the existing stone, would create an awkward relationship with the extensions and emphasise their prominence in a negative manner rather than being sympathetic to the host dwelling, its setting and status as a non-designated heritage asset. Paragraph 216 of the National Planning Policy Framework 2024 (the Framework) is clear that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non designated heritage assets a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I note the appellant outlines that the status of the building as a heritage asset is not supported by the Historic Environment Record. Despite this, even if the site were not considered to be a non-designated heritage asset (and this appeal is not intending to be determinative of that particular point) I still find that the proposed materials would be inappropriate in contrast to the existing stone on the host dwelling for the reasons outlined above.
8. Whilst I acknowledge, from my site visit, that the appeal site is partly obscured, visually, from the road itself due to the site levels and a boundary wall as well as limited in some wide-ranging views, a proportion of the extension would still be visible in the public domain at a distance where the contrast would be legible. The appeal site, and the adjacent dwelling (Newbridge House) are prominent features within the street scene which are notable in the context of more modern, smaller, dwellings along Kelston Road and their materials contribute to this. Regardless or

not of whether views from public highways or within long distance views are limited, character and appearance are separate matters as is the impact upon the host dwelling itself, and a lack of wider visibility or visibility within the public domain would not overcome the key issues stated in that the proposed material changes would not complement, and would be detrimental to, the host dwelling itself. Whilst I appreciate the appeal site is not listed nor in a Conservation Area, I find the proposal is of significance as a non-designated heritage asset and that in this case, the proposal would directly affect the asset resulting in harm, as a result of the contrast of the proposed materials, which is sufficient to warrant refusal.

9. The appellant makes reference to there being a precedent for buff brick being utilised within the context of the appeal site, I do not find the examples provided to be entirely comparable to the proposal or context which is before me as an extension. The examples referred to may be indicative of that type of material being part of the material palette within the locality, however, taking each case on its own merits they do not result in a proposal which would result in a sizeable extension to a building with differing materials which I find unacceptable for the reasons outlined above. The buff brick may be harmonious in colour with the existing stone, but this would not overcome the issues I have found with texture and finish as a result of a lack of seamless appearance, as is the case with the existing stone, and the introduction of brick detailing as outlined.
10. Reference is made, by the appellant, to an application at 12 Combe Park (20/02015/FUL) however, no further documentation or plans have been provided. I do not find that, taking each case on its own merits, an isolated application in the context of the evidence that is before me sets a precedent. Consistency is of course key for maintaining confidence in the planning system; however, I have no further information before me as to the reasoning for the approval stated to have been granted (or for what in the context of the host dwelling in the other than “an extension” at 12 Combe Park) to enable me to draw any meaningful comparison or conclusions from that site in the context of the determination of this appeal.
11. The proposal would be contrary to Bath and North East Somerset Local Plan Core Strategy and Placemaking Plan Incorporating the Local Plan Partial Update 2023 Policy D1 which requires that development should contribute positively to local distinctiveness, Policy D2 which requires development to positively respond to the site context in particular the local character, materials and features, Policy D5 which requires extensions to complement and enhance the host building and Policy HE1 which requires that development which has an impact upon a heritage asset (whether designated or non-designated) will be expected to enhance its significance and/or setting and make a positive contribution to its character and appearance.
12. The proposal would also be contrary to paragraph 135 of the Framework which seeks to ensure developments will function well and add to the overall quality of the area and are sympathetic to local character and history as well as, as outlined above, paragraph 216 which requires the effect of an application on the significance of a non-designated heritage asset to be taken into account.

Other Matters

13. I note the appellant’s comments regarding officers not entering into dialogue with the agent or then applicant in relation to the queries and direction to appeal rather than dealing collaboratively with the agent. The handling of the application is not

realistically within the scope of this appeal, however, based upon the evidence before me I find that the Council were consistently clear in their opinion that the proposed materials as now submitted would be unacceptable which ultimately resulted in the amendments leading to the approval within 23/01633/FUL. This was reiterated in email correspondence during the application process. Design can be subjective, however, the determination of applications is, for the large part, down to planning judgment on such matters and I find that the Council have, in this case, clearly set out their reasoned assessment, in conjunction with the consultees, in arriving at the stated refusal reason in this case.

Conclusion

14. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Marshall

INSPECTOR