

Appeal under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act)

Ref. APP/Z0116/Y/25/3359042

Land to the rear of 68 Old Market Street, St Philips, Bristol BS2 0EJ

After reviewing the case file, I asked the Council to explain why it considered listed building consent for the proposed works was required.

The Council responded that it considered the eastern boundary wall of the appeal site to be curtilage listed as part of 68 Old Market Street in that it existed and had formed part of the rear curtilage of No 68 since before 1 July 1948¹. The Council provided comments, historic maps and photographic evidence to support its position in this regard.

The Council stated that a listed building consent application was needed for the proposal because some of the elevation drawings showed the proposal may be attached to what it considered to be the curtilage listed wall, and/or that the close proximity of the proposal to the wall would prevent access for maintenance of that wall.

However, even if it were accepted that the eastern boundary wall of the appeal site is curtilage listed (and with reference to the submitted evidence, including the Heritage Statement, this is far from certain) the proposed site plan drawing (Ref. B12215 01) clearly shows that no part of the proposal would be attached to the eastern boundary wall. The elevation drawings (Ref. B12215 03) do not show that the proposed building would be physically connected to the eastern boundary wall.

Whilst the Council has exercised planning judgement in this regard, I do not find its position compelling. The drawings are unambiguous and the Council's officer report repeatedly refers to the proposal being to the rear of the listed building and makes no mention of curtilage listed walls. Furthermore, none of the conservation consultees refer to the harm that would be caused to what the Council considers to be curtilage listed walls of No 68.

In its response the Council also made reference to proposed fences and refuse structures being connected to the listed building, to the appeal site actually containing the listed building 68 Old Market Street, as well as to the tarmac carpark and to the potential for built remnants to exist beneath the carpark surface within the appeal site.

The appeal site does not include the listed building 68 Old Market Street although that building is owned by the appellant, and the tarmac surface of the carpark certainly does not date from 1 July 1948 and so is not curtilage listed; the presence of any 'building' remnants beneath the carpark surface is completely unknown and so cannot be relied upon in this regard.

The proposal would make the maintenance of much of what the Council considers the curtilage listed eastern wall, as well as much of the western gable wall of the Drill Hall, very difficult. Whilst this is a matter the Council should be concerned

¹ under s1(5)(b) of the Act

with, it is not mentioned in the officer report and in any event, future maintenance difficulties do not amount to works to a listed building under s7(1) of the Act.

Under s22(1) of the Act, the Secretary of State may allow or dismiss an appeal under s20 of the Act or may reverse or vary any part of the Council's decision (whether or not the appeal relates to that part), and may deal with the application as if it had been made to them in the first instance.

Based on the submitted evidence, no works are proposed to a listed building.

Under s22(1) of the Act, I hereby inform you that listed building consent is not required for this proposal.

Consequently, there is no basis for the submission of a listed building consent appeal under s20 of the Act.

This appeal is, therefore, turned away.

Andrew Parkin

INSPECTOR