
Appeal Decision

Site visit made on 25 February 2014

by Kathrine Haddrell BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 April 2014

Appeal Ref: APP/R3325/A/13/2206348

Land to West of Bower Hinton Manor, Middle Street, Bower Hinton, Martock TA12 6LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Fleming against the decision of South Somerset District Council.
 - The application Ref 13/01338/FUL, dated 4 April 2013, was refused by notice dated 18 July 2013.
 - The development proposed is new house with a private drive serving a double garage, parking and turning area set to the rear of the house, together with associated site works. Also removal of existing site frontage railings and hedging and replacement with new stone walls and railings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Tom Fleming against South Somerset District Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are;
 - whether the proposal would preserve or enhance the character or appearance of the conservation area,
 - the effect of the proposal on the setting of Bower Hinton Manor, a Grade II listed building,
 - the effect of the proposal on the living conditions of the occupants of Bower Hinton Manor with regard to loss of privacy and overlooking.

Procedural Matter

4. Prior to the determination of the appeal, the Government's Planning Practice Guidance (PPG) came into force on 6 March 2014. The content of the Guidance has been considered but in the light of the facts in this case, it does not alter my conclusion.

Reasons

5. The appeal site is adjacent to Bower Hinton Manor, a Grade II Listed Building and it is also within the Martock and Bower Hinton Conservation Area. There has been some dispute as to when the building was first listed, and confusion may have arisen from the change in name of what was Hurst (or Hirst's) Farmhouse to Bower Hinton Manor. From all I have seen, the building was first listed in 1961. In any event, I have paid special attention to the desirability of preserving the setting of the listed building in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and also to the desirability of preserving or enhancing the character or appearance of the Conservation Area in accordance with section 72 of the Act.
6. The appeal site currently comprises an area of open space which is currently rough paddock. It is divided into two by a post and rail fence, and, due to changes in site levels, rises towards the rear of the site. The boundary with Middle Street comprises iron railings and there are a number of mature trees within the site.
7. The appeal proposal is for the erection of a new five bedroom dwelling together with a double garage and parking area, turning area and garden. The existing railings would be replaced with new stone walls and railings. An existing but dilapidated stone store towards the front of the appeal site would be restored and reused.
8. As the appeal site is within the village, it is also within the development limit of Bower Hinton, where development is acceptable in principle. However, Policy ST6 of the *South Somerset Local Plan (2006)* states that development that is otherwise acceptable in principle will be permitted subject to a number of design related criteria. The appeal site is not identified in the Local Plan as an area of open space covered by Policy EH10

Whether the proposal would preserve or enhance the character or appearance of the conservation area?

9. This part of Bower Hinton is of medieval origin and is now characterised by a number of seventeenth and eighteenth century former farmhouses and low density irregular development which used to be interspersed with paddocks and orchards. However, these open spaces have now largely been infilled with modern development, some of which is in close proximity to the appeal site. As a consequence, the appeal site itself is considered by the Council to be the last remaining open space in Bower Hinton and what was once locally characteristic is now scarce.
10. Notwithstanding the loss of other sites, this area of open space still exists. The loss of green space would amount to just over a quarter of the site. Whilst almost three quarters would remain undeveloped, the site would become more enclosed and more domestic in nature. It has been argued that the contribution of the open space could be reduced by neglect, different grazing regimes etc. That may be true, but that is not currently the case. Such an argument is not, in my opinion, sufficient to justify the loss of a site that, whether publically accessible or not, makes an important contribution to the character and appearance of the Conservation Area.

11. The proposed front boundary treatment, and in particular the introduction of the proposed gate would, in my view, be incongruous and would not make a positive contribution to local distinctiveness. Whilst there are examples of gates in close proximity to the appeal site, these clearly relate to the former agricultural uses of buildings, rather than the domestic scale proposed here.
12. The loss of the open space and the introduction of the proposed gate would not preserve or enhance the character or appearance of the Conservation Area. The proposal would not therefore conform with Local Plan Policies ST6 and EH1, which are in general accordance with the National Planning Policy Framework (the Framework) as they relate to the importance of good design and to heritage conservation.

The effect of the proposal on the setting of the listed building

13. Bower Hinton Manor is an attractive 17th Century farmhouse which is the most imposing building in this part of the village. In my opinion this is increased due to its proximity to the appeal site. It has been argued that the appeal proposal would restore the listed building to its historic setting, amongst 'lesser' buildings. Evidence shows that historically, there were buildings on the appeal site. It appears that the last of these, the smithy, was demolished in 1921. Therefore, for over 90 years, Bower Hinton Manor has been seen as a large dwelling adjacent to the open space and would have been seen in this context, without the 'lesser' buildings, at the time of listing.
14. It has also been suggested that a lapsed 1976 outline consent for a dwelling on the appeal site establishes a precedent for development on the appeal site. Although that decision post-dates the listing of Bower Hinton Manor, the consent was not implemented and the setting of the listed building has remained constant for almost 40 years. However, planning and conservation policy has evolved in the intervening years, not least through the introduction of the Framework which gives great importance to design, the integration of new development into the historic environment and to the conservation of heritage assets.
15. I do not agree with the suggestion that when seen from Middle Street the proposed dwelling would be subservient to the adjacent listed building, in terms of height. The appeal proposal would be set back from Middle Street and its roof slightly lower than that of Bower Hinton Manor, but in my opinion, the overall scale and mass of the proposal, a five bedroom dwelling, means that it could not be considered to be subservient. This would be exacerbated by the changes in site level, meaning that the garage roof would be almost level with that of the rear wing of the proposed dwelling. Bower Hinton Manor would no longer be seen almost in isolation as it is now, it would be seen in the middle of two dwellings and I consider that it would be seen as less, rather than more, imposing because of this.
16. Consequently, the siting, design and mass of the appeal proposal, in particular the rear wing and garage, including the retaining wall, combined with the proximity to Bower Hinton Manor would materially harm the setting of the listed building. Whilst the harm to the heritage asset would be less than substantial, the benefits of the proposal do not outweigh that harm. For these reasons, the proposal would conflict with Policy EH5. This policy is in general accordance with the requirements for heritage conservation aims of the Framework.

The effect of the proposal on the living conditions of the occupants of Bower Hinton Manor

17. Amended plans submitted during the course of the planning application show the use of opaque/obscured glazing in windows and doors that would face Bower Hinton Manor, the dwelling that would be most affected by the appeal proposal, and in particular a window at first floor level. The appellant offered to remove the first floor window if that was a determinative matter. I consider that this issue could be dealt with by condition in a way that would ensure no loss of privacy. However, I do not consider that this is the determinative matter in the consideration of this appeal and this measure would not overcome the harm that would be caused by the proposal to the setting of the listed building or the harm to the character and appearance of the Conservation Area.
18. Whilst I appreciate that the occupants of Bower Hinton Manor would have their outlook altered by the appeal proposal, including the area used for outdoor dining, I do not consider that the effect of the proposal would be materially harmful. There would be a sense of enclosure that does not currently exist, but it would not be untypical in a village of this nature. Consequently, I consider that this element of the proposal would accord with Policy ST6.

Other Matters

19. I have been referred to a number of other developments within the village, and whilst I am not aware of the precise circumstances of those developments, the appellant makes a salient point which is that these sites were not open spaces, even if they were undeveloped.
20. I do not consider that the development of the bungalow known as the Shambles set any precedent that would indicate that this appeal should succeed. I am not aware of the circumstances of that development and I have determined this appeal on its planning merits and against the relevant statutory tests and have found that the proposal would harm the setting of the listed building and the character and appearance of the Conservation Area.
21. Reference has also been made to an appeal (ref: APP/R3325/A/13/2196074). The circumstances between the two appeals are very different in terms of the numbers of dwellings proposed and the location of this site next to a listed building. The benefits arising from additional dwellings would not be justified by the harm caused to the setting of the listed building and the character and appearance of the Conservation Area.
22. A Protected Species/Habitat Survey accompanied the planning application, relating in particular to bats and badgers. However, these are not matters upon which this appeal turns. A number of other issues were raised in letters of objection from local residents including the possible presence of a non-conformist burial ground on the appeal site and the removal of a non-listed wall on the appeal site. However, nothing leads me to a different conclusion on the main issues as set out above.

Conclusion

23. I have found that the proposed development would fail to preserve or enhance the character or appearance of the Conservation Area and would cause harm to the setting of Bower Hinton Manor, a Grade II listed building. Whilst the harm

to the setting of the listed building and the Conservation Area as a whole would be less than substantial I nevertheless attach considerable importance and weight to both the desirability of preserving the character or appearance of the Conservation Area and the setting of the listed building. Notwithstanding that the development would result in an additional dwelling, and the appellant suggests that further housing is needed in the Martock area, this is not sufficient to overcome the harm I have identified.

24. For the reasons set out above, and taking all other matters into account, I therefore conclude that the appeal should be dismissed.

Kathrine Haddrell

INSPECTOR