
Appeal Decision

Hearing held on 9 October 2013

Site visit made on 9 October 2013

by Jacqueline Wilkinson Reg. Architect IHBC

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

Decision date: 7 November 2013

Appeal Ref: APP/Y3940/E/13/2196123

Baydon Manor, Marridge Hill, Ramsbury, Marlborough, Wiltshire SN8 2HG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs P Stibbard against the decision of Wiltshire Council.
 - The application Ref E/2011/1572/LBC, dated 16 November 2011, was refused by notice dated 11 October 2012.
 - The works proposed are the demolition of the Winter Garden.
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Procedural matters

1. The appellant states that the proposal would be partial demolition, as the smaller attached vine house to the south would be retained. I have had regard to the list description and the relative volumes of the part to be demolished and the part to be retained as indicated on the application form. As only small ancillary and pre-existing structures would remain, the proposal would amount to total demolition of the principal building. I have therefore assessed this appeal on that basis and amended the description of the works.
2. For the purposes of Section 16 of the above Act, I have taken the whole heritage asset into account i.e. the grade II listed Manor House and its curtilage buildings, including the separately grade II listed Winter Garden.

Decision

3. The appeal is dismissed.

Main Issues

4. The main issues are whether i) there is a clear and convincing justification for the loss by demolition of the grade II listed Winter Garden building and ii) the effect of the proposed demolition on the significance and setting of the wider grade II heritage asset of which it forms part.

Reasons

Legal and policy framework

5. I am required by Section 16 (2) of the above Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6. The National Planning Policy Framework (the Framework), Section 12, paragraph 132, explains that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Paragraph 133 sets out the four tests which apply when considering a proposed development which will lead to substantial harm to or total loss of a designated heritage asset. Whilst there is no application for development in front of me, these tests are nevertheless the relevant current policy framework for the assessment of this appeal under Section 16 of the Act. Paragraph 130 of the Framework states that where there is evidence of deliberate neglect of a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
7. The PPS5 Planning for the Historic Environment: *Historic Environment Planning Practice Guide* remains in force at this point in time. Paragraph 94 states that demolition is very much a last resort after every option has been exhausted. The draft *National Planning Practice Guidance* indicates that appropriate marketing is required to demonstrate redundancy in the circumstances set out in paragraph 133, bullet 2 of the Framework. Whilst this emerging guidance can only attract limited weight at this point in time, it nevertheless provides a useful indication of the future policy context.

Architectural or historic interest

8. Before assessing this proposal, I must address the case made by the appellants that the building is not of special architectural or historic interest.
9. The statutory list entry describes the building as a conservatory, dated circa late 19th century. However a search of maps and parish records has established that the building was built in 1916. It has also emerged from the historic assessment provided by the appellants that the building was never intended to be a horticultural conservatory but was in fact built to its unusually large size for the extraordinary purpose of playing indoor cricket and games by the co-owner of a Knightsbridge department store, Moses Woolland, who purchased the Manor in 1909. The suspended timber floor, the inglenook fireplace, the decorative recess opposite and the central heating system are all features which attest to this. It was pointed out on site that the iron rods for the support of the two layers of cricket netting required are still in place.
10. The structure of the building is based on standard cast iron parts manufactured by the Messenger & Co Foundry, a firm of national and international renown, who specialised in "flat packed" sectional horticultural buildings. It is likely, according to the appellant's report, that the other materials and elements, such as the timber work were sourced locally. However, the appellants' heritage advisor agreed at the site visit that this construction, albeit of standard parts, was almost unique because its size and intended function.
11. The building, even in its poor condition, clearly still has special architectural interest in that a standardised construction system designed mainly for horticultural structures was chosen for a sporting function, presumably because it gave maximum light. This structure was then embellished with architecturally bespoke features such as the inglenook fireplace and the decorative recess, which add to its special architectural interest. It is also of special historic interest, as a garden building built for "pleasure" and it is a remarkable survivor from an era of wealth and indulgence, with a strong sense of melancholy given that this venture came right at the end of the heyday of

the great country house, heightened by the fact that the owner died not long after it was built in 1918.

12. The Council maintains that the building is a rare survivor of its type and era, although this is not proven due to the lack of research, a point confirmed by English Heritage. On the other hand, the appellants point to the errors on the list description and the fact that it was only listed in 1995, some 10 years after the Manor House. They also make the case that because of its late date, standardised construction and the relatively common occurrence of Messenger & Co horticultural structures, the building would not meet the published criteria¹ for statutory listing. However, the appellants have not applied for de-listing.
13. The building's exclusion from a mention in the list description for the Manor is difficult to understand, as its distinctive profile, unlike that of any simple agricultural outbuilding, can be seen from the main house and the road, albeit clad in asbestos sheeting.
14. Horticultural structures made by Messenger & Co were numerous. However, many could have been lost and I note that English Heritage was unable to gather firm evidence about the extent of the survival of this type of structure. Further research may yet be needed. However, the comments of the Walled Garden History Network that "rarely have I seen anything still standing of that size and splendour", gives an indication that it may indeed be a rare survivor, although no firm conclusions about its rarity can be made on the evidence before me.
15. In common with the appellants, I find that the most important distinguishing feature of the building is its surprising size. Size alone would not justify statutory designation, but the reason for its size is now better understood. The research has unlocked a clearer understanding of the building's historical significance and its role in the Edwardian phase of expansion and alteration of the Manor House to cater for the extravagant whims of a wealthy entrepreneur.
16. I therefore conclude that the building's statutory designation as a building of special architectural and historic interest is justified and that it is desirable to preserve it and the features of special architectural and historic interest which it has.

Structural condition

17. Paragraph 130 of the Framework requires me to have regard to whether there has been deliberate neglect which has led to the deteriorated state of the building.
18. The Winter Garden has had an inauspicious life, its original purpose being lost shortly after its construction when the owner died. The events of World War 1 and requisitioning in World War 2 will have not encouraged good maintenance of the building. The arson attack in 1949 left it weakened in one corner and then it was used for several decades as a winnowing shed and general agricultural store by Mr Stibbard's father, who covered the roof with the asbestos sheets in the early 50's. The appellants finally inherited the Winter

¹ Principles of Selection for Listing of Buildings, March 2010, and Designation Listing Selection Guide *Garden and Park Structures*, English Heritage, April 2011.

Garden in 2002 in a poor state of repair, although they had involvement with it on behalf of Mr Stibbard senior before that.

19. I have read carefully the Mann Williams *Structural Review*, dated July 2013. Notwithstanding comments made by others about the costs of repair, this most recent in depth report was prepared by an accredited conservation engineer and I give it significant weight. The report estimates that holding works would cost £100,000, (with ongoing costs) and full conservation repairs would cost £690,000 inclusive of VAT. Realistically, having due regard to the engineer's conclusions and having seen the building for myself, the full repair of the structure would now be likely to involve dismantling of most of if not all of the structure above the perimeter brick walls and its replacement with a high proportion of new "replica" timber and glass components. The report indicates that the cast iron members could be refurbished and reintroduced.
20. The appellants state that they have tried to repair the building, by fixing gutters and adding a ridge cover, which has now all but blown away. Extensive works have also been undertaken in the last few years to stop water ingress between the walls of the coach house and the Winter Garden, to no avail, and this part is now covered by a tarpaulin. The garden they say has been mown and ivy controlled, although I saw from submitted photos that the ivy has not always been under control.
21. In 2003 the appellants were in receipt of a report about the condition of the outbuildings (Roy Morris). This made recommendations for immediate action, which were not followed. However, £50,000 was spent in restoring the vine house. This is a much smaller structure which is likely to have been added after the erection of the Winter Garden as it does not appear on the 1916 plans. Although this sum would not have achieved the full urgent works now recommended by their structural advisor, it would have been a good start at that time.
22. I recognise that the structure was in a poor state when they inherited it and that some efforts have been made. However, I conclude that the appellants' continuing lack of action to carry out any significant urgent works since it came into their direct ownership, has contributed to the current state of repair of the building.

The tests of paragraph 133 of the Framework

23. There is no dispute between the parties that there would be no substantial public benefit that would outweigh the total loss of the significance of the Winter Garden and I agree. In this situation The Framework sets out four tests which have to be applied to the assessment of this appeal.

Does the nature of the heritage asset prevent all reasonable use of the site?

24. This test was clearly worded for different circumstances. The site, being the whole of the Manor House curtilage, is currently in reasonable use and the nature of the Winter Garden does not prevent this. It is more relevant in this case to ask *does the nature of the heritage asset prevent all reasonable use of the asset?*
25. There was a lengthy discussion at the Hearing about the technical issues to be faced if the building was converted to full habitable residential use. The appellants' architect explained that compliance with current requirements for

thermal performance would be impossible without effectively rebuilding the entire glazed external envelope and upgrading it to modern standards. I accept that this would be likely to have an effect on the appearance and fabric of the building and through heavier loads, on the structural system. However, as discussed above, rebuilding of the external shell above wall level is almost inevitable now, so this would not necessarily be an insuperable barrier in the overall context of an overall scheme.

26. The Council has suggested an approach to conversion which would involve "pods" or rooms within the Winter Garden. This approach would have drawbacks too, especially as it would have an impact on the distinctive internal spatial qualities of the building. However, this idea could lead to an imaginative solution and whether or not internal subdivision would be a compromise worth making could only be assessed in the light of an overall scheme.
27. I therefore conclude that the nature of the heritage asset would not prevent all reasonable uses of the building, in the context of an imaginative scheme for the rescue and restoration of the building.

Is conservation through grant funding or some form of charitable or public ownership demonstrably not possible?

28. The appellants have written to a number of public and charitable bodies, including English Heritage, Heritage Lottery Fund South West and the Wiltshire Heritage Buildings Trust. It comes as no surprise to me that none of these bodies or the National Amenity Societies were able to fund a privately owned property, as the grant giving criteria for most of these bodies are restricted and this is well known.
29. I accept that public or charitable grant funding would be highly unlikely to be forthcoming for the restoration works if the building was to be retained in private ownership. However, there are other national charitable building trusts that have not yet been approached and the appellants have not investigated setting up a trust, so I cannot conclude that some form of charitable ownership would not be possible.

Is there no viable use to be found in the medium term through appropriate marketing that will enable its conservation?

30. The building has been advertised for dismantling and relocation on the Walled Kitchen Garden Grapevine, but no responses have been received. This does not surprise me. Firstly I have no information about how many people would have seen the advert, secondly, I am not persuaded that most typical owners of walled gardens (some already with glass houses) would be able to take on such a large scale project and thirdly, a long period of time would be needed to develop such a technically challenging proposal, which would only be likely to be of interest to a commercial company. Whilst every avenue should be tried, this is not on its own, appropriate marketing and in any event it was not for the conservation of the building insitu.
31. No evidence has been submitted to demonstrate attempts at wider scoping of potential marketing or initiatives to seek interested persons, either to be partners in a joint approach or to take on the whole project.

32. After the failed attempt to obtain planning permission for a scheme involving conversion and new build in 2002, the appellants seem to have given up exploring the possibility of separate residential use for the Winter Garden. Mr Stibbard stated at the Hearing that he now has no intention of selling the Winter Garden and/or sufficient land and access to another owner. He explained that this was for a number of reasons, including the complicated ownerships, the difficulties with access and the impact on the value and security of the main house.
33. I understand that the Winter Garden is jointly owned by himself and his wife, whereas the Manor House is owned by him, but I am not persuaded that this is an insuperable block to the sale of the Winter Garden. I saw at the site visit that there was more than adequate capacity for another access and given a creative approach to landscaping, orientation and design, I see no fundamental reason why an enabling development of the Winter Garden and the necessary outbuildings/new buildings and land would significantly harm the setting or significance of the Manor House or unreasonably reduce its amenity or security. Any question of loss of value would be part of the enabling development assessment.
34. I therefore conclude that the necessary appropriate marketing has not taken place, so I am unable to conclude that there is no viable use to be found in the medium term.

Would the loss of the asset outweigh the benefit of bringing the site back into use?

35. The Winter Garden is located in a large private garden. Given the size of the grounds of the Manor House I conclude that the reuse of the small part of the garden occupied by the Winter Garden as garden would not be a material benefit, either public or private.

Setting

36. The Winter Garden is attached to the former coach house and is within the curtilage and setting of the grade II listed Baydon Manor. According to the list description the Manor House is an early nineteenth century house built on the site of an earlier eighteenth century house, with late nineteenth and early twentieth century alterations and additions.
37. The Winter Garden is the most spectacular addition to be seen in the grounds, which also include a 1930's squash court. Its position, set away from the main house facing over a former walled area is typical of a well to do gentlemen's country house. I note that a complete range of outbuildings was lost in the 1949 fire and a rear wing of the Manor House itself has also been demolished. The loss of the Winter Garden would further diminish the setting and the significance of the Manor House as an evolving country house.
38. I therefore conclude that the loss of the Winter Garden would harm the setting and significance of the wider heritage asset of which it is part.

Discussion

39. I have referred to a scheme for alterations, conversion and extension of the Winter Garden, which was refused in September 2002, the full details of which have not been put before me. However, the reasons for refusal indicate that this scheme failed on a number of grounds, the key ones of which were the

failure of the appellants to justify the proposal in terms of enabling development and the adverse effect on the listed building and on the setting of Baydon Manor. A satisfactory resolution of these issues would enable the Council to assess the case for enabling development in the light of the other concerns about new development in the isolated rural location.

40. I have also been referred to two previous appeals, both dismissed, which I have read carefully. The first is reference APP/E3905/A/01/1073777 dated December 2001, which related to a proposal to convert the detached barns on the opposite side of the road to the Manor House. The Inspector made it clear that he specifically discounted any connection between the proposed conversion and the restoration of the Winter Gardens as there was no direct connection being made. The second is reference APP/E3905/A/110358, March 2003. This was a revised scheme for the proposed conversion and alterations of the same outbuildings to create a dwelling. No reference is made at all in this decision letter to enabling development for the restoration of the Winter Garden.
41. The appellants refer to a file note of 19 September 2006, made by their agent, Humberts Architectural after a telephone conversation with an officer at Kennet District Council. The conversation, they say, amounted to a flat rejection of any discussions about enabling development in the light of "a history of refusals". However, I give this file note, which is not a formal written response given after due internal consultation and consideration, very limited weight.
42. The appellants refer to visits by two well known architects and a former chairman of the Campaign for the Preservation of Rural England. However I cannot give any weight to opinions said to have been expressed by these visitors, which have not been put before me in writing.
43. More importantly, after correspondence between Mr Stibbard and the Council in early 2007, the Council wrote to him in August 2007, strongly encouraging a fresh approach to conversion and enabling development. He then wrote again in June 2008, responding by pressing the case for demolition.
44. The Council responded in July 2008, reiterating its willingness to work with the appellants to achieve an acceptable solution and this was restated in a letter dated August 2010. Notwithstanding this, an application to demolish (Ref E/10/1252/LBC) was made and refused in November 2010. No appeal was made. I am also aware that a further application for consent for partial deconstruction and storage off-site, was refused in May, 2013.
45. The appeal site is in a rural location where justification for development would have to be made on an exceptional basis. Enabling development would be one of those justifications, but it is clear from the two appeal decisions, the failed attempt to gain planning permission in 2002 and the contacts with the Council that the case for enabling development has not been convincingly made either informally or as part of any formal submission for planning permission.
46. In assessing this appeal I have given very careful consideration to the appellants' case that the deconstruction of the structure would result in so much of the original fabric being lost that the resultant building would no longer be of special architectural or historic significance. They also point out that the cast iron components are standard and are being made to this day.

47. This philosophical “dilemma” is often faced when historic structures are in a very poor state of repair, especially so with light weight prefabricated structures such as the Winter Garden. However, the careful dismantling and reconstruction of the superstructure above the plinth wall would not necessarily negate the significance of the building, if it was carried out with authenticity of details and materials, saving as much material as possible. The special architectural and historic interest of the Winter Garden depends less on its actual fabric (in the archaeological sense of the word) and more on its size, structural system, architectural quality and historic role as a gentleman’s indoors games and sports room in a major period of change and development at the Manor House.
48. The best use of the building is usually a similar use to or the use for which it was designed. No-one would now expect the Winter Garden to be used simply as a games room again, but the building would be suitable for a number of ancillary residential functions, including as a conservatory. However, this sized glass building is no longer required by the appellants and they point to a wholly prohibitive “conservation deficit” of approximately £500,000 (£440,000 if the latest Mann Williams figures are used), as well as a continuing maintenance liability, simply to restore it and retain it in low key ancillary use. They point out that the Manor House is a relatively modest private country house. Whilst I accept that the running and maintenance costs of this large glass structure must be sustainable in the longer term, this only emphasises to me the urgent need to explore all options for its future use, separated from the Manor House if necessary.
49. I have no doubt that the habitable re-use of the building poses highly complex issues. These might be resolved, but at a significant cost and the solution is likely to include using the potential of some of the surrounding buildings and land to facilitate the restoration of the listed building. The Council has indicated a flexible approach in the context of a new, imaginative scheme. A flexible, holistic, inventive and collaborative approach would be needed between all parties and this would include a renewed and unfettered approach to seeking new owners or partners who quite possibly would be attracted to the project because of its distinctive “Grand Designs” potential.

Conclusions

50. I have concluded that notwithstanding its poor structural condition, the building still retains its special architectural and historic interest, which it is desirable to preserve. I have also found that its demolition would fail to preserve the significance and setting of the whole heritage asset which comprise the Manor House and its outbuildings. The demolition would therefore fail the tests of Section 16 of the 1990 Act.
51. Whilst I have accepted the conclusions of the appellants’ structural engineer that dismantling and reconstruction of the external shell above plinth level is now almost inevitable, I nevertheless have concluded that this would not negate the special architectural and historic interest of the building if carried out to the highest conservation standards as part of a scheme for its future long term use.
52. I have concluded that some of the responsibility for the condition of the building is due to the lack of effective action by the appellants in the time that they have owned it. I have also found that the demolition would not be

necessary to achieve substantial public benefits and that it would fail the tests of the Framework. Whilst public grants or ownership would be unlikely to be forthcoming, some form of charitable or private ownership has not been clearly or convincingly found to be impossible and appropriate marketing has not been carried out. The case for conservation of the building through enabling development has not been thoroughly investigated or found to be impossible.

53. The appeal site is within the North Wessex Area of Outstanding Natural Beauty and I conclude that the proposal would not harm the natural beauty of the area. The appellants point out that the decision to refuse was made by a narrow margin, after what they say were irregularities in committee procedures. These are matters for the Council to address. I also note that the parish council supports the proposal. None of these matters persuade me that the loss of the heritage asset should be accepted.
54. I therefore conclude that the proposed demolition of the Winter Garden would fail the tests of paragraph 133 of the Framework and so would be contrary to the broad aims of the Framework to conserve heritage assets.
55. For the reasons given above I conclude that the appeal should fail.

Jacqueline Wilkinson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alistair Mills	Of Counsel
Paul Stibbard	Appellant
Diane Stibbard	Appellant
Mike Fowler	Architect, Fowler Architecture and Planning
Mark Pettitt	Senior Planner, Fowler Architecture and Planning
Jon Avent	Chartered Structural Engineer, Mann Williams
Jill Channer	Historic Buildings and Architectural Glass Consultant.

FOR THE LOCAL PLANNING AUTHORITY:

Isla Macneal	Senior Conservation Officer. Wiltshire Council
Pippa Card	Senior Conservation Officer. Wiltshire Council

INTERESTED PERSONS:

Andrew Marx	Council for British Archaeology.
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DOCUMENTS

1 Letter from The Victorian Society dated 2 October 2013.

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer

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