

---

## Appeal Decisions

Hearing held on 14 July 2015

Site visit made on 14 July 2015

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

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

**Decision date: 12 August 2015**

---

### **Appeal A: APP/F0114/W/15/3006257**

#### **The Former St Nicholas School, Church Street, Radstock BA3 3QQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by The Radstock School Development Company Limited against the decision of Bath & North East Somerset Council.
  - The application Ref 14/03356/OUT, dated 22 July 2014, was refused by notice dated 17 September 2014.
  - The development proposed is erection of 6 no. 2 bedroom dwellings with associated parking, cycle store, refuse store and children's play space following demolition of previous school premises.
- 

### **Appeal B: APP/F0114/W/15/3006260**

#### **The Former St Nicholas School, Church Street, Radstock BA3 3QQ**

- 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 The Radstock School Development Company Limited against the decision of Bath & North East Somerset Council.
  - The application Ref 14/03357/FUL, dated 22 July 2014, was refused by notice dated 26 September 2014.
  - The development proposed is erection of 6 no. 2 bedroom dwellings with associated parking, cycle store, refuse store and children's play space following demolition of previous school premises.
- 

### **Decision**

1. Appeal A is dismissed and Appeal B is dismissed.

### **Procedural Matters**

2. For ease of reference I refer to the different cases as Appeals A and B in this decision letter as set out in the headers. I have dealt with each appeal on its individual merits but to avoid duplication have considered the proposals together in this document.
3. The application relating to Appeal A was submitted in outline, with only layout to be determined at this stage with all other matters reserved for future consideration. Nevertheless, the proposed site plan, drawing 13.231/50, also shows the site access which is not shown as being indicative or illustrative. Drawing 13.231/51 has also been submitted showing north and east elevations and envisaged finishes although that plan is labelled as being indicative. I have dealt with the appeal on that basis.

4. The description of the proposed development relating to Appeal B, in my fourth bullet point of the header relating to that appeal, is taken from the planning application form. However, the original application was for planning permission for relevant demolition in a conservation area, that being the demolition of the previous school premises, and I have determined the appeal on that basis.
5. A final version of the Planning Feasibility Study dated June 2008 was submitted by the appellant on 24 June 2015. The Council was subsequently sent a copy prior to the Hearing and so were able to read and form an opinion on any changes to the draft version which it referred to in its submissions. The Council would therefore not be prejudiced by the late submission of this document. On that basis, I have had regard to it in my determination of this appeal.
6. The appellant has referred to another appeal decision<sup>1</sup> relating to the issue of deliberate neglect, in support of the appeal. Whilst I have had regard to that decision, I have not received the details of the full circumstances or extent of information before the Inspector on that appeal. In any case I have determined this appeal on its merits based on the information before me.

### **Main Issues**

7. The main issues are:
  - (i) whether the proposed development would preserve or enhance the character or appearance of the Radstock Conservation Area (the CA) and preserve the setting of the surrounding Grade II listed buildings of St Nicholas Church, Manor Farm House and Manor Farmhouse **Barn, Working Men's Club, and Hope House Surgery (the LBs)**;
  - (ii) the effect of the proposed development on bats.

### **Reasons**

#### *Character and appearance of CA and setting of LBs*

8. The appeal site lies within the CA and adjacent to St Nicholas Church which is to the south of the site. The LBs of Manor Farm House and Manor Farmhouse Barn are on the opposite side of Church Street from the site whilst the Working **Men's Club and Hope House Surgery** are further to the north along Church Street, the former being just to the north of the public car park situated in between it and the site. Therefore, special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the CA and preserving the setting of the LBs.
9. The CA **comprises a variety of types, sizes and designs of buildings but it's** character is strongly defined by a number of older buildings comprising the above LBs and others which are not listed. These non listed buildings include the existing building on the site, comprising the former school rooms, and the Old Headmasters House immediately adjacent to the eastern site boundary. Although the latter does not form part of the site, that building was historically associated with the former school rooms and there remains a shared vehicular access. However, the Old Headmasters House has separate planning

---

<sup>1</sup> Ref APP/U5360/E/11/2166564

- permission for reinstatement into a dwelling and the works concerned are progressing.
10. The first question relates to the status of the existing former school rooms. Whilst not considered worthy for statutory listing they together with the Old Headmasters House have been recognised by English Heritage in its advice report, dated 6 January 2012, as having clear local significance in its connection with Countess Waldegrave and Rev Horatio Nelson-Ward. It was also identified that the school occupies a prominent place in the streetscape and makes a positive contribution to the CA. Furthermore, the Historic Environment Record states that it may be a candidate for local listing, although that document carries only a small amount of weight as I understand that it is generated through an informal process without consultation.
  11. In terms of the group of school buildings, although the Old Headmasters House is the most prominent, the schoolrooms behind it are nevertheless clearly visible from Church Street in the vicinity of the access road shared by the site and adjacent public car park, and from the car park itself. They can also be seen from the churchyard, to varying degrees due to trees within and along the edge of the churchyard, likely to be to a greater extent when the leaves are off the deciduous elements of the vegetation in the winter months. The group of school buildings adjacent to the listed church is also a distinct feature when viewed from the more distant raised vantage point on Waldegrave Terrace to the north-east.
  12. Despite the current poor state of repair of the former school rooms building and the loss of the element that linked up to the Old Headmasters House, its general form and roofscape remains evident. The building therefore continues to have some value in maintaining the overall group value and significance of the former school in the context of the CA. The Old Headmasters House on its own would not be able to portray that significance.
  13. Notwithstanding the current poor state of repair of the site building, I am therefore satisfied that it continues to have some aesthetic and historic value as a non-designated heritage asset which contributes to the character and appearance of the CA. Its value would be significantly enhanced were it to be repaired and restored. It also provides an important feature in respect of the setting of the adjacent listed church as it is a traditional building that, together with the Old Headmasters House, is spatially connected to the church by way of providing a strong sense of enclosure to the northern side of the adjacent churchyard.
  14. For the above reasons, the loss of the building alone, regardless of the design of the proposed new development, would weaken the character and appearance of the CA and detract from the setting of the listed church.
  15. Notwithstanding this, the proposed new development would occupy a significantly smaller footprint than the existing building on the site. Furthermore, although only an outline application, there are no clear indications of significant proposed design references to it other than that the dwellings would be of similar height to the highest parts of the existing roof and that the external materials would be complementary. Although it would be proposed to include steeply pitched roofs to reflect those of the existing building, the indicative drawings show that the eaves heights would be higher than existing.

16. Therefore, although the appearance would be for future consideration, based on the proposed layout and the indicative drawings for two storey dwellings, the proposed development would be unlikely to reflect the presence of the existing building and its relationship to the Old Headmasters House. It would also not provide the same degree of enclosure to the churchyard.
17. One of the proposed houses, unit 6 on the submitted plans, would be connected to the now exposed blank western elevation of the Old Headmasters House which was originally connected to the former schoolrooms. However, the only connection with the rest of the development would be via an archway feature and so it would not strongly reflect the former connection. Furthermore, any benefit of covering that blank wall would be largely offset by the cramped appearance of the proposed scheme, despite the aim to create a courtyard focus for it. This would be due to the very close proximity of the western elevation of unit 6 to the front of unit 4.
18. Apart from the church, the other LBs referred to are distinctly separated from the site by either the road and the Old Headmasters House, in respect of those opposite, the fairly large tarmac car park area in relation to the **Working Men's Club**, and various buildings and the greater distance in the case of Hope House Surgery. The proposed demolition and new development would therefore not directly affect the individual settings of those other LBs which I am satisfied would be preserved. However, that would not outweigh the harm that I have otherwise found would be caused to the CA generally and the setting of the adjacent listed church.
19. It remains to consider the implications of the existing poor state of repair of the building and whether it could be viably repaired, restored and re-used. It is disputed by the parties as to whether the current poor state of repair of the building is a result of deliberate neglect. From the evidence before me, a lot of damage was clearly done between 2005 and 2011, including vandalism and theft, prior to the resolution of ownership of the site in 2011. It is disputed as to the extent to which Waldegrave Estates could have influenced more protection prior to 2011 and the evidence is inconclusive in this respect.
20. However, it is evident that the building has continued to deteriorate since 2011 for which period there is little or no evidence before me to indicate that measures to protect the building from ingress of rain water, such as through the use of plastic sheeting, have been carried out. I acknowledge that such protection may have been difficult to install due to the structural stability and expanse of the roof involved but no substantive evidence has been submitted to show that such means of protecting the building were fully explored or attempted. Furthermore, there is no substantive evidence that such protection was applied to the exposed section following the severing of the building from the Old Headmasters House in 2013 or the later removal of the Bell Tower element. That element was a distinctive and prominent feature of the building. Its removal did not require permission for demolition but it is evident from the Building Control site report in May 2014 that there was an option to install a temporary propping system to give support to the structure rather than demolition.
21. Survey work conducted in 2013 identified that the building was in a poor state and that any remedial works would be extremely expensive, difficult to design and engineer and would have no guarantee of presenting a building that could

- be useful. Similar conclusions were made following a February 2015 survey. Nevertheless, the local historic significance of the building, albeit non-designated, would have been known at least since pre-application advice provided by the Council in 2012 following the English Heritage advice report from earlier in that year. Therefore, there would have been less certainty that planning permission for demolition and redevelopment would be granted.
22. Furthermore, whilst it is understandable to an extent that the survey reports would have given little incentive to protect the buildings, the viability concerns were not backed up by up-to-date financial viability appraisals. That provided in the June 2008 Planning Feasibility Study relating to the conversion to residential use, was acknowledged to be crude and stated that a break even position could have been achieved. Clearly, the extent of damage since then would add to the costs but equally that Study highlighted that further research may reveal that the conversion costs were over-estimated, and/or the market appraisal had been too pessimistic such that there may be a future uplift in residential prices.
  23. The survey work conducted does not completely rule out remedial works and it remains unclear from a financial perspective as to whether such works would be unviable. In light of this I consider that there was good reason to protect the building. Therefore, for the above reasons, I consider that there is evidence of deliberate neglect at least since 2011 when the ownership was resolved. Under paragraph 130 of the National Planning Policy Framework (the Framework) the deteriorated state of the heritage asset should therefore not be taken into account in any decision. Therefore, whilst I acknowledge that the building was already in a poor state prior to 2011, the evidence of deliberate neglect is nevertheless a material factor in my determination of this appeal.
  24. Notwithstanding this, I have also had regard to whether the building could be restored to its former condition successfully and whether there is any likelihood of the existing building being put to a viable use. It is claimed by the appellant that this would result in a mutated form with poor aesthetics due to the need to comply with modern Building Regulations. However, no substantive information or evidence has been provided to support this claim and so I have given little weight to that claim.
  25. In terms of the prospect of a viable ongoing user of the existing buildings, I acknowledge that Norton Radstock Town Council were approached in 2007 as evidenced by a 6 December 2007 letter from that Council, and that no interest was shown. However, I have received no other evidence of marketing, such as estate agent details, to indicate that at any point the building was promoted for the purposes of conversion before or since then, including since the ownership issue was resolved in 2011. Even if that may have been because of the survey advice about the state of the building, the first such survey was not until 2013. In any case there was no up to date financial viability report carried out at the time of that survey to substantiate that it would not be financially viable to repair and restore the building.
  26. Notwithstanding that, a pre-application enquiry from St Nicholas Church in February 2011, details of which have been submitted by the Council, indicates that the Church was keen to restore and use the building for tea rooms and other community uses albeit that there is no evidence of any further action on behalf of the Church. A valuation report dated 30 March 2011 carried out for

the Diocese of Bath & Wells also suggests the potential for residential conversion, albeit that the indicative value for such did not take account of the location in a CA. Furthermore, that report did not suggest that it was not possible at that time to repair and convert the building.

27. For the above reasons, I am not convinced that the building could not be viably reused.
28. With regard to paragraphs 132 and 134 of the Framework, harm to the character and appearance of the CA and the significance of the adjacent listed church would be less than substantial due to the existing building on the site only having a non-designated heritage status and because it is not the most prominent of the older buildings in the CA. However, I do not consider there to be any public benefits sufficient to outweigh that harm, particularly as I have insufficient basis to consider that the existing building could not be brought back into a viable use.
29. For the above reasons, I conclude on this issue that the proposed development relating to both Appeals A and B would neither preserve the character and appearance of the CA nor preserve the setting of the adjacent listed church. As such it would be contrary to Policies D.2, D.4, BH.6 and BH.7 of the Bath & North East Somerset Local Plan including minerals & waste policies (the Local Plan).
30. Those policies together, in respect of this issue, state that development will only be permitted if the character of the public realm is maintained or enhanced and the development is of a high quality design; where it responds to the local context in terms of appearance, reinforces or complements attractive qualities of local distinctiveness, or improves areas of poor design and layout; in a CA, where it preserves or enhances the character or appearance of the area; and that within CAs, development involving the total or substantial demolition of buildings and other structures which make a positive contribution to the special character and appearance of the CA will only be permitted where the building or structure is not capable of retention or repair, every possible effort has been made to continue the existing use or find a suitable alternative use, and the proposed development would make a similar or greater contribution to the special character or appearance of the area, or the proposed development would make a significantly greater contribution to the CA than the building to be lost.
31. The Council has also referred to Policy BH.5 of the Local Plan in its decision notice which relates to development which affects a building on the list of Locally Important Buildings. The Council claims that the criteria of that policy is relevant, even though the existing building is not on such a list, in that the building concerned has been identified as a non-designated heritage asset. However, as the policy is clear about it relating to a building on such a list, it can not be considered as relevant in this case. Nevertheless, this does not undermine my findings on this issue based on the other relevant policies referred to.

### ***Effect on bats***

32. Policy NE.10 of the Local Plan states that development that would adversely affect, directly or indirectly, species which are internationally or nationally protected or the habitat of such species will not be permitted. Furthermore,

- the Framework sets out that, when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Among the principles to be applied are that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
33. The most recent bat survey work submitted, dated 21 July 2014, identified the presence of a maternity roost of high local importance for Lesser Horseshoe bats, a roost for Soprano Pipistrelle bats, and probable or potential roosts for Greater Horseshoe and Natterer bats respectively.
  34. I have not received any evidence relating to potential alternative sites. Notwithstanding that I have had regard to the proposed mitigation measures submitted by the appellant.
  35. In respect of maintaining the population of the species concerned, mitigation proposals have been submitted as part of the above survey work. This would include the installation of bat boxes, entrance points for crevice dwelling bats, and roosting provisions for Lesser and Greater Horseshoe bats. The latter would include access to the loft space of the Old Headmasters House and of the proposed new dwellings, and the construction of a new bat house with a minimum internal volume of 250 cubic metres in the south-western corner of **the site, in what is shown on the proposed site plan as an intended children's play space.**
  36. Those proposals are not presented as options, and I have no basis for considering that any one of them would not be required to accommodate the different species of bats that have been recorded on the site. The proposed location of the bat house **immediately adjacent to the children's play space** would have the potential for roosts to be subject to inappropriate noise disturbance. Furthermore, whilst the bat survey highlights the need for sensitive lighting on the site, which to some extent could be controlled by condition, it also refers to the need to ensure that flight lines, such as the trees and hedges along the southern and western site boundaries are kept as dark corridors. That could be compromised in the likely event that lighting would be required for the play space, and it would not be appropriate to secure details of any such lighting by condition without certainty that it could be implemented without affecting the flight lines.
  37. Furthermore, although the proposal is in outline, the layout of the site is for consideration at this stage and the bat house has not been included on the proposed site plan. It has only being indicated on the plan within the bat survey report and with no clarity as to the actual size other than the minimum volume referred to. No other alternative suitable locations have been identified within the site either, were the indicated position not to be suitable for the above reasons.
  38. Therefore, as there remains uncertainty as to whether the proposed mitigation proposals would ensure the maintenance and protection of bats on the site, it would be inappropriate to secure any further details by condition.
  39. Furthermore, for reasons already referred to in this decision, there is no overriding public interest to weigh against any impact on bats. Whilst the building is in a poor condition, I also have no substantive evidence that it is

currently in an unsafe condition, but in any case it is set away from the site boundaries which can be secured sufficiently to avoid any danger to the public.

40. For the above reasons, I am unable to conclude that the proposed development relating to both Appeals A and B would not adversely affect bats. As such, it would be contrary to Policy NE.10 of the Local Plan.
41. The Council also referred to Policy NE.11 of the Local Plan in its decision notice. However, as that only relates to locally important species and their habitats, that policy is not relevant to this issue concerning bats.

### ***Other matter***

42. I have had regard to whether or not the proposal would be in a suitable location, having regard to the principles of sustainable development. The Council introduced this during the appeal process but the appellant has had the opportunity to comment on it and so would not be prejudiced by consideration of this issue.
43. **The Council's Core Strategy was adopted in July 2014, demonstrating a 5 year** housing land supply such that the relevant housing supply policies can be considered up to date. Despite being on brownfield land within easy reach of the services and facilities provided by the town, the site is outside of, albeit adjacent to, the defined housing development boundary. The proposed housing development would therefore be contrary to Policies HG.4 and HG.10 of the Local Plan which together seek to ensure an appropriate settlement pattern. The former relates to criteria for development within the defined settlements whilst the latter restricts new dwellings outside of those settlements to those essential for agricultural or forestry workers. This factor therefore also weighs against the proposed development.
44. I understand that the emerging Placemaking Plan is at an early stage towards adoption and a draft consultation document remains to be produced. Little weight can therefore be afforded to that emerging plan. Nevertheless, in respect of the appeal site I understand that it envisages the restoration and reuse of the buildings on the appeal site for residential use which is not the same as the proposed demolition and construction of new housing.

### **Conclusion**

45. The proposal would have some economic and social benefits through bringing an abandoned site back into use with a small number of dwellings that would be added to the general housing supply, and its construction would provide short term employment. However, those factors do not outweigh the harm that I have found would be caused to the character and appearance of the CA, the setting of the adjacent listed church, and bats.
46. Therefore, for the above reasons, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

*Andrew Dawe*

INSPECTOR



APPEARANCES

FOR THE APPELLANT:

Jeremy Bladon	CSJ Planning Consultants
Ashley Grant	CSJ Planning Consultants
James Waldegrave	Representing The Radstock School Development Company Limited
Adrian Ley	Kendall Kingscott Ltd
John Casselden	Arcon Architecture
Piers Wharton	Waldegrave Estates

FOR THE LOCAL PLANNING AUTHORITY:

Sasha Berezina	Planning Officer
Mark Reynolds	Group Manager Development Management
Adrian Neilson	Conservation Officer
Lucy Corner	Ecologist
Derek Garwood	Building Control/Dangerous Structures
Sammy Grimsby	Planning Registration

INTERESTED PERSONS:

Cllr Elizabeth Derl-Davis	Councillor
Terry Reakes	<b>Formerly on the Council's Planning Committee</b>
Royston Knight	Meadow View Residents Association/Radstock Action Group
Eleanor Jackson	Radstock Action Group/Radstock in Bloom/former Councillor/local resident
Esther Parker	Church Warden of St Nicholas Church

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING:

1. Heritage Gateway Historic Environment Record for St Nicholas Infant School.
2. Two air photographs dated 21 October 2011.
3. Copy of Policy SV3 **of the Council's Core Strategy.**

4. Letter from Norton Radstock Town Council to Waldegrave Estates dated 6 December 2007 stating that it did not wish to pursue an offer to buying or leasing the Former St Nicholas School.
5. Letter dated 1 November 2006 from William Blakeney Solicitor to The Earl Waldegrave.
6. Letter dated 23 May 2008 from Cluttons LLP to Mr W Blakeney.
7. Valuation Report on St Nicholas Infant School by Cooper & Tanner LLP for the Diocesan Secretary, dated 30 March 2011.
8. Copy of English Heritage document entitled Heritage at Risk 2011.
9. Copy of Council letter dated 30 June 2015 notifying third parties of the date, time and venue for the Hearing.
10. Copy of page 30 of the Local Plan containing supporting text for Policy D.4.
11. Copies of the following third party consultation responses:
  - a. R A Knight, dated 22 September 2014;
  - b. Heather Chipperfield, dated 19 September 2014;
  - c. Radstock Town Council, dated 16 September 2014;
  - d. Eleanor Jackson (Cllr), dated 14 May 2015.
12. Copies of the following internal Council consultation responses:
  - a. Ecologist response dated 29 May 2015;
  - b. Urban Design officer within Environment Team, dated 7 October 2013 in relation to application Ref 13/03668/OUT;
  - c. Highways Officer, dated 1 October 2013, in relation to application Ref 13/03668/OUT;
  - d. **Children's Services, dated 28 August 2014;**
  - e. Conservation Officer, dated 30 October 2013;
  - f. Senior Archaeological Officer, dated 2 September 2014;
  - g. Arboriculture within the Environment Team, dated 4 November 2013.