
Appeal Decisions

Site visit made on 19 October 2016

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 04 November 2016

Appeal A: APP/C1055/W/16/3154177

Yew Tree Cottage, 19 Cornhill, Allestree, Derby DE22 2GG

- 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 M Power (Pride Homes (Midlands) Ltd) against the decision of Derby City Council.
 - The application Ref: DER/10/15/01277, dated 8 October 2015, was refused by notice dated 9 June 2016.
 - The development proposed is the construction of a new dwelling and a detached single garage with car port in grounds of listed building and the removal of a 1.2 m section of front boundary wall and trees.
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Appeal B: APP/C1055/Y/16/3154178

Yew Tree Cottage, 19 Cornhill, Allestree, Derby DE22 2GG

- 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 M Power (Pride Homes (Midlands) Ltd) against the decision of Derby City Council.
 - The application Ref: DER/10/15/01278, dated 8 October 2015, was refused by notice dated 9 June 2016.
 - The works proposed are the construction of a new dwelling and a detached single garage with car port in grounds of listed building and the removal of a 1.2 m section of front boundary wall and trees.
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Decision

1. The appeals are dismissed.

Preliminary Matters

2. As the proposal is in a conservation area and affects listed buildings I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. For the purposes of the Act, a listed building includes any structure that is within its curtilage which has existed since before 1st July 1948. As the wall is within the curtilage and has a principal and accessory relationship to the main building, it is also consequently listed. This is the basis on which this appeal has been determined.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to
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the desirability of preserving the Grade II listed building, Yew Tree Cottage, the settings of the Grade II listed buildings 11-15 Cornhill and the Old School House, and the extent to which it would preserve or enhance the character or appearance of the Allestree Conservation Area.

Reasons

5. The appeal site is situated in a residential area near the northernmost extent of Allestree, which is a suburb of Derby, and lies within the Allestree Conservation Area (CA). The site comprises the listed building, a modern detached garage and a large garden to the side and rear of the property with an existing vehicular access onto Cornhill in the north-western corner of the plot. The building itself occupies a prominent roadside position with its northern gable end abutting the adjacent walkway. A stone wall, approximately 1.5 m in height, encloses the curtilage to the west of the property in between the house and the access point. The level of the garden falls to the rear of the property which has housing dating from the 20th century along its western and southern boundaries. The proposal would lead to the demolition of an existing garage, a widening of the access and the construction of a four-bedroom, detached dwelling to the rear of the listed building. A car port and detached garage would also be constructed.
6. The CA was designated in 1991 and covers a small area encompassing the historic core of Allestree village. Despite the presence of suburban development, the CA has maintained a semi-rural, village character. This is largely derived from the arrangement of its terraced, vernacular workers cottages, stone boundary walls and community buildings which include a church, public house and school house. Mature gardens and its edge of settlement location give rise to a verdant quality which further reinforces its village character. Given the above, I find that the significance of the CA, insofar as it relates to this appeal, to be primarily related to the legibility of its semi-rural character and the layout of its historic buildings.
7. All of the buildings in and around the appeal site were first listed in 1977. Yew Tree Cottage dates from the 17th century, 11-15 Cornhill dates from the 18th century and the Old School House dates from the early 19th century. All are in close proximity to one another and form a prominent, phased historical grouping.
8. Yew Tree Cottage is a thatched, timber-frame building which has been subject to extensive alteration. Part of the timber frame remains exposed within the original part of the building as well as externally on its eastern elevation where it has been in-filled with brick. The brick, which has been painted white, dominates the remainder of the building. The stone wall and pedestrian gateway immediately to the west of the building add to the rustic, vernacular charm of the building and help to denote its past rural associations. Consequently, the special interest of the listed building, insofar as it relates to this appeal, is primarily associated with its original architectural features and enclosed frontage.
9. The Old School House (the School House) comprises two stories and is constructed from red brick with three-light, mullioned windows and a clay tile roof. The main doorway is offset from the centre of the main façade and has a shallow, arched-head and ledged doorway. A subservient, single storey extension projects from the eastern gable end with pointed, arched windows.

Unlike Yew Tree Cottage (the Cottage), it is set back from the adjacent walkway by a significant extent and also has an active frontage facing onto the road. It is in close proximity to the eastern elevation of the Cottage. Consequently, I find the setting of this listed building, insofar as it relates to this appeal, to be primarily associated with the close juxtaposition of its polite architecture with the vernacular form of the Cottage and how this indicates the phased, historical development of the village.

10. 11-15 Cornhill has a greater separation distance from the Cottage with the curtilage of the School House situated in between these two buildings. This building is a substantial red brick structure comprising two storeys with an attic in the gable. It is laid out at right angles to the road with its principle elevation facing a yard to the west. It is set back from the road to a greater extent than the School House and presents a prominent gable end with large window openings on each of the three floors. Bearing this in mind, as well as the overall massing of the building, I find this consistent with the view that it was originally an industrial building. Consequently, I find the setting of this listed building, insofar as it relates to this appeal, to be primarily associated with its prominent gable end and the way in which this indicates the social history of the village and its phased, historical development.
11. I observe from the plans and my site visit that the separation distances and fall in ground level are such that the setting of the Cottage and other listed buildings would not be adversely affected by the development. As the Council indicates, the full extent of the appeal site was not historically part of the curtilage of the Cottage. Any open, isolated rural setting that it may have once had is no longer legible bearing in mind the pattern of development up to the present day. With the exception of the OS 1937-38 map, I have no substantiated evidence before me concerning any historic, functional relationship with the land to the side or rear of the Cottage and none is apparent from direct observation.
12. Irrespective of it being a private space with only limited visibility from the public domain, the way in which it is directly experienced consequently has no apparent historical significance in terms of either linking it with the Cottage or any significant contribution to the overall character of the CA. Indeed, the development that has been permitted on Park View Close looms over the rear garden thus extinguishing any last vestige of what was once the 'open, edge of village, rural setting' of the Cottage. The last link between the asset and its original setting has already been severed. In terms of the wider impact on the significance of the CA, and bearing in mind the frequency of development immediately to the rear of its historic buildings, I find that the legibility of its semi-rural character and layout would not be significantly affected by the construction of the house and the replacement garage.
13. I now turn to the loss of original fabric that would result from the widening of the existing access onto Cornhill. Both parties agree that approximately 1.2 m of the wall would be lost in order to create a visibility splay. This would also lead to the rebuilding of the wall immediately around the enlarged gap. This would result in an, albeit small, articulation and reduction in height. I find that this would be to the detriment of the special interest of the listed building and the significance of the CA. This is because it would have a strongly suburbanising effect on the character of the wall, through the loss of its historic linear form, thus eroding one of the unifying features of the CA as well as

causing a direct loss of the historic fabric of the listed building. Given the above, I find that the proposal would fail to preserve the special interest of the listed building, Yew Tree Cottage and I consequently give this harm considerable importance and weight in the planning balance of this appeal.

14. Paragraph 132 of the National Planning Policy Framework 2012 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given that the proposal would affect a curtilage structure, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
15. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The appellant is of the opinion that the proposal would be beneficial because it would enable the refurbishment the Cottage, improve highway safety, boost the supply of housing and lead to the removal an unsympathetic modern garage.
16. Whilst unoccupied at the time of my visit, insufficient information has been submitted to indicate the extent to which the continued viable use of the appeal property, as a residential dwelling, is dependent on the proposal. Consequently, it is unclear whether or not the building has an ongoing residential use that would indefinitely cease in its absence. I observed that whilst the Cottage is in a state of disrepair and has a number of damp patches it is not in a parlous condition nor beyond habitation barring some repairs.
17. The appellant accepts that it has not been demonstrated that the appeal proposal would directly fund any such repairs and it cannot, therefore, be considered enabling development. Moreover, any intended repairs, irrespective of any schedule that has been submitted, cannot be guaranteed in the absence of a completed planning obligation. Consequently, there is no robust planning mechanism to ensure any public benefit to the Cottage would be secured.
18. I have considered the suggested use of a planning condition. However, a condition requiring the definition and implementation of an agreed scheme of restoration would be unenforceable as there would be no means to remedy a breach once the development has been completed. As it would also be dependent on securing listed building consent it would not be relevant to planning thus failing two of the tests set out in paragraph 206 of the Framework.
19. I am also not satisfied that there would be any improvement to highway safety given the lack of substantiated evidence of any existing issues. Whilst I accept that the proposal would make a small contribution to the supply of housing and remove an unsympathetic structure I do not find that these benefits would outweigh the harm that I have identified. Nor would the design or use of sympathetic materials alter this conclusion as a good standard is to be expected in all development.
20. Given the above and in the absence of any substantiated public benefit, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II listed building and the character or appearance of the Allestree Conservation Area. This would fail to satisfy the requirements

of the Act, paragraph 134 of the Framework and conflict with policies E18 and E19 of the City of Derby Local Plan Review 2006 that seek, among other things, to ensure that detrimental effects on the special architectural or historic interest of a listed building, its character or setting are avoided and that all proposals preserve or enhance the special character of conservation areas. As a result the proposal would not be in accordance with the development plan.

Conclusion

21. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

Roger Catchpole

INSPECTOR