
Appeal Decision

Site visit made on 16 November 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 7th December 2016

Appeal Ref: APP/A2470/W/16/3157305

36 Weston Road, Edith Weston, Oakham, Rutland LE15 8HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Simon Hooper against Rutland Council.
 - The application Ref 2016/0613/FUL is dated 15 June 2016.
 - The development proposed was originally described as "erection of two four bedroom dwellings, each having a single garage and additional parking space for two cars at the rear part of the garden of 36 Weston Road which is bordered by 11 Rectory Lane to the East and 21 Rectory Lane to the West".
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Decision

1. The appeal is dismissed and planning permission refused for the erection of two four bedroom dwellings, each having a single garage and additional parking space for two cars at the rear part of the garden of 36 Weston Road, which is bordered by 11 Rectory Lane to the East and 21 Rectory Lane to the West is refused.

Preliminary Matters

2. The Council has indicated that had it been in a position to determine the application it would have refused planning permission for reasons relating to whether the development would preserve or enhance the character or appearance of the Edith Weston Conservation Area (EWCA). I have determined the appeal on this basis.

Main Issue

3. The main issue, therefore, is whether the development would preserve or enhance the character or appearance of the EWCA.

Reasons

4. The appeal site forms part of the garden of 36 Weston Road. It is a relatively large, open and extensively landscaped area, with signs of domestic paraphernalia associated with the dwelling. The proposal seeks to build two detached dwellings that would share an existing access from Rectory Lane. The dwellings would be of a similar scale, with House 1 set back into the site and positioned between 21 Rectory Lane and House 2. Dwelling 2 would be set further forward toward the boundary of the site and closer to 11 Rectory Lane. The site is within the EWCA.
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5. My attention has been drawn to a previous dismissed appeal¹ for a similar form of development. I have not been provided with the full details of the proposal, but I do have the Inspector's decision and some evidence of how the proposal has changed. I have therefore had regard to the previous decision in my determination of this appeal.
6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is reflected in Paragraph 131 of the National Planning Policy Framework (the Framework). This states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
7. I have not been provided with a Conservation Area Appraisal or any detailed analysis of the significance of the area. Nevertheless, from the information I have been given and from my own observations, I would conclude that the significance of the area lies predominantly in the age, materials, and variety of dwellings in the village, the resulting pattern of development and the verdant landscaping of the streets and gardens which help to reinforce the rural character of the settlement. In this respect, the mature landscaping of the site, including the trees within the site and the boundary treatment, also make an important contribution to the character, appearance and significance of the EWCA.
8. The proposal would lead to the removal of a number of trees on the site, but a number of more important specimens would be retained. The previous Inspector concluded that this would be acceptable, subject to the scheme being appropriate in all other respects. I have seen nothing to suggest I should disagree with this conclusion. I have noted there was a particular concern relating to the previous siting of House 2 and the risk to retention of a large walnut tree in the rear garden. To try and address this, the dwelling has been moved further forward toward the Rectory Lane frontage. The Council have two concerns with this. Firstly, that it would bring the building too close to the highway boundary, thus making it an unduly prominent building, and secondly that it would bring the dwelling into conflict with trees along the site's boundary.
9. There is a wide variety of building lines within the EWCA, with some dwellings being well set back and others closer to the roadside. The previous Inspector considered that the dwelling being closer to the roadside would not be out of keeping with the general pattern of development or character of the area. The Inspector did not conclude that there was no limit to how much further forward the building could go before it would be out-of-keeping with the area, nor have I been provided with details of the previous scheme to compare the two positions. Irrespective of this, I consider that the siting of this house would make it a prominent feature in the street scene.
10. I do not accept the appellant's view that the earlier appeal decision means that the moving forward of the dwelling would be acceptable in all regards, particularly in terms of its relationship with the trees in the boundary. The previous Inspector's comments relate only to the pattern of development in the area and do not provide any conclusions or comfort that moving the dwelling

¹ Appeal reference: APP/A2470/A/14/2224324

closer to the road would be automatically acceptable. He did not, for example, consider the implications of moving the dwelling forward for the trees in the hedge or conclude that moving the house forward would remove any concerns over the impact on the walnut tree. Clearly, there was also no requirement or expectation that the Inspector should consider or conclude on these issues.

11. There are a number of trees in the boundary which are identified to be retained. This includes a sycamore and ash tree at the eastern extent of the site and an oak tree further to the west. These, and the other trees to be retained, are important to the character of Rectory Lane. I do not accept that the trees being located near the corners of House 2 mean they would have only a minimal impact on the occupants of the dwelling. They would still encroach into the outlook of the front windows and – with the other mature landscaping – they would contribute to the creation of a gloomy and claustrophobic environment, particularly in the living room and master bedroom. Owing to their height, proximity and siting, the trees would also have a detrimental impact on the amount of daylight and sunlight able to reach habitable rooms at certain parts of the day.
12. This would significantly increase the pressure for either the significant pruning or removal of the trees. The effect of this would be materially detrimental to the visual amenity of Rectory Lane, particularly in combination with the presence of a new building. Therefore, I have significant concerns over the cumulative impact of a prominent building in combination with a much reduced level of landscaping in terms of preserving the character of this part of Rectory Lane.
13. The previous Inspector noted the potential pressure relating to future occupiers wishing to let more light into the garden and rear windows and the resulting risk to the walnut tree. There would be sufficient space between the dwelling and tree to allow some penetration of daylight to the rear windows. The moving of the house does not address the concern that occupants would wish to remove the tree to maximise sunlight and daylight reaching the garden. The tree would also have a significant impact on the amount of usable amenity space provided. This would be a family house and a good level of usable garden space would be important to the occupants. The tree would be such a dominant feature that there is a realistic risk that future occupiers would wish to remove it to increase the amount of usable space available and the sense of openness in the garden. I agree with my colleague's conclusion that the loss of this tree would also have a harmful impact on the visual amenity of the area.
14. Any significant works to trees would require Conservation Area consent. While this provides the Council with some control, I consider it would be more difficult for them to refuse consent once the dwelling is in place, particularly if the trees were considered to be having a harmful effect on the enjoyment of the property. It is reasonable to assume that the pressure to reduce or remove the trees in the vicinity of Dwelling 2 would increase. As there is no certainty that such pressure could be reasonably resisted, and as the retained trees add significantly to the verdant quality of the street scene and local environment, the increased level of risk would not be in the interests of preserving the character or appearance of the area.
15. I note that the reason the Council would have given for refusal makes reference to the loss of the open and well landscaped area. However, they do

not expand on this within their statement. The previous Inspector concluded that he had no objection in principle to some form of the development within the site, subject to all other aspects of the scheme being acceptable. I have seen nothing to suggest that I should conclude differently. I also find that the individual design and scale of the dwellings would not be out-of-keeping with the character of the area. Nevertheless, this does not alter my view that the internal arrangement of the development would risk the continuing viability of trees, the loss of which would have a detrimental impact in its own right, but would also increase the visibility of the development and increase the impact on the area. This would be contrary to the requirements of the development plan.

16. Taking all of the above into account, I consider the development poses a significant risk to important trees and would thus fail to preserve or enhance the character or appearance of the EWCA. There would, therefore, be conflict with policies CS19 and CS22 of the Rutland Core Strategy (2011) and policies SP15(j) and SP20(ii, iii, v) of the Site Allocations and Policies Development Plan Document (2014) which, amongst other things, seek to conserve and enhance the quality and character of the historic environment, promote development which is sympathetic to its surroundings and resists the loss of trees where it would detract from the visual amenity of the area.
17. I consider the harm to the significance of the EWCA would be 'less than substantial' in the context of paragraph 134 of the Framework. This requires any harm found to be weighed against the public benefits of the development. The provision of two new homes is a public benefit of the scheme, and must be seen in the context of the need to significantly boost the supply of housing². This would bring with it a contribution toward the Community Infrastructure Levy (CIL). However, as I have no evidence before me relating to local housing needs, or such things as the accessibility of the site to local service provision or facilities, this limits the weight I have given to these factors. Any economic benefits associated with the construction of the development would also be temporary in nature and thus do not carry significant weight.
18. While the Framework recognises the need to provide new homes, it also places clear emphasis on the need to protect local character and heritage assets, including their setting. In my view, the public benefits of the scheme do not outweigh the harm to the EWCA, which therefore gives rise to conflict with Paragraph 134 of the Framework.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR

² Framework Paragraph 47