
Appeal Decision

Site visit made on 30 November 2016

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 15 December 2016

Appeal Ref: APP/A2470/D/16/3158106

Emmeline House, Burley Road, Langham, Oakham, Rutland LE15 7HY

- 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 Tim Freimuth against the decision of Rutland Council.
 - The application Ref 2016/0418/FUL, dated 4 April 2016, was refused by notice dated 14 June 2016.
 - The development proposed is single-storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for single-storey rear extension at Emmeline House, Burley Road, Langham, Oakham, Rutland LE15 7HY in accordance with the terms of the application, Ref 2016/0418/FUL, dated 4 April 2016, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the approved plans: Location Plan; Site Plan; TF/01/TREES/2016; TF/01/TREES/2016; TF/01/PLANNING/2016; and Arboricultural BS 5837 Report.
 - 4) No development shall take place until the row of trees to the rear of the proposed extension have been protected by the erection of temporary protective fences in accordance with BS5837:2012, details of which must first be submitted to the Local Planning Authority for approval in writing. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall not be severed.

Main Issue

2. The main issue is whether or not the proposed development would preserve or enhance the character or appearance of the Langham Conservation Area having specific regard to the effect upon trees.

Reasons

3. S.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the National Planning Policy Framework (the Framework) says great weight should be given to a heritage asset's conservation.
4. Policy SP20 of the Rutland Local Plan Site Allocation and Policies (SAP) states that the character of the historic environment of Rutland will be conserved and enhanced and particular protection will be given to the character and special features of conservation areas. Policy CS19 of the Rutland Local Development Framework Core Strategy 2011 (Core Strategy) and SAP policy SP15 state that the scale and form of development must be appropriate to, and should respond to distinctive features or qualities that contribute to the landscape quality of the local area and shall not cause unacceptable effects, and that development that would result in a loss of trees will only be acceptable where it would not detract from the visual amenity of the area.
5. The appeal property is a large detached dwelling house positioned to the back of its plot. This results in the garden area being predominately at the front of the dwelling, leaving a relatively small strip of land between the building and its rear boundary. The Council identifies, and not disputed by the appellant, that both the protected sycamore tree and the two beach trees are important features as part of a treescape along the historic boundary of the Old Hall that contributes positively to the character and appearance of the Conservation Area. I have no reason to disagree, observing particularly that the protected sycamore tree is widely visible in the locality.
6. My site visit took place in the late autumn period, and the trees in question were not in leaf. Nevertheless, because of the positioning of the property and the daily path of the sun, the rear land is not particularly well served by natural light; indeed I observed it to be somewhat darker compared the front of the dwelling. I am satisfied that even in full leaf; the trees would have little bearing on the amount or quality of light for this part of the property.
7. The proposed development would attach onto the back of the kitchen and a small children's playroom. However, the kitchen is dual aspect, and I observed that natural light already adequately fills the room such that the proposed development would have little effect in this regard. The playroom would experience some light loss, but as this is not a main room of the house, I am satisfied that there would be no significant harm to the living conditions of its occupiers.
8. I therefore find that the proposed development would not lead to undue pressure or inevitability for the sycamore and beech trees to be removed or persistently lopped. I find the proposed development would as such preserve the character and appearance of the Langham Conservation Area. There would

be no conflict with Core Strategy policy CS19 or with SAP policies SP15 and SP20, details of which I have set out above.

Other Matters

9. The Council's Questionnaire indicates that the development would affect the setting of a listed building. However, neither main party has identified any particular building in question or quantified any harm that would be caused to its significance. The proposed development would largely be contained within the curtilage of the plot and not widely visible from the street scene. I am therefore satisfied that any nearby listed building would not be harmed and its setting would be preserved. Matters relating to previous issues regarding the construction of the dwelling and breach of conditions are not before me.

Conditions

10. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, and made changes necessary to comply with those requirements. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A Condition relating to materials is necessary to ensure the appearance of the proposed extension would be satisfactory. Although the Council has not identified any particular concern with the proximity of the extension to the root protection areas of nearby trees, I am satisfied that they are suitably close to warrant a condition requiring necessary protection measures during construction.

Conclusion

11. For the reasons given above I conclude that the appeal should be allowed.

R Allen

INSPECTOR