

Appeal Decision

Site visit made on 4 January 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/P3040/W/16/3160679

York House, Chapel Lane, Aslockton, Nottinghamshire, NG13 9AR

- 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 David Morton against the decision of Rushcliffe Borough Council.
 - The application Ref 15/01800/FUL, dated 13 July 2015, was refused by notice dated 22 August 2016.
 - The development proposed is construction of new dwelling including landscape and means of enclosure.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr David Morton against Rushcliffe Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Aslockton Conservation Area; and
 - The effect of the proposed development on highway safety.

Reasons

Whether preserve or enhance the Conservation Area

4. 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. Paragraph 134 of the Framework states that where less than substantial harm is identified to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Policy 11 of the Rushcliffe Local Plan Core Strategy 2014 (Core Strategy) and policy EN2 of the Rushcliffe Borough Non-Statutory Replacement Local Plan 2006 (Local Plan) state that proposals and initiatives will be supported where the historic
-

environment and heritage assets and their settings are conserved and/or enhanced by virtue of, scale and siting in line with their interest and significance, and that there would be no adverse impact on the form of the conservation area including trees.

5. The appeal site lies within the Aslockton Conservation Area. I observed at my site visit that the Conservation Area is defined a mix of large detached properties as well as smaller houses and quaint cottages which are irregularly arranged and positioned on varying sized plots. I find that this mix of property age and size and their relationship with the surrounding countryside defines the significance of the Conservation Area.
6. I note that the two neighbouring properties Moorends and The Paddock enjoy generously sized plots. However, they cannot be said to be representative of the area's prevailing character. Although the appeal site would be much smaller than some surrounding properties, I do not find that it would appear notably cramped and incongruous in the street or would it detract from the character of the group of properties that surround it, which the Council says are 'positive buildings'. It would not be significantly harmful to the character and appearance of the area.
7. The Council identifies a Norway Maple tree as an important tree in the Conservation Area. This is not disputed by the appellant. This tree is located in the neighbouring property The Paddock but is immediately adjacent to the common boundary with the appeal site. Although not in leaf at the time of my site visit, it is highly visible from a number of vantage points along Chapel Lane and Mill Lane such that I appreciated both its value to, and the positive contribution it makes to the setting of the Conservation Area.
8. The proposed dwelling would be positioned relatively close to the tree. I observed at my site visit that its crown spread would extended extensively over what would be the portion of the proposed rear garden area between the property and the boundary with The Paddock. As a result, the tree would considerably diminish the availability of natural light throughout the day, and cause significant afternoon shading to this part of the garden area and to the dining and living room of the proposed property. It would similarly overshadow the remainder of the garden, which because of its relatively small size, north facing projection and the nature of the boundary treatment on its north side, would not be particularly well served by natural light in any event.
9. I find it highly probable that future occupiers of the proposed property would seek to undertake remedial measures to improve light levels to the property, and this would inevitably place severe pressure for the tree to be lopped as a result. While such actions would require the consent of the Council, its ability to resist it would I find be constrained by the need to consider the living conditions of the future occupiers. Continual lopping and reducing the crown spread of the identified important tree would in my judgement undermine its character and that of the Conservation Area.
10. I acknowledge that the proposed development would deliver an additional dwelling to the area and would generate construction jobs, and I have apportioned some weight to these public benefits. I also have no reason to disagree with the main parties that the distance between the proposed property and the tree would be sufficient and that there would be no direct danger to its health. However, these public benefits would not in my

judgement be sufficient to outweigh the considerable harm to the character and appearance of the Conservation Area that I have identified.

11. For these reasons, I do not find that the proposed development would preserve the character and appearance of the Conservation Area. It would not accord with the relevant part of the Framework or with Core Strategy policy 11 or Local Plan policy EN2, details of which I have set out above. It would also not accord with the relevant parts of Local Plan policy GP2 which states that planning permission for new development will be granted where proposals are sympathetic to the surrounding area and there is no significant adverse effect on any historic sites and their settings including conservation areas.

Highway Safety

12. The proposed development would utilise an existing vehicular access currently serving the property. The Council has not substantiated its assertion that the proposed development would result in an increase traffic and movement using this access, or sufficiently quantified the specific harm that would be caused. Even if I were to accept that there would be some increase in movement, I am not persuaded on the evidence before me that it would amount to anything more than a negligible level over the existing comings and goings, and it would not have any additional significant bearing on highway safety.
13. I therefore find that the proposed development would not significantly harm highway safety. It would accord with the relevant parts of Local Plan policy GP2, which states that a suitable means of access can be provided to the development without detriment to the amenity of highway safety.

Conclusion

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

R Allen

INSPECTOR