
Appeal Decision

Site visit made on 10 January 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 9 February 2017

Appeal Ref: APP/D4635/W/16/3157477

Graiseley Lodge, 172 Penn Road, Wolverhampton WV3 0EJ

- 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 Mrs Goldie against the decision of Wolverhampton City Council.
 - The application Ref 16/00429/FUL, dated 25 April 2016, was refused by notice dated 6 June 2016.
 - The development proposed is described as "*removal of existing copper beech and erection of 2 new dwellings in the grounds of 172 Penn Road and modification of access off Stubbs Road*".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant in the banner heading is from the planning application form as the appellant's agent confirmed in writing that the name on the appeal form was incorrect.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Copthorne Road (CRCA), Pennfields (PCA) and the Penn Road Conservation Areas (PRCA) including its effect on the protected trees.

Reasons

4. The site is located within CRCA and is in close proximity to the boundaries of PCA and PRCA. It is also sited adjacent to the junction of Penn Road and Stubbs Road and the locally listed Telephone Exchange building. All 3 Conservation Areas include properties on Penn Road which is a major arterial route through Wolverhampton. CRCA is located centrally between PCA and PRCA and it is characterised by a mix of 19th and early 20th century semi-detached and detached housing.
 5. The majority of these dwellings directly face onto the highway in a clear linear pattern. There are a large number of mature trees within CRCA and in combination with the provision of generous gardens results in CRCA having a relatively spacious and verdant character. I have not been provided with a Conservation Area Appraisal or any detailed analysis of the significance of CRCA. Nevertheless, from the information I have been given and from my own
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observations, I consider that the significance of CRCA is mainly drawn from the extent of open space, trees and range of built development within it, including the number and quality of historic properties, and the relationship of these buildings to each other and the spaces between and around them.

6. The appeal site comprises Graiseley Lodge, a substantial 19th century villa, and its generous garden area. There are numerous mature trees within the garden that are covered by a Tree Preservation Order (TPO).¹ The appellant states that Graiseley Lodge is the oldest property in CRCA and I have no reason to dispute this. I acknowledge that the building has been extended and altered but I noted at the site visit that its principal elevation retains the majority of its detailing. The size of the overall plot is larger than the majority of plots in CRCA and the garden being mainly to the side of the dwelling is not in conformity with the pattern of generous gardens extending to the rear of the dwellings.
7. However, in my experience this is reflective of its earlier construction and it reinforces the importance/status of this building. As such, it illustrates the development of this part of CRCA and forms part of the historic interest and significance of the Conservation Area. Moreover, the property, being residential, reflects the traditional functional character in the area. The appeal property is a building of an age and style contributing positively to the character and appearance of the CRCA and thus to its significance and it is an undesignated heritage asset as identified by the Council.
8. The development would involve the construction of 2 dwellings, one directly behind the other, served off an access drive from Stubbs Road. I note that the proposed plot sizes would be similar to other plots within CRCA. The appellant's architect has given thoughtful consideration to the designs of the dwellings which he considers would be pavilions in the garden. The designs would be contemporary but they would utilise a sympathetic palette of materials. I noted on my site visit that the proposed garden area for the existing house would coincide with the more formal area of the existing garden.
9. However, the proposal would introduce substantial new built form and hard surface areas for access and parking into undeveloped garden space that, at present, positively contributes to the spacious character and appearance of CRCA and the setting of Graiseley Lodge. The dwelling on Site 1² would be in close proximity to the lodge itself. Consequently, the proposal would considerably diminish the garden setting of this 19th century villa and as such it would harm the significance of this undesignated heritage asset. The remaining garden area would be ill-fitting for such a property and would belittle the contribution this existing dwelling makes to the character and historic interest of CRCA.
10. Furthermore, the introduction of a new dwelling on Site 1 in a backland location, behind an existing and proposed property, would contrast with the more traditional linear arrangement of buildings along Penn Road that directly address the road. This would be at odds with the characteristics and significance of CRCA and would be compounded by the proposed long straight access drive that would open up views into the garden area and indicate the presence of another layer of residential development.

¹ The Wolverhampton Borough Council (Graiseley Lodge, Penn Road, Stubbs Road) Tree Preservation Order 1993

² Taken from drawing No 14010 - 001 rev A

11. I accept that the dwelling itself on Site 1 would be largely shielded from public view. However, the development would be seen in views from Stubbs Road across the forecourt of the Telephone Exchange and in glimpse views from Penn Road especially when the trees are not in full leaf. Irrespective, the requirement for development proposals to preserve or enhance the character or appearance of the CRCA applies with equal force whether or not the proposal is prominent or in public view.
12. I have noted the contents of the report on the 2 Beech Trees submitted by the appellant and that the Council's Tree Officer has stated that one of these trees could be removed due to its condition. I also note that pruning and maintenance works may be required on the trees for health and safety reasons. However, the site contains numerous large mature trees covered by the TPO and the proposed development would be in close proximity to a number of those trees. I have not been provided with any technical evidence such as a Tree Survey and/or Arboricultural Impact Assessment, in relation to the potential effect of the development on the protected trees.
13. I consider the TPO trees make a positive contribution towards the character and appearance of CRCA, due to their position and stature adjacent to this busy arterial road junction. Furthermore, they provide a noticeable background to views into and out of CRCA, PCA and PRCA along Penn and Stubbs Roads. As such, they also positively contribute to the verdant setting of PCA and PRCA.
14. Due to the close proximity of the development to a number of the trees there is a significant risk that the proposal could seriously affect the future health and vitality of these trees. As these trees positively contribute to the character and appearance of CRCA and the settings of PCA and PRCA, I consider that the risk to the future health of any of these trees would be unacceptable.
15. By reason of the protected trees' canopy sizes and heights, there is the potential for significant overshadowing of the gardens, shared land and parts of the proposed dwellings. Furthermore, as large trees to be retained would be close to the proposed dwellings and their parking areas I share the Council's concerns regarding the impact of leaf litter/tree debris. Consequently, if the development was permitted it is likely to lead to pressure to reduce or remove further trees.
16. I acknowledge that works to the trees would require consent. While this provides the Council with some control, I consider it would be more difficult for them to refuse consent once a dwelling is in place, particularly if the trees were considered to be having a harmful effect on the enjoyment of a property. It is reasonable to assume that the pressure to reduce or remove the trees in the vicinity of the dwellings 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 CRCA and the settings of PCA and PRCA.
17. Taking into account all of the above, I consider the development poses a significant risk to the protected trees and would have a negative impact on the character and appearance of CRCA. Thus, it would fail to preserve or enhance the character or appearance of CRCA. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect in accordance

with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

18. The proposal would also have a negative impact on the settings of PRCA and PCA and as such the significance of all 3 designated heritage assets would be harmed. In the language of the National Planning Policy Framework (the Framework), the harm the proposal would cause to the significance of the Conservation Areas would be less than substantial. This is on the basis that, although adverse, the impact would be on relatively a small area of CRCA and on only a part of the setting of PCA and PRCA and it would not compromise their designation. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
19. The economic and social benefits arising from the supply of 2 dwellings, their occupation and construction works, the potential renovation of Graiseley Lodge and the energy efficiency of the dwellings can be treated as public benefits. However, these limited benefits would be insufficient to outweigh the harm to the CRCA and the settings of PRCA and PCA.
20. In conclusion, the proposal would harm the setting and thereby the significance of Graiseley Lodge, an undesignated heritage asset. It would also fail to preserve the character or appearance of CRCA, the settings of PCA and PRCA thereby causing less than substantial harm to their significance as designated heritage assets which would not be outweighed by the public benefits. It is therefore contrary to Policies CSP4, ENV2, ENV3 of the Black Country Core Strategy, saved Policies D6, D9, HE1, HE5 and N7 of the Wolverhampton Unitary Development Plan and paragraph 134 of the Framework.
21. The development plan policies collectively seek, amongst other things, high quality design that preserves all features which contribute positively to the area's character or appearance and those aspects of the historic environment together with their settings which are recognised as being of special historic quality. They also seek to ensure that development takes account of the special contribution of conservation areas and protected trees and preserves the urban forest.

Other Matters

22. There is no dispute between the two main parties that one tree, T5 on the TPO, would be removed as part of the proposal. However, I note that the submitted drawings only show one Beech tree in close proximity to the Corsican Pine (T2) whereas the TPO includes T3 and T4 both Beech trees. I noted at my site visit that neither of these trees has been felled. However, my decision does not turn on this matter.
23. In my determination of this appeal, I have had regard to the Framework's presumption in favour of sustainable development. I acknowledge that there would be sustainability benefits associated with the proposal. Including that the appeal site is within the built up area of Wolverhampton where there is a range of services, facilities and employment opportunities available and the energy efficiency of the proposed dwellings. Two additional dwellings would be provided which would make some contribution to the local economy including

the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts.

24. However, I have found that the proposal would harm the significance of the undesignated heritage asset and it would result in less than substantial harm to the character and appearance of CRCA and the settings of PCA and PRCA that is not outweighed by the public benefits of the scheme. As such, the proposal would not accord with the environmental dimension of sustainable development. Given that the 3 roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development.
25. The harm that would be caused to the heritage assets also leads me to conclude that the proposal would conflict with the development plan. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

26. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR