
Appeal Decision

Site visit made on 23 January 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 21 February 2017

Appeal Ref: APP/K1935/W/16/3159329
131 Chancellors Road, Stevenage SG1 4TZ.

- 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 G Yahiya against the decision of Stevenage Borough Council.
 - The application Ref 16/00251/FP, dated 14 April 2016, was refused by notice dated 10 June 2016.
 - The development proposed is the erection of a single detached house.
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Decision

1. The appeal is dismissed.

Application for costs

2. Applications for costs were made by both the appellant and Stevenage Borough Council. These applications are the subject of separate decisions.

Preliminary Matters

3. The Council's refusal reasoning refers to policies in the "*Stevenage Borough Local Plan 2011-2031 Publication Draft January 2016*" (the emerging LP). At the time of writing, the plan has advanced to the Examination stage. It is therefore at a reasonably advanced stage and I am minded to give moderate weight to its policies in accordance with advice in Paragraph 216 of the "*National Planning Policy Framework*" (the Framework).
4. I have been referred to two previous appeal decisions pertaining to the site¹. In terms of the 2014 decision there are a number of similarities with the current scheme. Therefore whilst I have assessed the scheme before me purely on its own merits, the planning history for the site, in particular the 2014 decision is a significant material consideration.
5. The Council's Decision Notice refers to the "*National Planning Policy Guidance*". I am unaware of such a document and therefore I have assumed this is a typographical error and is meant to read the "*Planning Practice Guidance*" (the PPG). As no party has been prejudiced by this error I have simply referred to the correct document during the course of my decision.
6. The site and surrounding area are within the St Nicholas/Rectory Lane Conservation Area (RLCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in the exercise of

¹ APP/K1935/A/14/2211627 & APP/K1935/A/12/2189736

planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Main Issue

7. The main issue is the effect of the development upon the character and appearance of the RLCA.

Reasons

8. Policy TW9 of the "*Stevenage District Plan Second Review 1991-2011*" (the LP) states that new development should adhere to high design standards and integrate with the urban fabric of the town and form of surrounding development. Policy H7 of the LP states that residential development will be acceptable on previously developed and small underused urban sites provided, amongst other things, that it is accessible by non-car modes of transport. Policy NH10 of the emerging LP states that proposals within a conservation area should have regard to the guidance provided by the relevant conservation area management plan².
9. The appeal site forms part of the rear garden to 131 Chancellors Road a large detached dwelling located on the southern fringes of a modern and spacious planned estate development. The site is notable for the amount of landscaping which comprises an assortment of self-seeded trees and a number of larger specimens. Collectively these have significant visual presence from public vantages including the footpath which links Chancellors Road to Rectory Lane. Whilst the host dwelling itself is an integral part of the wider estate, the appeal site is within and is seen in the context of the RLCA to the south.
10. Rectory Lane is identified in the SPD as an historic tree-lined highway. Part of its intrinsic character is the generous set-back of dwellings and the prevalence of mature landscaping along the roadside and deeper into many of the plots. As I saw when I visited the area, these features lend the area a verdant and spacious character. Currently No 131 and its neighbours to the east nestle discreetly behind intervening tree cover and are therefore inconspicuous from Rectory Lane. The appeal site being essentially undeveloped, reinforces the distinctive settlement pattern and sylvan character of this part of the RLCA.
11. The dwelling would occupy a back-land location and would be visible in views from Rectory Lane between the highway trees. Whilst its set-back would not be dissimilar to those properties on the south side of the road, it would be sited well forward of its immediate neighbours to the east and west and would lack a frontage to Rectory Lane. While I appreciate the appellant has re-sited the dwelling into the centre of the plot this does little to address the Council's fundamental concern about its proximity to and hence visibility from Rectory Lane. In my view, the revised siting would still clearly breach the established building line on the north side of Rectory Lane. In this instance given the size of many plots in the locality I can appreciate that if I were to allow the appeal there would be pressure to develop in other rear gardens that back onto Rectory Lane.

² In this case the relevant management plan is the "*St. Nicholas/Rectory Lane Conservation Area Management Plan Supplementary Planning Document 2012*" (the SPD).

12. I also have concerns regarding the size of the residual plot to No 131. The scheme would rob the host dwelling of most of its original plot. As a result, the dwelling would occupy an uncharacteristically large proportion of its plot leaving little breathing space between it and the rear and side site boundaries. This would lead to a relatively cramped appearance which would represent a conspicuous departure from the spacious character of the surrounding estate. The outlook from the small rear garden would be one completely dominated by the mature Oak tree with future pressure to fell, or severely prune, a strong likelihood.
13. I accept due to the bank of trees within the highway verge that the dwelling would not be particularly prominent from the public domain or adjoining gardens. However, the outlook of the proposed dwelling and garden would be dominated by the trees. I note the appellant's view that there would be sufficient sunlight for future occupiers. However this is unsubstantiated by a suitable technical report.
14. Therefore based on my own observations, I concur with the Council's Tree Officer that there would be inevitable pressure to fell some of the trees if the living conditions of future occupiers were to be safeguarded. Over time, this is likely to increase public exposure of the site from Rectory Lane. In the event I was minded to allow the appeal, the appellant has suggested that the level of green infrastructure on the site could be preserved by way of a landscaping scheme secured by a planning condition. However, given the proximity and orientation of the dwelling to any such landscaping, I cannot be sure that it would be possible to devise a scheme that safeguards both the appearance of the site from Rectory Lane and the living conditions of future occupiers. In these circumstances it would not be appropriate for me to deal with this matter through the imposition of a planning condition.
15. I have noted the appellant's view that '*caveat emptor*' would apply to future occupiers. However, in my experience benevolent attitudes towards trees can quickly sour once the reality of perennial leaf litter and overshadowing, particularly in the summer months, sets in. I accept that the Council would retain a degree of control over the trees and could refuse consent for felling or pruning. Nonetheless, if, as I suspect, the trees did have an unacceptable effect on the living conditions of future occupiers then the Council would be hard pressed to refuse consent.
16. Irrespective of a landscaping scheme, the siting of the dwelling would relate poorly to the prevailing pattern of development in the immediate area. It would also erode the sense of spaciousness and openness within the Rectory Lane street scene. As a consequence the development would harm from the character and thus the significance, of the RLCA as a heritage asset and this would result in '*less than substantial harm*' to the RLCA in the terms set out in the Framework.
17. Although, the dwelling would not be prominent in public views it would nonetheless be visible particularly in the winter months. In any event, the argument that the dwelling would be out of public view is not a good one in principle, particularly in conservation areas, as it could be oft-repeated to the overall detriment of the character and appearance of the area.
18. Given the special attention that has to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas as set out in

the Act, this harm weighs substantially against the proposal. Paragraph 134 of the Framework indicates that where a development proposal will lead to less than substantial harm this harm should be weighed against the public benefits; I have not identified any significant public benefits in this case.

19. Notwithstanding that the appearance of the dwelling, its orientation and the amount of amenity space would all be acceptable, I conclude that the development would fail to preserve or enhance the character of the RCLA. The development thereby conflicts with Policies TW8 and TW9 of the LP, Policies H05, GD1, NH10, SP1, SP2 and SP8 of the emerging LP, guidance in the SPD and finally advice in the Framework and the PPG regarding heritage assets.

Other Matters

20. I have noted arguments over the classification of the appeal site. However, the site is sustainably located and there is nothing in the development plan policies cited by the Council or the Framework that precludes the use of underused urban sites for housing. However, since my decision does not turn on this issue, it is not necessary for me to consider the matter further.

Conclusion

21. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector