

Appeal Decision

Site visit made on 1 March 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 4th April 2017

Appeal Ref: APP/X3025/W/16/3164459

80 High Street, Mansfield Woodhouse, Nottinghamshire NG19 8BD

- 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 Wayne Holland, Holland Developments against the decision of Mansfield District Council.
 - The application Ref 2015/0497/NT, dated 10 August 2015, was refused by notice dated 10 November 2016.
 - The development proposed is the erection of 4 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The description of development given on the original planning application form and the Council's decision notice refer to the construction of five dwellings and associated parking. I also note that the appellant's Design & Access Statement refers to five dwellings, with the rear element being semi-detached dwellings as opposed to the bungalow identified in the plans submitted to me.
3. However, Part E of the appellant's appeal form states that the description of the development has changed to the erection of 4 dwellings. Notwithstanding the decision notice, the Council have confirmed in writing that they considered the application on this basis and the plans submitted to me are clearly for 4 dwellings. As such, I have dealt with the appeal on this basis and, for the avoidance of doubt, have amended the description of development in the header above to that provided on the appeal form.

Main Issues

4. The main issues are;
 - (a) Whether the development would preserve or enhance the character or appearance of the Mansfield Woodhouse Conservation Area (MWCA); and
 - (b) The effect of the development on the living conditions of the occupants of 78 High Street, with particular regard to outlook and light.
-

Reasons

Character and appearance

5. The appeal site is a former builder's yard which has been mostly cleared of buildings within the MWCA. One small derelict building and the remnants of a stone wall remain standing within the site. The remainder of the site is an unmaintained mixture of hardstanding and overgrown areas. The site sits between The Greyhound public house and 78 High Street. There is a single storey rear extension to this building which sits at a higher level of the site and is in residential use.
6. Beyond the rear of No 78 is a row of terraced dwellings which also sit at a higher level than the site, and whose rear gardens back onto it. To the rear of the site is a modern housing estate. The wider area around the site is a mixture of commercial and residential uses. There is a variety of building styles and heights in the area, but the predominant material in buildings on High Street itself is stone, albeit The Greyhound is rendered. Buildings to the rear of the site tend more to be red brick in construction.
7. 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 also reflected in Paragraph 131 of the National Planning Policy Framework (the Framework) which states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
8. The significance of the MWCA appears to stem from the historic character of the buildings and the traditional street pattern of the area. High Street itself has a generally high density of development, with rows of tightly knit buildings fronting onto the street, punctured in places for rear or courtyard access and side roads.
9. The terrace block would be set well back from the roadside and there would be a substantial area to the front given over to parking and turning. Nevertheless, the creation of a strong unbroken building line across the site and the use of complementary materials would not be out of keeping with the broad character of the street scene. This element of the scheme would not therefore cause material harm to the character or appearance of the area or MWCA.
10. The bungalow to the rear would reflect a substantially different form of design to the dwellings fronting the site. I also observed that the majority of dwellings in the immediate area tended toward a minimum of two storeys. A variety of architectural styles is clearly not always harmful. However, in this case the uncharacteristic form of development sited on its own to the rear of the terrace would result in a somewhat isolated and incongruous form of development that would neither complement the terrace or the built form around the site.
11. The bungalow would also have a relatively large footprint with little space to its rear, and only just over a car's width between the dwelling and the rear boundaries of the terraced dwellings. These factors would combine to create a somewhat cramped and contrived appearance, where an isolated and unrelated building had been squeezed into the leftover space behind the terrace, with

little regard to their character or attempt to create a coherent redevelopment of the site as a whole.

12. Whilst the bungalow would not be prominent from the roadside, it is still likely to be seen in glimpsed views from High Street through the access running between The Greyhound and terrace. It would also be clearly visible from the private views of the dwellings to the rear and side of the site and from the three terraced dwellings to the front. The cramped and incongruous nature of the bungalow would be readily apparent from all of these vantage points.
13. I have had regard to the condition of the site and that the Council have concluded the development would enhance the character and appearance of the MWCA. However, I have a statutory duty to consider the effect on the heritage asset and, in my view, the overall form of development and resulting lack of coherence and complementarity would lead to material harm to the character and appearance of the area and serve to undermine any positive aspects derived from the terrace block. Consequently, I find that the resulting development would also fail to preserve or enhance the character or appearance of the MWCA.
14. The development would conflict with saved Mansfield District Local Plan 1998 (LP) Policy H2 which expects, amongst other things, development to integrate with the existing pattern of settlement and surrounding land uses. There would also be conflict with Policy BE1 which, amongst other things, requires a high standard of design and for development to relate well to the local area.
15. LP Policy BE6 specifically relates to development within Conservation Areas. This requires, amongst other things, development to respect the special character of Conservation Areas, to integrate with their surroundings and to not have a detrimental effect on the character of the area by way of visual impact. The development would be in conflict with this policy. While there is broad consistency between Policy BE6 and the Framework, the policy does not reflect the requirement to consider the harm to the significance of a heritage asset. Paragraph 134, for example, states that if less than substantial harm has been identified, this must be balanced against the public benefits of the proposal, including securing its optimum viable use. This inconsistency means that I have given the policy only moderate weight in my decision.
16. Nonetheless, I still consider that the development would lead to less than substantial harm to the significance of the MWCA and thus it is necessary to carry out the balancing exercise referred to above. I address this following my consideration of the second main issue.

Living conditions

17. There is a single storey extension to the rear of No 78 that contains a flat. There are partial remains of a building directly in front of the side window of the flat, which ostensibly serves a bedroom. There is only a narrow gap between the two buildings. The submitted plans indicate that another building previously stretched along the boundary of the site. I understand this was in place when the flat was granted planning permission in 2002 and that it was demolished in 2014.
18. There is little doubt that the siting of the derelict building in such close proximity to the bedroom window is likely to be having a detrimental effect on

the outlook of the occupants. I observed there was at least some opportunity for early morning sunlight to penetrate the window, but when not in direct sunlight, the small gap between window and existing building would significantly restrict the amount of daylight able to enter the bedroom.

19. The appellant appears to accept that the current outlook from this window is likely to be unattractive and subject to restricted light. However, they consider that the development would give rise to no greater level of harm than the existing situation. They also consider that the situation prior to the demolition of the former buildings, and that which existed when permission was granted for the flat, was worse than that which would result from the development.
20. The terraced block would be of a larger scale than the derelict building and sit deeper into the site. It would therefore have a more significant effect on both direct sunlight and daylight that would be able to penetrate the window than the current situation. The height and pitch of the existing building's roof would also provide a small sense of openness as it slopes away from the window of the flat. The large gable end of the terrace would close this off. This would result in an increased sense of enclosure and confinement, adversely affecting the outlook and both sunlight and daylight entering the room. This would tangibly diminish the enjoyment of the room and unacceptably exacerbate what is already likely to be a gloomy and confined environment for any occupant. As such, I find that the development would lead to a degradation in living conditions over and above what currently may exist.
21. I have had regard to the fact that there has previously been a building running along the boundary which may also have had an impact on the living conditions of the occupants of this flat. However, these buildings are no longer in place and thus there has been a significant material change in context. There is also no guarantee that there has not been a change in occupancy since the building was demolished. Nonetheless, even if the occupant were the same and they had previously been adversely effected by the previous built form of the site, this is not a reason for allowing something which would lead to an unacceptable living environment based on the current context. I must have regard to the current nature of the site, the existing living conditions of any occupant and the effect on these conditions by the development.
22. As such, I am satisfied that the siting of the terrace would have a materially harmful impact on the living conditions of the occupants of No 78 in terms of both outlook and light. Accordingly, there would be conflict with LP Policy H2 which seeks, amongst other things, to ensure that development does not lead to a reduction in the amenity of adjacent occupiers.

Other matters and planning balance

23. I have found that the development would result in less than substantial harm to the significance of the MWCA and I must balance this harm against any public benefits of the proposal. In this regard, the delivery of four dwellings is a public benefit of the scheme, and must be seen in the context of the need to significantly boost the supply of housing¹. However, I have not been provided with any details of the housing land supply in the District or level of need which exists. I cannot conclude with any certainty, therefore, that a five year supply

¹ See paragraph 47 of the Framework

of deliverable housing sites does not exist². Whilst clearly welcome, there is nothing before me to suggest that four dwellings would make a significant contribution to meeting any shortfall. As such, I have given only moderate weight to this factor.

24. The redevelopment of a derelict brownfield site in an accessible town centre location would clearly be acceptable in principle and would have some public benefits in environmental, economic and social terms. I have also noted the representation in support of the scheme on this basis. However, the weight given to these benefits must be balanced by my concerns over the resulting form of the development and the effect on neighbouring occupiers. There is also nothing before me to suggest that this development is the only way to secure the site's optimum viable use. Whilst a previous permission is not able to come forward because of the route of a sewer, this in itself does not mean the scheme before me is the only viable option for the site or that the benefits are in any way unique to this development. These factors lead me to conclude that only moderate weight should be given to these benefits.
25. In conclusion, I find the public benefits of the development would not outweigh the harm I have identified to the significance of the MWCA. Moreover, the material considerations referred to above would not outweigh my concerns over the effect of the development on the living conditions at No 78.
26. While I have received no specific evidence relating to the housing land supply or concerns about individual policies, both parties have referred to the fourth bullet point of Paragraph 14 of the Framework as being a key determining factor. This states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole or specific policies in the Framework indicate development should be restricted. Footnote 9 indicates that policies relating to designated heritage assets are examples of such policies.
27. Therefore, even if I were to conclude that the relevant policies of the plan were absent, silent or out-of-date, there is conflict with the heritage policies of the Framework. This suggests development should be restricted. In any event, I would also consider the adverse impacts of the development I have identified above would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. As such, in the circumstances of this this appeal, the application of Paragraph 14 does not indicate that permission should be granted and the proposal would not result in sustainable development.

Conclusion

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

S J Lee

INSPECTOR

² Paragraph 49 of the Framework.