
Appeal Decision

Site visit made on 13 March 2017

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 5th April 2017

Appeal Ref: APP/K2420/W/16/3164579
27 Church Road, Nailstone, CV13 0QH

- 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 Daniel Luczywo against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 16/00618/FUL, dated 4 July 2016, was refused by notice dated 25 August 2016.
 - The development proposed is the construction of a single dwelling with associated access.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single dwelling with associated access at 27 Church Road, Nailstone, CV13 0QH in accordance with the terms of the application, Ref 16/00618/FUL, dated 4 July 2016, subject to the conditions set out in Annex A.

Main Issue

2. The main issue in the appeal is the effect of the proposed development on the setting of the nearby heritage assets.

Reasons

3. The appeal site lies adjacent to Nailstone Conservation Area, close to the Grade II* listed All Saints Church, and adjacent to The Manor House, a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. S72(1) of the Act requires special attention to be had to the desirability of preserving or enhancing the character and appearance of a conservation area.
 4. Nailstone is a small village set within the surrounding agricultural landscape. The village formed part of the Gopsall estate, and a number of the buildings contain the distinctive eyebrow dormer windows that are a characteristic of buildings associated with this estate. The conservation area covers the historic core of the village. The church lies at the centre of the village, and its spire, in particular, is a highly visible feature in the surrounding landscape. It is an attractive and well preserved building, and its significance lies in part in the
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- contribution it makes as an example of regional ecclesiastical architecture of its period.
5. The Grade II Listed Manor House is a 16th century hall and cross-wing house. Its significance lies predominantly in its value as an attractive example of 16th century vernacular architecture, and in the contribution it makes to the street scene. Both listed buildings are identified in the *Nailstone Conservation Area Appraisal and Management Plan* (adopted September 2015) (NCAAMP). This highlights the highly visible nature of the conservation area, and the church spire, set within the surrounding agricultural landscape. Views and vistas out of the conservation area into the countryside that enhance the rural character of the village are identified as a key characteristic of the conservation area, and form part of its special interest.
 6. The appeal site forms part of the large side garden of No 27, a modern dormer bungalow. The garden is relatively open in nature but has a high coniferous hedge along the boundary with The Manor House, and a brick wall with trellis work and vegetation above, along the frontage with Church Road. The NCAAMP identifies the view through the garden to the surrounding countryside as a key view out from the conservation area. However, I observed that the current boundary treatment and vegetation within the garden prevent views of the agricultural land immediately surrounding the village, with only distant views towards Market Bosworth being possible. Moreover, as a private garden area, further planting of trees and shrubs, could take place which could restrict these views further.
 7. The dwelling would have a simple form, and its height and scale would be in keeping with other houses in the area. The use of traditional materials, and eyebrow windows, would respect the distinctiveness of the village. The new access would require the removal of some of the existing modern boundary wall, and it is proposed that the rest of this would be replaced with a wall whose design and appearance would reflect that of the traditional wall adjacent to, and fronting, The Manor House.
 8. The proposed dwelling would be positioned towards the west of the site, leaving a gap between it and the host property. This would still allow a distant view out of the conservation area to be obtained when travelling in a southerly direction along Church Road.
 9. From the south there are a number of well used footpaths, some of which form part of the Leicestershire Round. On approaching the village along these, views of the conservation area, and both the church and the rear of The Manor House are possible. The proposal would have no impact on the key view into the conservation area identified in the NCAAMP from the eastern Church Road footpath. Furthermore, I observed that generally the key gap in enabling views of the church from the footpaths, was that between The Manor House and No 37, and this would be unaltered by the proposal.
 10. The dwelling would be visible when approaching the village on the footpath to the south-east of the site. Nevertheless, as much of the current view of the church would remain above the proposed house, and it would not alter views of the Manor House or the wider conservation area, this effect would be very limited.

11. Given that the proposal would only have a marginal effect on one of the views from the footpaths, and that this is not identified as a key view, the scheme would only alter views into the conservation area slightly. Given this, overall I consider the proposal would have a broadly neutral effect on views into, and out of, the conservation area.
12. In relation to the setting of All Saints Church, the mature trees located on the edge of the churchyard means there is very little intervisibility between it and the appeal site. As such the proposal would have a neutral impact on its setting. Similarly, the high coniferous hedge along the common boundary with The Manor House, together with the distance that would be maintained between the proposal and this house would physically and visually separate the two buildings. Moreover, the position of the proposal is such that it would not impact on the relationship between The Manor House and All Saints Church. I am therefore satisfied that the proposal would not harm the setting of these buildings, or their significance as heritage assets.
13. Consequently, I therefore conclude that the proposal would preserve the character and appearance of the adjacent Nailstone Conservation Area, and would not cause harm to the setting of the nearby listed buildings. It follows that the proposal would comply with national policy outlined in the *National Planning Policy Framework*. It would also accord with Policies DM11 and DM12 of the *Site Allocations and Development Management Policies Development Plan Document (adopted July 2016)* which seek to protect, conserve and enhance the historic environment, and heritage assets throughout the borough.

Other Matters

14. A number of concerns have been raised regarding highway safety issues that may result from the proposed scheme. However, the Council have confirmed that the new access would have adequate visibility in both directions, and that adequate parking and turning space would be provided within the site. Moreover, one dwelling would not result in any significant additional traffic movements. As such, subject to conditions, they have no objection to the scheme on highway grounds. In the light of this, and observations made during my site visit, I am satisfied that the proposal would not have an unacceptable impact on highway safety in the area.
15. I note the concerns that additional structures such as a garage could be harmful to the heritage assets. However, a condition can be used to remove permitted development rights, and so ensure that the Council is able to assess the impact of any future development on the site. Similarly, an archaeological condition can be used to ensure this is given adequate consideration prior to any development taking place. Whilst it has been suggested that the site lies outside the settlement boundary, the Council have indicated that this is not the case.
16. The owner of The Manor House has indicated that the appeal site encroaches onto land whose ownership is currently being disputed. However, I can see no reason why an approval of planning permission would negate or supersede any private legal rights relating to land ownership. Accordingly in this respect I have made my decision only on the planning merits of the case.

Conclusion and Conditions

17. For the reasons set out above, I conclude that the appeal should be allowed.
18. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. In the interests of the character and appearance of the area conditions are required to control the external appearance of the dwelling and the replacement wall, the finished floor levels of the dwelling, the landscaping of the site, and removing certain permitted development rights.
19. Conditions relating to a scheme of investigation are necessary to ensure the recording of any archaeological remains. For reasons of highway safety conditions are required to ensure the adequate surfacing of the access, and the provision of the parking and turning areas, before any dwelling is occupied.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing 100; Proposed Site Plan and Street Scene Drawing 150C; and Proposed Plans and Elevations Drawing 250C .
- 3) No development shall take place until samples of all external facing materials for the dwelling and the replacement boundary wall hereby permitted have been submitted to, and approved in writing by, the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the proposed ground levels and finished levels, above ordnance datum, of the ground floors of the proposed building, in relation to existing ground levels have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development shall take place until a programme of archaeological work (Strip, Plan and Record excavation) including a Written Scheme of Investigation has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an assessment of significance and research questions - and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 6) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 5.
- 7) The dwelling hereby permitted shall not be occupied until the site investigation, and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 5, and provision made for the analysis, publication and dissemination of results and archive deposition has been secured.
- 8) No development shall take place until details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority. These details shall include:
 - i) means of enclosure including position, type, design and materials;

- ii) hard surfacing materials;
- iii) retained historic landscape features and proposals for restoration, where relevant;
- iv) retained trees and hedgerows;
- v) planting plans
- vi) written specifications;
- vii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- viii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details, and with the agreed implementation programme. The completed soft landscaping scheme shall be maintained for a period of 5 years from the date of planting. During this period any trees or shrubs which die, or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

- 9) The dwelling hereby permitted shall not be occupied until the access drive has been surfaced with tarmacadam or similar hard bound material (not loose aggregate) for at least the first 5 metres behind the highway boundary, and once so provided shall thereafter be permanently so retained.
- 10) The dwelling hereby permitted shall not be occupied until the off-street vehicle parking and turning space has been laid out within the site in accordance with Drawing 150C, and that space shall thereafter be kept available at all times for those purposes.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A – E shall be carried out unless permission for such development has first been granted by the local planning authority.