
Appeal Decision

Site visit made on 22 May 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 19th June 2017

Appeal Ref: APP/X3025/W/16/3161995

St Johns Centre, St John Street, Mansfield, Nottinghamshire NG18 1QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Steven Whitney against the decision of Mansfield District Council.
- The application Ref 2016/0084/ST, dated 17 February 2016, was approved on 5 May 2016 and planning permission was granted subject to conditions.
- The development permitted is a new entrance porch to existing classrooms.
- The conditions in dispute are Nos 2 and 3 which states that:
No 2: This permission shall be read in accordance with the following plans / details:
 - Site location plan, received on 11/03/2016,
 - Existing and proposed plans and elevations, drawing number SW/1507/01, received on 11 March 2016.The development shall thereafter be undertaken in accordance with these plans/ details unless otherwise agreed in writing by the Local Planning Authority.
- The reasons given for the conditions are:
No 2: To define the permission, for the avoidance of doubt.
No 3: In the interests of visual amenity and to accord with saved policy BE1 of the adopted Mansfield District Local Plan.

Decision

1. The appeal is dismissed.

Procedural matter

2. The appeal form states that the appellant is appealing against the refusal of planning permission for the porch. However, as planning permission has been granted this is not correct. The porch that has been built is contrary to condition 3 of the permission in that it is constructed from UPVC rather than painted timber. In its appeal statement the Council states that the appeal seeks the deletion of this condition. However, the built porch is also contrary to condition 2 in that it does not accord with the approved plan (ref SW/11/1507/01) because it has a pitched roof rather than a flat roof and does not have a brickwork base.
 3. It is clear from the appellant's grounds of appeal, which includes drawings, that he seeks agreement to a porch that retains the UPVC doors and glazing as built. In order to create a porch that is similar to that on the approved plan, the drawings propose that the base section would be clad in brickwork to match the existing building and that a fascia that forms a 'rendered parapet painted stone' would be incorporated to give the appearance of a flat roof. The
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inclusion of the fascia would be a minor modification. In order for these changes to proceed in compliance with the permission, condition 2 would need to be varied to replace drawing ref SW/11/1507/01 with the drawing in the grounds of appeal and condition 3 would need to be deleted. I have assessed the appeal on this basis.

Main Issue

4. The main issue in this appeal is whether it is reasonable and necessary that the porch is constructed from painted timber in accordance with plan ref SW/11/1507/01 in order to preserve the character and appearance of the West Gate Conservation Area.

Reasons

5. The National Planning Policy Framework ('the Framework') is an important material consideration. It identifies that heritage assets are an irreplaceable resource. Paragraph 132 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a Conservation Area, great weight should be given to the conservation of the asset.
6. The appeal site is located within the West Gate Conservation Area. In the exercising of planning functions the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Policies BE1 and BE6 of the Mansfield Local Plan, in requiring the protection of the character and appearance of a locality, including heritage assets, through high quality design that respects local design features, are consistent with this test.
7. The Conservation Area covers the town centre and its environs that contain well designed older and historic buildings. The significance of the Conservation Area and its buildings, which appear to date mainly from the 19th century, is architectural and historical.
8. Along St John Street the Conservation Area is characterised by stone and brick built buildings. The painted timber framed windows to these buildings, including to the appeal building, form part of the distinctive character of the Conservation Area and make a positive contribution to it. UPVC windows have been used to a limited extent in some of the buildings in St Johns Centre and to some other buildings nearby. However, these examples are too few and far between to alter the character and appearance of the locality from one where painted timber framed windows predominate to one where they do not. Whilst some of the buildings in the Conservation Area are in a poor state of repair, this does not materially reduce its architectural or historic interest.
9. The building is characterised by windows made up of rectangular panes with a vertical emphasis. The appellant seeks approval for windows with far wider panes of glass, which, in conjunction with the use of UPVC frames and a tall fascia would result in a poorly designed porch that would relate badly in terms of design and appearance to the host building and the character of the Conservation Area. This significant adverse effect that would be caused in this regard would be readily apparent to those who visit or use St John's Centre or the nursery.
10. I recognise that due to time pressures a UPVC porch was built contrary to the approved plan in condition 2 and the requirement in condition 3 that painted timber was used. However, this does not excuse non-compliance with the

- planning permission or mean that the proposed modifications would result in a well-designed porch.
11. The harm that would be caused by the proposed modified UPVC porch to the significance of the Conservation Area as a whole would be less than substantial. In such circumstances paragraph 134 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the development.
 12. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to the Conservation Area. On the other side of the balance, the nursery provides a service to the local area and the proposed modified entrance porch, utilising the existing UPVC windows, would be a lower cost solution than replacing it with one that is constructed in accordance with the approved plan using painted timber. However, whilst the nursery's funds have been reduced by restoration costs and repair bills, it has not been suggested that the costs of constructing the porch in accordance with conditions two and three would be so onerous as to result in the nursery no longer being able to operate. As the porch controls access and egress to the nursery, if it had to be rebuilt the nursery service to the local area would be interrupted, albeit for a limited period.
 13. Taking all these matters into account, my overall conclusion is that the public benefits of the proposed modified UPVC entrance porch fall a long way short of outweighing the harm that would be caused to the West Gate Conservation Area. The development would therefore be contrary to the Framework as well as failing the statutory test. As such, it would be contrary to section 12 of the Framework, in addition to being contrary to policies BE1 and BE6 of the Mansfield Local Plan.
 14. I therefore find that conditions 2 and 3 are reasonable and necessary, as are the other conditions attached to the permission. Conditions 2 and 3, together with the other conditions, also comply with the remaining tests of paragraph 206 of the Framework and the advice in Planning Practice Guidance on the use of conditions.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector