
Appeal Decision

Site visit made on 13 November 2017

by Sarah Colebourne MA, MRTPI

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

Decision date: 28th November 2017

Appeal Ref: APP/M1005/W/17/3179671

Viceroy Indian Restaurant, Tamworth Street, Duffield, Belper, Derbyshire, DE56 4ER

- 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 Sajid Hussain against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2016/0625, dated 9 June 2016, was refused by notice dated 13 February 2017.
 - The work proposed is a two storey office building with pitched roof and associated works.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on the setting of the listed building at Tamworth House and the character and appearance of the Duffield Conservation Area (CA) and the Derwent Valley Mills World Heritage Site (WHS) Buffer Zone.

Reasons

3. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 requires that where the harm is less than substantial, it should be weighed against the public benefits of the proposal.
4. The development plan includes policies EN24, EN27 and EN29 of the Amber Valley Local Plan (LP) (2006) which reflect the statutory duty and accord with

the Framework in that respect, although they fail to acknowledge the need to weigh any less than substantial harm against the public benefits of the proposal as sought in the Framework.

5. The appeal site forms part of the former garden of Tamworth House, a prominent, three storey, grade II listed building dating from the early C18th. I saw that the interest of Tamworth House derives from its 'polite' formal architecture and its historical significance as one of several 'gentlemens' houses in the area. It is defined and enclosed by a stone boundary wall which continues along the appeal site and the Council considers forms part of the listed building. The spaciousness of the area around the listed building contributes significantly to its prominence and its setting. It also provides a contrast with the tightly spaced terraced cottages on the opposite side of the street. As such it contributes significantly to the character and appearance of this part of the Duffield CA which derives from the pattern of narrow streets either side of the River Ecclesbourne that formed part of the original settlement and the attractive contrast between the spacious setting of the larger 'gentlemens' houses and the smaller cottages. In turn, the Duffield CA contributes to the Derwent Valley Mills WHS Buffer Zone whose rural character interspersed by historic settlements forms part of the wider, rural setting of the WHS whose significance derives from its importance in the industrial revolution.
6. The appeal site forms part of the existing car park to the Viceroy Restaurant adjacent to a community centre, The Weston Centre. Both the restaurant and the community centre occupy modern buildings that also lie within the setting of Tamworth House. However, by reason of the siting of the restaurant at the rear of the site and the low profile of the community centre, they maintain the spacious setting of the listed building.
7. The proposed office building would be sited adjacent to the stone boundary wall. It would be a contemporarily styled two storey building with a pitched roof and a catslide roof to one side. It would have floor to ceiling tinted frameless glazing in its eastern elevation facing the access with glazing and grey panels in its western elevation facing the garden of Tamworth House. The southern elevation to Tamworth Street would have a projecting, square oriel window. The roof and upper floor would have oxidised metal cladding above a stone base.
8. At 9.2m in height it would be a tall building that would dominate the spacious setting of Tamworth House and the street scene despite the presence of the tall trees alongside the boundary wall and other buildings of a similar scale in the wider area. Whilst the use of such cladding and glazing materials would complement the red brick of the Viceroy Restaurant, they would compete with and distract from the more muted tones of the stone built Tamworth House. This would exacerbate the harm arising from the scale and siting of the building.
9. I have noted the Council's Conservation Officer's support for the scheme and that the Framework says that planning decisions should not attempt to impose architectural styles or stifle originality. I accept that in itself the building is of a very attractive contemporary style of high quality. However, in this context it is not appropriate.

10. I understand the appellant's need to provide additional office space for his businesses which includes other enterprises in addition to the restaurant and have noted that the proposal would lead to the creation of two additional jobs. It is clear that the appellant's businesses make a moderate contribution to the local economy but this matter does not outweigh the significant harm that would be caused to the heritage assets.
11. Although there is some support for the proposal from local business people, customers and organisations, I am not persuaded that the proposed development is necessary or the only viable means for the preservation of the historic wall, for the provision of car parking spaces for the community centre and other local users or for the upkeep and future maintenance of the property and car park.
12. Whilst the level of harm arising from the proposed development would be less than substantial, there are, therefore, no public benefits that would outweigh the identified harm as required in paragraph 134 of the Framework.
13. Despite the concerns of some local residents, the Council has raised no objections in terms of residential amenity, archaeology, flooding or highway safety and I have no compelling evidence to suggest that significant harm would be caused in these terms of those matters.

Conclusion

14. I conclude, for the reasons given above, that the proposal would fail to preserve the setting of the listed building at Tamworth House. It would also fail to preserve or enhance the character and appearance of the CA and the WHS Buffer Zone. It would, therefore, conflict with LP policies EN24, EN27 and EN29 and the development plan as a whole and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

Sarah Colebourne

Inspector