



Appeal Decision

Site visit made on 3 January 2018

by Chris Couper BA (Hons) DipTP MRTPI

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

Decision date: 08th January 2018

Appeal Ref: APP/K2420/W/17/3181442

Cedar Lawns, Church Street, Burbage LE10 2DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr R Morris (Tony Morris Builders) against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 17/00543/CONDIT, dated 1 June 2017, was refused by notice dated 24 July 2017.
 - The application sought planning permission for the conversion of offices (B1a) to 5 flats (C3) including demolition of single storey rear extension, conversion of outbuilding to 1 dwelling and erection of 3 new dwellings without complying with a condition attached to planning permission Ref 16/00441/FUL, dated 2 March 2017.
 - The condition in dispute is No. 17 which states that:
Notwithstanding the submitted details on approved plan Block Plan Drg. No. 16/20/05 Rev. G (scale 1:200) and Site Plan Drg. No. 16/20/14 Rev. D (scale 1:200) received by the Local Planning Authority on 8 February 2017, the proposed boundary treatments between plot 1 and the rear gardens of no. 66-72 Church Street are to be constructed using a brick wall.
 - The reason given for the condition is:
To ensure that the development has a satisfactory external appearance to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the condition is reasonable and necessary having regard to the effect on the character or appearance of the Burbage Conservation Area and the setting of listed buildings.

Reasons

3. The site falls within the Burbage Conservation Area ('CA'), and includes Cedar Lawns which is a Grade II listed building, as is 66 – 72 Church Street. Those are all designated heritage assets as defined by the National Planning Policy Framework ('Framework'). Framework paragraphs 131 and 132 state that in determining planning applications account should be taken of the desirability of sustaining and enhancing the significance of heritage assets, and that when considering the impact of development on the significance of a designated

- heritage asset, great weight should be given to its conservation. Significance can be harmed through development within a heritage asset's setting.
4. This is in line with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out that in considering whether to grant planning permission for development which affects a listed building, special regard shall be had to the desirability of preserving the building or its setting; and Section 72(1) in respect of development affecting conservation areas, which states that special attention shall be paid to the desirability of preserving or enhancing their character or appearance.
 5. Plot 1 comprises a long brick building, which is identified in the Burbage Conservation Area Appraisal 2011 ('CAA') as being an Important Local Building, along with an outdoor area and parking. To the rear it abuts 66 – 72 Church Street, which are small cottages with brick and exposed timber rear elevations and short gardens. Where plot 1 would abut those properties there is currently a mix of timber fencing and hedgerows, with some open sections.
 6. In my view a timber fence along all of this boundary as proposed would result in a stark contrast with the more substantial appearance, detailing and traditional materials of the buildings at 66 – 72 Church Street. Consequently, whilst there is a fence along part of this boundary, a fence along the whole of it would harm the setting of the adjacent listed building and would fail to preserve its significance.
 7. I observed that red brick walls are a traditional boundary treatment in the CA, particularly adjacent to listed buildings, including Cedar Lawns, and others such as Burbage Hall, The Old Grange and 28/30 Church Street. There is reference to boundary walls within the CA adjacent to listed and historic buildings in the CAA. Whilst the proposed fence would not be visible from public vantage points, in this location adjacent to a listed building and an Important Local Building, its form and materials would not respect the CA's characteristics.
 8. There are examples of timber fencing elsewhere in the area as evidenced by the photographs in the appellant's statement. That includes on part of the site's western boundary where the new dwellings on plots 2, 3 and 4 would abut the relatively modern properties at Cedar Court. However, the context of those, and the other cited, examples is markedly different from this much more historic setting very close to a listed building with no intervening development.
 9. The appellant has provided limited information regarding the scheme's impact on the significance and setting of heritage assets, but maintains that as this part of the site never formed part of Cedar Lawn's original site boundary, a brick wall here would make it harder to read the site's history. However, irrespective of Cedar Lawn's original curtilage or any previous boundary treatment in this location, the proposal would fail to preserve the setting of the listed building at 66 -72 Church Street, and it would not preserve or enhance the character or appearance of the CA.
 10. Consequently the proposal would conflict with Policies DM10, DM11 and DM12 of the Hinckley and Bosworth Site Allocations and Development Management Policies DPD 2016 which, in broad terms, require that proposals use materials appropriate to their context; conserve and enhance the historic environment; are compatible with the significance of listed buildings and their settings; and that conservation areas are preserved and enhanced as a result of matters

including appropriate boundary treatment which is reflective of characteristic local styles and materials. It would also fail the statutory tests.

11. I have given great weight to the harm that I have found. However, having regard to the proposal's small scale and relatively discrete location, in the language of Framework paragraph 134, the harm caused would be less than substantial. In those circumstances it states that the harm should be weighed against the public benefits of the proposal, including securing the asset's optimum viable use.
12. However, in this case I have not been directed towards any public benefits, nor have I identified any. I conclude that the condition is reasonable and necessary, and having regard to all other matters raised, the appeal is dismissed.

Chris Couper

INSPECTOR