
Appeal Decision

Site visit made on 15 January 2018

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2018

Appeal Ref: APP/Z3445/W/17/3180024

Footsteps Podiatry and Chiropody Clinic, Albert Road, Tamworth B79 7JN

- 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 Jonathon Shearer against the decision of Tamworth Borough Council.
 - The application Ref 0105/2017, dated 7 March 2017, was refused by notice dated 19 May 2017.
 - The development proposed is demolition of outbuilding, construction of new treatment room and associated toilet facilities for disabled customers, with entrance lobby linked to original building and installation of 2 no. velux windows in rear roof space.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jonathon Shearer against Tamworth Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Victoria Street/ Albert Street Conservation Area.
 - Whether the development should make a financial contribution towards the provision of town centre transport improvements.

Procedural Matters

4. The appellant has submitted a signed Unilateral Undertaking (UU) dated 13 July 2017. Although the document contains no plan, application land address or planning application reference number, this makes provision for a payment towards a town centre commuted sum contribution. I shall return to this matter below.

Reasons

5. The appeal site is a mid-terrace property in a row of 6 which is locally listed and located within the Victoria Street/Albert Street Conservation Area. Built as

a residential dwelling with an entry passage leading to the rear, it has been converted to a business use, as have other properties in the row. Despite this, the front of the property retains a domestic appearance and period character. This is also the case at the rear of the property where the scale of the existing outhouse relative to the host property makes an important contribution to the character and appearance of the area. The feature is replicated with other neighbouring properties which creates symmetry along the rear of the row that is visible as a result of the height of the boundary treatments.

6. The buildings within the appeal site, which are a non-designated heritage asset, make a positive contribution to the Victoria Street/ Albert Street Conservation Area. The domesticity and uniformity of the property, along with neighbouring buildings form part of the importance and significance of this part of the Conservation Area. The rear of the terrace may not be identified in the Council's Conservation Area Appraisal but it nevertheless reflects an important part of the wider townscape value of the area. The more modern commercial buildings in the vicinity which are located outside the Conservation Area do not detract from this.
7. The proposal would be considerably larger than the existing outbuilding. It may only be the minimum required to meet the needs of the business, but the size and massing of the development would dominate the rear garden and would as a result be disproportionate in scale and form to the host property. The linking porch would assist in distinguishing between the old and new parts of the property and would reduce the amount of the rear host building wall that would be lost to development. However, it would do little to reduce the overall massing of the proposal.
8. Although the single storey development would be subsidiary to the 2 storey main building in terms of height, it would lose its domestic scale. The size of the proposal would mean that it would not be viewed as a domestic extension or as an outbuilding that has been joined to the main building by a porch. As a result, the differences in roof pitch and orientation of the building to the existing townscape would result in a discordant feature which would cause material harm to the character and appearance of the area as a result.
9. The proposal would have a dominating effect on the main building and the wider terrace. As such it would diminish the domestic nature that, as matters stand, presents an important part of the appearance of the appeal site and characterises the area to the rear of the properties. I therefore conclude the proposal would have an adverse effect on both the character and appearance of the host property which would cause material harm to the Victoria Street/Albert Street Conservation Area. This harm would amount to less than substantial harm in terms of the National Planning Policy Framework (Framework).
10. The proposal would conflict with Policies EN5 and EN6 of the Tamworth Borough Council Local Plan 2006-2031 (Local Plan). The relevant parts of Policy EN5 seek to ensure new development is of a scale, layout, form and massing which conserves or enhances the setting of development and whilst not stifling innovation, reflects the valued characteristics of the area including existing local architectural and historic characteristics. Amongst other things, Policy EN6 seeks to ensure new development takes into account the significance of the heritage assets, including Conservation Areas and non-designated heritage

assets and be designed to protect, conserve or enhance the context of the development. These policies are in my view broadly consistent with the Framework in this regard. As a result, there is no case to be made that paragraph 14 of the Framework should be engaged. Whilst neither policy references relevant paragraphs of the Framework, National Planning Practice Guidance is clear that 'there should be no need to reiterate policies that are already set out in the National Planning Policy Framework'.

Town Centre Contribution

11. The Council consider that the proposal should provide a contribution of £3000 towards the Victoria Road Gateway project, to be secured through a planning obligation. This would be to improve connectivity to other forms of transport, including legibility and environmental improvements between transport hubs in the town centre in lieu of parking provision. The support for the contribution is set out in Policy IM1 of the Local Plan which identifies that developer contributions will be sought to improve quality, access and links to the town centre in accordance with Policy EC2 of the Local Plan which seeks to revitalise Tamworth town centre through a variety of means which include improved connectivity. The amount requested is based on a formula contained in the Council's Supplementary Planning Document - Planning Obligations. Whilst this document is attached to policies in a previously adopted Local Plan, the concept of a financial contribution in lieu of on-site provision in a town centre location remains valid to extant policy.
12. I am satisfied on the basis of the information provided that the contribution would be necessary to make the proposed development acceptable in planning terms and would be directly related to, and be fairly and reasonably related in scale and kind to the development. The contribution would consequently comply with Regulation 122(2) of the Community Infrastructure Levy Regulations and tests in paragraph 204 of the NPPF that any obligation would have to meet to be sought and provided should I have found in favour of the scheme. The Council has also confirmed that the request meets the requirements of Regulation 123 of the Community Infrastructure Levy.

Other Matters

13. Although the rear of the property may be subject to Permitted Development rights if it were still in residential use, this is not the case here and as such I give this argument little weight. Similarly, the appellant states that demolition of the outbuilding would not constitute development because of its size. Be that as it may, its demolition forms part of the appeal proposal and has been assessed accordingly. Even if the fall-back position was taken up and the out building was demolished, it would not alter my findings regarding the harm to the character and appearance of the Conservation Area as a result of the scale and design of the proposal.
14. Paragraph 57 of the Framework identifies the importance of planning positively for the achievement of high quality and inclusive design for all development, including individual buildings and public and private spaces. Inclusive design in the Framework is defined as 'designing the built environment, including buildings and their surrounding space, to ensure that they can be accessed and used by everyone'. In exercising my duty on behalf of a public authority, I am mindful of the requirements of the Public Sector Equality Duty contained in the

Equality Act 2010. This includes the need to advance equality of opportunity, which may involve taking steps to meet particular needs.

15. The extension would provide a disabled patient treatment room and toilet facility for disabled customers of the business. Whilst access to the front of the building is via 2 steep concrete steps, I witnessed on my site visit that disabled access is currently provided via the side entry with a ramp into the rear flat passageway of the property. The same side passageway would be utilised through the proposal.
16. The development would provide bespoke facilities but it is noted that there are currently 2 treatment rooms on the ground floor and a toilet and so it is not necessarily the case that clients with physical impairments are currently required to negotiate the stairs. Further improvements could be made to assist with accessibility for the disabled but based on the evidence it is not considered the proposal represents the only option in terms of making reasonable adjustments to improve accessibility.

Planning Balance and Conclusion

17. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
18. Paragraph 134 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. In this context, I acknowledge that the proposal may offer economic benefits in terms of local economic growth and job creation and social benefits in terms of additional treatment rooms which would be wheelchair accessible. However, these public benefits do not outweigh the significant harm to the character and appearance of the area that would arise from the proposal.
19. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR