
Appeal Decision

Site visit made on 8 July 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/P3040/W/3227997

Burton Lane, Whatton NG13 9EH

- 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 and Mrs Stuart Baskill against the decision of Rushcliffe Borough Council.
 - The application Ref 18/02553/FUL, dated 1 November 2018, was refused by notice dated 6 March 2019.
 - The development proposed is a new dwelling house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal preserves or enhances the character or appearance of the Whatton Conservation Area.

Reasons

3. The appeal site lies within the Whatton Conservation Area (the CA), which covers most of the village of Whatton. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a CA.
4. The site forms part of the historic core of the CA, as identified within the Whatton Conservation Area Appraisal and Management Plan July 2008 (WCAAMP), which has a unique layout with paddocks located in its centre with a network of narrow lanes with cottages. The WCAAMP states that trees are an important contribution to the street scene and, in many instances, are a key factor in creating the special character of the CA. The Townscape Appraisal map illustrates both individual and groups of trees that are particularly important to the CA.
5. The appeal site is a large plot that appears to have once formed part of the extensive garden area of Dunsville. Part of the garden of Dunsville is identified as a Positive Open Space on the Townscape Appraisal map. There are two trees within the confines of the site, one of which is a Walnut tree, identified as T2. This tree is visible from Chapel Walk and the footpath linking with Main Street and through glimpsed views between boundary trees and hedges on Burton Lane, although it is not readily visible from the wider context of the CA. Furthermore, it is clearly visible from neighbouring properties, notably those on

Chapel Walk, Burton Lane and Main Street. Overall, whilst not specifically identified in the Townscape Appraisal map, in conjunction with the other trees in the locality, the tree makes a positive contribution to the openness and sylvan setting of the area.

6. The proposed removal of the tree would detract from the sylvan setting of the site and the overall character and appearance of the CA. Paragraph 196 of the National Planning Policy Framework (the Framework) confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The proposal would result in less than substantial harm to the significance of the CA.
7. The appellant contends that whilst there is an extant outline planning permission¹ for a dwelling on the site, which would retain the tree, the current proposal would have less of an adverse effect by way of having the access directly off Chapel Walk, which would negate the need to divide the open space of Dunsville in two. However, this is the same as the approved 2017² scheme.
8. The appellant also contends that the siting of the proposed dwelling would have less of an impact on neighbouring residents than the approved schemes. However, there is no evidence before me that the extant permissions would have any unacceptable harm on the living conditions of neighbouring residents. Indeed, the Council confirm that the scale and appearance for both of these permissions were reserved for future consideration.
9. The proposed dwelling would provide a good-sized family dwelling, the occupants of which would make a positive contribution to the community. However, there is no evidence that there is an identified need for family-sized dwellings above that of a more modest sized bungalow, as already approved. Nevertheless, the dwelling would make a positive, albeit limited, contribution to the supply of housing in general, which is a public benefit.
10. I acknowledge that the details regarding the Walnut tree submitted with the previous outline applications may not have been accurate and that it may no longer be possible to build the dwelling in accordance with the outline permission as the tree is larger than originally depicted. However, I do not consider that this is sufficient justification to now allow the removal of the tree and I afford this matter limited weight.
11. I have had regard to the proposed planting of at least five trees and hedging to mitigate the loss of the tree. However, it would take many years for these trees to establish. Furthermore, the Council make a compelling case that such planting could potentially have a harmful effect on the living conditions of neighbouring residents. Therefore, I attribute this limited weight.
12. The 2016 permission allowed the removal of a Poplar tree, T13, which is in a more prominent position than the Walnut tree and is the subject of a Tree Preservation Order. However, the Arboricultural Report undertaken by Peter

¹ LPA ref: 16/02480/OUT

² LPA ref: 17/01851/FUL

Wood, identifies the Poplar trees as being fully mature, which can lead to failure. There is no evidence that tree T2 is likely to fail anytime soon; indeed, the Tree Constraints and Protection Report undertaken by Mark Hudson, dated 24 October 2018, identifies it has an estimated remaining contribution of 20-40 years. Therefore, based on the evidence before me, there seemed to be clear justification for the removal of the Poplar tree on the basis that it was potentially unsafe. There is no such justification for the loss of the Walnut tree.

13. Overall, whilst the proposal would make a small contribution to the supply of housing in the area, it has not been demonstrated that the public benefit of the proposal outweighs the harm to the CA.
14. I conclude therefore that the proposal would fail to preserve or enhance the character or appearance of the CA. As such, it is contrary to Policy 11 of the Rushcliffe Local Plan Core Strategy 2014, which, amongst other things, states that proposals will be supported where the historic environment and heritage assets and their settings are conserved. Furthermore, it would fail to accord with the historic environment objectives of the Framework.

Conclusion

15. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR