



Appeal Decision

Site visit made on 16 September 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/T2405/W/19/3232755

20 Oaks Court, Narborough, Leicestershire LE19 3XP

- 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 Nick Owen against the decision of Blaby District Council.
 - The application Ref 18/1566/FUL, dated 29 September 2018, was refused by notice dated 11 January 2019.
 - The development proposed is a pair of semi-detached 2 bedroom houses (new build).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the address of the appeal site from the Council's decision notice which removed superfluous text given on the planning application form.
3. Since the Council made its decision, the Blaby District Local Plan Delivery Development Plan Document (February 2019) (the Delivery DPD) has been adopted, superseding the previously saved policies of the Blaby District Local Plan (1999). The development plan therefore now consists of the Blaby District Local Plan (Core Strategy) Development Plan Document (2013) (the Core Strategy DPD) and the Delivery DPD. The Council has also confirmed it has a 7.07 year housing land supply. Full weight can therefore now be attributed to the Delivery DPD policies as part of my considerations.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area including whether the proposal would preserve the setting of the neighbouring Grade II Listed Building; and
 - Whether the proposal would provide acceptable living conditions for its occupants with particular regard to noise and disturbance.

Reasons

Character and appearance including the setting of the Grade II listed Building

5. The appeal site is a largely open, grassed piece of land with a mature soft landscaped boundary to the Copt Oak Bridleway. It is situated within a primarily residential area characterised by a mix of mainly two-storey house

types and the neighbouring local commercial centre. The site sits next to a shared parking area serving existing dwellings on Oaks Court. Together the site and this parking area provide a relatively open foreground to the neighbouring Grade II Listed barn dating to the 17th Century. The Listed Building previously formed part of the Copt Oak Farmhouse complex and is now in use as a day nursery. Open views towards the site are available from within the public realm.

6. The appeal site currently assists in providing a gap between the built form of existing dwellings on Oaks Court and the local commercial centre. The site is of a relatively shallow depth and the footprint of the proposed semi-detached dwellings and new block paved parking area would occupy a significant proportion of the site with the only private outdoor space serving the dwellings being a narrow garden to the side of the respective dwellings. The density of the development and position of the proposed building close to the boundaries of the site would appear particularly constrained within the street scene. Given the prominent position of the site next to public areas, the intensive nature of the development would appear incongruous and would have a detrimental impact on the character and appearance of the area.
7. Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty to consider whether the development affects a listed building or its setting. In doing so special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
8. Whilst the current built environment is undoubtedly very different to the original setting of the Listed Building, existing buildings have been respectfully arranged to provide a degree of space to the foreground of the building. This allows for the architectural interest of the building including its timber frame to be appreciated in wider views. The proposal would encroach into this foreground having an enclosing effect and reducing the currently more open aspect that contributes to the setting of the Listed Building. The height and relatively close proximity of the development would also compete with the stature of the Listed Building particularly in views across the public car park from the direction of Hardwicke Road. Consequently, the setting of the Listed Building would not be preserved.
9. Taking all matters into account, the proposal would result in less than substantial harm to the setting of the Listed Building accounting for the existing modern development which already forms part of the setting and the gap that would be retained between the proposal. In accordance with Paragraph 196 of the National Planning Policy Framework (the Framework) less than substantial harm should be weighed against the public benefits of the proposal.
10. The provision of two dwellings would make a limited contribution towards the Council's housing figures. There would also be a limited social and economic benefits through the development of the site and the expenditure of future occupants using local services and facilities. However, I must attach great weight to the need to conserve the setting of the Listed Building and find therefore that the limited public benefits identified do not outweigh the less than substantial harm that would result from the proposal.
11. The appellant contends that the site is not a public open green space but is private garden owned by No 20 Oaks Court. Even so, this does not diminish the

positive contribution it currently makes to the character and appearance of the area and the setting of the Listed Building.

12. For the foregoing reasons, the proposal would have a detrimental effect on the character and appearance of the area and would not preserve the setting of the Grade II Listed Building. Consequently, in those regards, the proposal would conflict with Policies CS2 (Design of New Development) and CS20 (Historic Environment and Culture) of the Core Strategy DPD, Policies DM1 (Development within the Settlement Boundaries) and DM12 (Designated and Non-designated Heritage Assets) of the Delivery DPD and the requirements of the National Planning Policy Framework (the Framework).

Living conditions

13. The development would be located in close proximity to the local commercial centre occupied by uses including hot food takeaways, retail units, a day nursery and a public house as well as a public car park. A public footpath providing access to the commercial uses also sits between the car park and the boundary of the appeal site.
14. The proposed dwellings would sit closer to the public footpath and car park serving the commercial buildings than is generally seen in terms of existing dwellings in the area. Given the variety of uses, activity associated with them is likely to include comings and goings both early in the morning and late in the evening. Such activity is likely to be most notable for occupants of the dwelling that would sit closest to the public footpath and car park. This would be particularly the case during warmer months of the year when the limited garden area serving the dwelling would be in use or windows serving the lounge or rear bedroom that face towards the commercial activity would be open.
15. The close proximity of the building to public areas and the consequential impacts in terms of noise and disturbance for the occupants of this proposed dwelling further illustrates the constrained nature of the proposal. I have no substantive evidence before me to convince me acceptable living conditions could be provided for occupants or that any noise and disturbance could be suitably mitigated.
16. For the foregoing reasons, it has not been demonstrated that acceptable living conditions would be provided for occupants having particular regard to noise and disturbance. Consequently, and in this regard, the proposal conflicts with Policies CS2 (Design of New Development) of the Core Strategy DPD and Policy DM1 (Development within the Settlement Boundaries) of the Delivery DPD and paragraph 127 of the Framework which amongst other things requires that new development provides a high standard of amenity for existing and future users.

Conclusion

17. For the reasons given, the appeal is dismissed.

M Russell

INSPECTOR