



Appeal Decision

Site visit made on 29 October 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2019

Appeal Ref: APP/P1045/D/19/3234399

**Fountain House, 13 Main Street, Middleton by Wirksworth, Matlock
DE4 4LQ**

- 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 Andrew Street against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00115/FUL, dated 21 January 2019, was refused by notice dated 17 July 2019.
 - The development proposed is formation of parking area, removal of section of boundary wall and erection of retaining wall.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Street against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have substituted the description of development for the detail supplied on the Council's Decision Notice, as it describes the development in a more concise manner than that set out on the planning application form.

Main Issue(s)

4. The main issues in this case are :-
 - The effect of the development on the Middleton by Wirksworth Conservation Area and the Listed Building; and
 - The effect of the development on highway safety.

Reasons

Effect on Conservation Area / Listed Building

5. The appeal site is located to the rear of the existing property on Main Street, close to the junction of two access roads, The Alley and Hillside. From my site visit, it is apparent that parking space in the locality are at a premium. The proposals would see the removal of a section of stone boundary wall, and the reduction in height of two adjacent sections in order to gain visibility onto the access road. The section removed would be replaced by a sliding timber gate.

6. Policy PD1 of the Derbyshire Dales Local Plan (2017) (the LP) states that, amongst other matters, development should contribute positively to an area's character, history and identity, whilst Policy PD2 seeks to protect the historic environment.
7. The Conservation Area is characterised by the predominant use of rubble limestone boundary walls, with limestone and rendered cottages and Staffordshire blue clay tiles roofs. It is a dense area of development, built around the road frontages.
8. The works required to create the parking area would see the removal of a section of stone boundary wall that is curtilage listed with Fountain House, as well as the reduction in height of adjacent sections. I find that this would affect the setting of the Listed property as a whole, as the complete, uninterrupted section of boundary wall adds to the setting of the Listed Building and benefits the character and appearance of the Conservation Area. The removal and reduction of the boundary wall would be detrimental to the character and appearance of the Conservation Area.
9. Paragraph 193 of the National Planning Policy Framework (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 assets conservation.
10. Paragraph 196 of the Framework states that where a development 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. In this instance, whilst the harm to the significance of the Conservation Area would be less than substantial, there are no public benefits that weigh in favour of the development to outweigh that harm.
11. As a result, I find that the appeal proposals would be in conflict with the design and historic environment aims of policies PD1 and PD2 of the LP, in addition to the heritage aims of the Framework.

Highway Safety

12. The reduction in height of the sections of boundary wall has been proposed in an effort to achieve visibility of a level to satisfy the Highway Authority. However, from the evidence in front of me, it appears that the only way that it could meet the requirements of the Highway Authority would be to reduce the height of the entire wall to 1m, which would further compound the harm caused to the setting of the Listed Building and the Conservation Area.
13. Therefore, I find that the proposals would not achieve sufficient visibility splays that could be considered to be acceptable. Vehicle speeds on The Alley would be very low, but given the lack of visibility available, there would be conflict with other road users. From my site visit, it is clear that visibility would be extremely limited, and compounded with the narrow highway, and proximity of the junction with Hillside, I find the proposals would be in conflict with Policy S3 of the LP, which states that, amongst other matters, access should be safe, and the highway network can satisfactorily accommodate traffic generated by the development.

Other Matters

14. I have noted the comments of the appellant in relation to the issue that planning permission is not required due to a planning consent from 1994 being extant. In this case the interpretation of the Council is correct. From the evidence in front of me, the pre-application conditions were never discharged, and the other work in the consent was started. Therefore those works did not constitute a lawful start, and the 1994 planning permission has lapsed. However, given the passage of time, the other works that were carried out are immune from enforcement action. I find that the letter sent out by the Council in 2016 was erroneous.
15. I have taken into consideration the existing situation on The Alley and Hillside in relation to parking, but I have dealt with this appeal on its own merits and identified the harm in the issues above. I have limited detail in relation to any other applications that may have been made.
16. There may be some merit in being able to remove a vehicle from the main highway, but this would not overcome the harm that I have identified. As a result, I cannot attach any significant weight to the argument of the appellant in relation to this matter.

Conclusion

17. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR