
Appeal Decision

Site visit made on 22 October 2019

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal Ref: APP/H3510/D/19/3228283

Amherst House, 14 The Avenue, Newmarket CB8 9AA

- 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 Ms Jane Cecil against the decision of Forest Heath District Council.
 - The application Ref DC/18/2499/HH, dated 13 December 2018, was refused by notice dated 28 February 2019.
 - The development proposed is described as demolish the existing (rendered) front wall and replace with a lower (brick) wall along the front elevation to match neighbouring dwellings and more in keeping with the location.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The plans noted on the decision notice do not correspond with the plans submitted with the appeal. The Council has confirmed that the plans referred to on the decision notice were superseded and therefore these were listed in error; the plans on which the Council made its decision were those submitted with the appeal. For the avoidance of doubt, I have based my decision on the following plans: Location Plan, Block Plan, TMA/807/01 A and TMA/807/03.
3. The amended plans submitted during the application warranted a change of description. As the proposal includes the demolition of the front boundary wall and 2 additional walls, I have based my decision on the following description, which I consider more accurately describes the proposal, thus: creation of new access and replacement of existing front boundary wall, following demolition of existing boundary walls.

Main Issue

4. The main issue is whether the proposal would preserve or enhance the character or appearance of the Newmarket Conservation Area (CA).

Reasons

5. The application site comprises a two-storey detached dwelling with a detached single garage to the side, evidently a later addition. The front garden area is enclosed by a rendered wall with brick pillars and there are 2 pedestrian gates. The parties agree that the rendered wall is not original, and I have no reason to doubt this. The site is located on The Avenue, which forms part of the CA.

6. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of a CA, which is therefore a matter of considerable importance and weight. In addition, paragraph 193 of the National Planning Policy Framework (the Framework) requires decision-makers to give great weight to the conservation of a designated heritage asset, CAs being designated heritage assets.
7. The special character of the CA derives from the overlay of the horse breeding, training and racing activities and the associated Royal patronage, upon a traditional market town and its medieval layout. The Newmarket Conservation Area Appraisal: Consultation Draft, Forest Heath District Council (June 2009) (NCAA), provides a street by street analysis of the CA. In respect of The Avenue, a significant feature is that of houses being set back behind garden walls providing visual enclosure along the back pavement edge. I note that the appeal building is identified as being one of several buildings that positively contribute to the character of the CA, due to a canted bay window and a forecourt fence. I observed during my site visit that the forecourt fence is no longer in situ.
8. The proposal would create a gap in the front boundary wall around 3.7 m wide. Two other walls that currently enclose the front garden would also be removed, ie one that runs diagonally from the front boundary to the garage and one at the other side of the garden which runs from the front boundary wall to the front elevation of the dwelling. As this would result in the front garden no longer being enclosed, an important feature of the street scene would be removed. Furthermore, as this is a feature that positively contributes to the CA, I conclude that the proposed development would not preserve or enhance the character or appearance of the CA but would rather harm both its character and appearance.
9. The appellant has proffered the following considerations and public benefits in support of the proposal. Thus, the walls within the site could be removed under Permitted Development rights (PD). The section of front boundary wall that would be rebuilt, to the same height as the existing, would be built in red brick, which would be more in keeping with the street scene than the existing rendered wall and therefore would provide an enhancement to the CA. The creation of an in-out arrangement for vehicles would allow them to enter and leave the site in a forward gear, which would improve highway safety as cars would not have to reverse onto the busy road.
10. I acknowledge that the internal walls could be removed under PD. I consider that a front boundary wall constructed of brick would be an improvement over the existing material of render. I also acknowledge that not reversing into the road could be an improvement in respect of highway safety. However, I consider that the resultant, relatively wide gap created within the front boundary would alone be harmful to the character and appearance of the CA. As the development is relatively minor in scale, the harm that would be caused to the CA would be less than substantial. In accordance with paragraph 196 of the Framework, less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. I consider that the public benefits, and other considerations outlined above,

neither individually nor collectively overcome the substantive harm to the CA I have identified.

11. The appellant has also drawn my attention to recent developments on The Avenue for vehicle access points, at Nos 16 and 10. I do not have the full details of these developments and cannot therefore be sure of the extent to which the various cases are directly comparable. Notwithstanding this, each case does have to be determined on its own merits. Furthermore, the presence of any insensitive alterations does not justify permitting further erosion of traditional features which positively contribute to the character and appearance of the CA.
12. Bearing in mind the factors outlined above, I conclude that the proposal would not preserve or enhance the character or appearance of the CA. Consequently, the proposal would not accord with policies DM17 and DM2 of the Forest Heath and St Edmundsbury Local Plan: Joint Development Management Policies Document (2015), national policy in the Framework or advice within the NCA. These policies and guidance require, among other things, development to preserve or enhance the character or appearance of CAs. Furthermore, Policy DM17 states that proposals to demolish buildings or structures will only be permitted in very special circumstances. It has not been demonstrated that the proposed development constitutes such special circumstances.

Conclusion

13. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR