
Appeal Decision

Site visit made on 7 November 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal Ref: APP/L2820/W/19/3231203

40 Warkton, Warkton Village, Kettering NN16 9XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Curwen against Kettering Borough Council.
 - The application Ref KET/2018/0511, is dated 10 July 2018.
 - The development proposed is demolition of outbuilding and erection of 1 no. dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of outbuilding and erection of 1 no. dwelling at 40 Warkton, Warkton Village, Kettering NN16 9XF in accordance with the terms of the application, Ref KET/2018/0511, dated 10 July 2018, subject to the attached schedule of conditions.

Procedural Matter

2. I note the site address stated in the appeal form. However, I have used the site address stated in the application form in the interests of certainty.

Main Issue

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Warkton Conservation Area.

Reasons

4. The appeal site lies within Warkton Conservation Area (CA) the significance of which lies in the evidence of an estate village consisting of historic vernacular architecture with original features and detailing. The historic dwellings consist of similar materials such as thatched roofs and stone walls that give the area an attractive character and appearance.
5. The site lies adjacent to Nos 40 and 38 Warkton, two Grade II listed buildings on either side of the site, and opposite to Nos 32 and 31, which are also Grade II listed dwellings. The dwellings are detached thatched buildings with stone walls and original detailing wherein lie their significance. As such, they form a historic and attractive setting for the site.
6. The proposal consists of the demolition of the existing shed and the erection of a three-bedroom dwelling. From the evidence before me, the shed appears in need of some maintenance and is small in scale. Therefore, it does not provide

- a positive contribution to the character and appearance of the area and its demolition would not adversely affect the significance of the CA.
7. The siting of the proposed dwelling was not objected to by the Council's Development Management Planning Committee. Given the prevailing pattern of development of frontage dwellings in the village and the variety of separation distances, the proposal would retain generous spacing between buildings such that the siting of the dwelling would not appear out of place.
 8. The design of the building in terms of form and scale, echoes that of Nos 27, 41 and 42 Warkton which lie a short distance away and the proposal would have similar fenestration size and proportions to other nearby dwellings. The scale including height of the proposal would be similar to the other two storey dwellings in the area such that the proposal would not appear out of keeping in this particular regard.
 9. While thatched roofs are a common feature in the village, slate and clay tiles are also prevalent such that this feature of the design would not be incongruous. The drawings indicate that the dwelling would have cut stone walling. Since the other buildings in the area have limestone walls, the proposal would not be discordant in this particular regard. Moreover, a suitably worded condition could be reasonably imposed to control the proposed materials.
 10. The rear of the proposed dwelling would be set into the ground with a retaining wall that would run across the rear of the proposed parking area. While these features may be unusual in the area, since the proposed materials could be controlled via a condition and the scale of the building would remain in keeping with the other dwellings in the area, the proposal would not adversely affect the character and appearance of the area in this regard.
 11. While the Council has not objected to the effect of the proposal on the setting of the listed buildings, given their proximity to the site, I have a statutory duty to have regard to this matter when determining the appeal. Since the proposal would consist of materials and a form that would echo other properties in the area, it would preserve the setting and significance of these listed buildings.
 12. Consequently, the proposed development would preserve the character or appearance of the Warkton Conservation Area and the setting of nearby listed buildings. Therefore, it would not conflict with Policy 2 of the North Northamptonshire Joint Core Strategy 2011-2031 Adopted July 2016 (CS) which seeks to protect, preserve and where appropriate, enhance the distinctive North Northamptonshire historic environment.
 13. For the same reasons, having had regard to the statutory duty¹ to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, the proposed development would accord with paragraph 193 of the National Planning Policy Framework (Framework), which requires that great weight be afforded to the conservation of designated heritage assets.

¹ S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Other Matters

14. I note local concerns including those relating to privacy and outlook. The proposal would not be directly opposite to Nos 40, 38 and 32 Warkton and would be a significance distance away from these buildings as well as Smithy which lies opposite the site such that it would not unduly affect the outlook from these properties.
15. The side of the proposal facing No 38 Warkton (No 38) would have two small windows that could be obscured by the imposition of a suitably worded condition such that there would not be undue overlooking to No 38. The window on the elevation that would face No 40 Warkton would be at an oblique angle to the windows of this property such that no undue overlooking would occur in this regard as result of the proposal. No 32 Warkton would a significant distance away and not directly opposite such that there would not be undue overlooking to this property as result of the proposal. The Council has not objected on these grounds and from the evidence before me I see no reason to disagree.
16. I also acknowledge comments regarding trees having been removed prior to the application process and concerns regarding structural damage. However, these matters are covered by legislation outside of the planning acts and I have assessed the proposal as presented for appeal against its planning merits- which these matters are extraneous to.
17. I acknowledge concerns regarding highway safety and parking. However, these matters were considered by the Council in its statement and no objections were raised in this regard subject to the imposition of conditions. From the evidence I see no reason to disagree.
18. I acknowledge the evidence relating to Policy RA4 of the Local Plan for Kettering Borough Adopted January 1995 (LP) and the comments of the Inspector for the appeal in Dingley² as well as the Council's position relating to the five year housing land supply. Warkton is a Restraint Village and I note that the proposal would not meet the exceptions stated in the Policy. However, since the LP states that the Council wishes to maintain the character and vitality of the Restraint Villages and given my findings on the effect of the proposed development on the character and appearance of the CA, the proposal would not conflict with the aims of this Policy or the development plan as a whole. Therefore, this point has not altered my overall decision.
19. I also note concerns regarding the service provided by the Council. However, I have assessed the appeal based on its planning merits and this has not altered my overall decision.

Conditions

20. I have considered the conditions suggested by the Council and made minor changes having regard to the tests set out in paragraph 55 of the Framework and the Planning Practice Guidance (PPG). I have amended some of the wording of the conditions in the interests of precision and clarity.
21. In addition to the standard time limit condition, I have included a condition requiring that the development is carried out in accordance with the approved

² Appeal Ref: APP/L2820/W/19/3219920

- plans. This is in the interest of certainty and to safeguard the character and appearance of the area.
22. Conditions relating to the proposed external materials, the hard landscaping and the retaining and boundary walls are also required in the interests of the character and appearance of the area. In order to protect the character and appearance of the CA and the setting of the nearby Grade II listed buildings, I have amended the condition relating to external materials to require samples on site. Given the steep slope across the site, a condition relating to final levels of the land in the gardens is necessary. The condition relating to retaining walls and hard landscaping needs to be pre-commencement as it would affect the early stages of construction.
23. Given the location of the site near a junction and the proximity to nearby dwellings, a condition relating to a Construction Method Statement is necessary in the interests of highway safety and to protect the living conditions of neighbouring occupiers.
24. Since there is potential for remains of archaeological interest to survive on the site, a condition regarding archaeology is necessary. Given the previous use of the existing building on the site, a condition relating to contamination is also necessary.
25. Conditions relating to surface drainage and gates are necessary in the interests of highway safety. Given the emphasis in the Framework towards sustainable drainage systems, I have amended the wording accordingly.
26. Given the disused nature and location of the existing buildings, a condition relating to bats is necessary. A condition relating to lighting is necessary to safeguard the living conditions of neighbouring occupiers as well as the character and appearance of the area. A condition relating to obscured glazing is also necessary to protect the living conditions of neighbouring and future occupiers.
27. In this case, there is exceptional justification for removing specified permitted development rights in order to protect the character and appearance of the CA and the setting of the nearby Grade II listed buildings.
28. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has confirmed that they agree to all of the listed pre-commencement conditions.

Conclusion

29. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1031 P/SP/01/LOC Rev A, 1031 P/SP/00 Rev A, 1031 P/LE/01 GA Rev A, 1031 P/LE/02 GA Rev A, 1031 A/LP/00 GA Rev B, 1031 P/LP/01 GA Rev B.
- 3) No development above ground shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding, brickwork, rainwater goods and window and doors materials) to be used in the development. The development shall be constructed in accordance with the approved samples, which shall not be removed from the site until completion of the development.
- 4) Prior to the commencement of development, details of the final levels of land to the rear and side gardens areas together with any details of any retaining walls and structures (their construction, dimensions and materials) and details of all boundary treatment and shall be submitted to and approved in writing by the local planning authority. The development shall only take place in accordance with the approved details which shall be implemented in full and retained as such thereafter.
- 5) Prior to the commencement of development, details of the hard surfacing for the driveway and parking areas shall be submitted to approved in writing by the local planning authority. The driveway and parking spaces shall be constructed in rolled and bonded gravel or similar. The walls and driveway shall only be constructed in accordance with the approved details and retained as such for parking and manoeuvring purposes only thereafter.
- 6) Prior to commencement of development, including any works of demolition, a Construction Method Statement shall be submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;

- delivery, demolition and construction working hours;
- methodology for excavation/cut into the site ready for construction, shoring up the land as necessary.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No demolition/development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions:
- the programme and methodology of site investigation and recording;
 - the programme for post investigation assessment;
 - the provision to be made for analysis of the site investigation and recording;
 - the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - the provision to be made for archive deposition of the analysis and records of the site investigation;
 - the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 9) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- include a timetable for its implementation; and,
 - provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) Prior to the demolition of the existing building on the site, details shall be submitted to and approved in writing by the local planning authority which verify that the building will be demolished under a Reasonable Avoidance Method Statement (RAMS) under the supervision of a bat licensed ecologist. The demolition shall only be carried out in complete accordance with the approved details.
- 11) No external lighting shall be erected at the property unless a scheme of lighting has first been submitted to and approved in writing by the local planning authority. Any such scheme submitted shall include details of the position, angle, type and lux levels of the lighting and shall demonstrate through submission of a light levels/light spillage plan that the areas around the site shall not be adversely affected by light pollution. The approved lighting shall thereafter be only erected and maintained in complete accordance with the approved details.
- 12) No gates shall be hung across the vehicular access to the site.
- 13) The building/extension hereby permitted shall not be occupied until the windows shown on the south elevation indicated on approved drawing 1031 P/LE/01/GA Rev A have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 14) Notwithstanding the provisions of Article 3 of the Town and Country Planning (general permitted Development) (England) Order 2015 (or and Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration (including windows or other openings) permitted by Classes A, B, C or E of Part 1 of Schedule 2 of the Order shall be erected or constructed on the application site.

END OF SCHEDULE