



Appeal Decision

Site visit made on 26 November 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/P2935/W/19/3237587

Land North of Fernleigh, Butchers Lonnen, Morpeth, Northumberland NE61 1BT

- 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 outline planning permission.
 - The appeal is made by Mr Garry Featherstone against Northumberland County Council.
 - The application Ref 17/01329/OUT, is dated 11 April 2017.
 - The development proposed is outline approval for a single dormer bungalow to include parking and garden areas (all matters reserved).
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Decision

1. The appeal is allowed and outline planning permission granted for a single dormer bungalow to include parking and garden areas with all matters reserved at Land North of Fernleigh, Butchers Lonnen, Morpeth, Northumberland NE61 1BT, in accordance with the terms of application Ref: 17/01329/OUT, dated 11 April 2017, and subject to the conditions set out in the schedule attached to this Decision.

Application for costs

2. An application for costs was made by Mr Garry Featherstone against Northumberland County Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council did not issue a decision within the prescribed period and the appellant exercised his right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's statement argues that insufficient information was submitted with the proposal to provide an appropriate assessment of its impact on heritage assets in the area and to indicate that the proposed dwelling is necessary. The Council's submitted reason for refusal relates to this lack of information which is contrary to the National Planning Policy Framework (the Framework) and states that the proposal fails to preserve or enhance the setting of a Grade II Listed Building ('Lansdowne House') and the Morpeth Conservation Area (CA), resulting in less than substantial harm. As such, the proposal is contrary to the objectives of Paragraph 196 of the Framework. I have determined this appeal proposal on that basis.
4. The Council's Statement refers to the original application as 17/01390/OUT but the Council's Questionnaire, the Appeal Form and the appellant's Statement all state the application Ref: 17/01329/OUT. From what I have seen and read, I find the latter application to be that which is the subject of this appeal and I have determined this appeal accordingly.

5. The application sought outline planning permission. However, the applicant indicated on the application form that approval was also sought for all reserved matters. Notwithstanding this, given the evidence before me and noting the appellants' willingness to accept planning conditions relating to reserved matters (access, landscaping, layout, scale and appearance) were the appeal to be allowed, I have assessed and determined the proposal based on outline permission with all matters reserved being sought. Therefore, I have considered all submitted plans and drawings relating to the above matters as illustrative and indicative.
6. Paragraph 2.2 of the Council's Statement refers to the emerging *Northumberland Local Plan*. I note that Plan was submitted for Examination on 29 May 2019 and that this is ongoing. The appellant refers to policies within that Plan (and other documents) in support of their case. However, whilst I have had regard to all local policies identified, including those in the Morpeth Neighbourhood Plan 2011-2031 (the MNP), given the status of the emerging policies, I give limited weight to them in this appeal. Notwithstanding this, the Council's submitted reason for refusal refers only to the Framework. As such, I have assessed the proposal principally against the Framework, as set out by the Council and on the basis of the evidence submitted, including other policies, as material considerations.

Main Issue

7. The main issue is whether the proposed development would preserve or enhance the setting and significance of the Morpeth Conservation Area, the Grade II Listed 'Lansdowne House' and other nearby heritage assets.

Reasons

8. The proposal dwelling would be located near to, although not within, the Morpeth Conservation Area (CA) and close to, and within the setting of, a number of listed buildings. As such, in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have a statutory duty to pay special attention to preserving or enhancing the character or appearance of the CA and preserving the setting of the listed buildings as heritage assets. In assessing the proposal, I have had particular regard to the appellant's Heritage Statement and the comments of the Council's Building Conservation Team.
9. The proposed site lies to the south west of 'Kirkville', a Grade II Listed Building on Cottingwood Lane. It is also close to other Grade II listed buildings such as 'Bon Accord House' and 'Dunedin'. Furthermore, the Council argues that the proposal would have a particular impact on the setting of the Grade II Listed 'Lansdowne House' and the CA which are also nearby.
10. The proposal relates to a rectangular area of redundant and overgrown land which is surrounded by residential buildings. It is contained by a brick built burgage plot wall and fencing and accommodates small trees and hedges. There is a small wooden fence dividing the plot from the rear garden of 90 Newgate Street ('Lansdowne House'). Access to the site is gained by an opening of approximately 3 metres directly from Butchers Lonnen, a relatively narrow lane leading from Cottingwood Lane. I am led to understand that the site was previously used as a private garden in relation to 'Lansdowne House'. However, it is now physically separated from that property and is overgrown and underused.
11. From the submitted evidence and my observations during my visit, I have had special regard to the effect of the proposal on the nearby heritage assets. As a result, I find the visual and physical impact of the proposal in relation to the CA and the listed buildings, their setting and significance would be limited. In my assessment the proposed dwelling would not, in principle, be materially harmful to

the character or appearance of the surrounding area nor would it have a detrimental impact on the prevailing pattern of development in this locality.

12. The Council argues that an outline application is an inappropriate means by which to properly assess the potential for development on the site and in order to fully consider the impact of development on the historic built environment, more detail is required. It is stated that the proposal would infill a surviving medieval burgage plot defined by a substantial and continuous stretch of masonry wall. The Council also argues that this is a rarity and the proposal would erode the special interest of the CA and how it and its setting is interpreted. Furthermore, any harm to the significance of heritage assets, whether designated or non-designated, should be considered in the context of the weight to be given to such assets in the Act. As such, any public benefit of the proposal put forward would not justify or outweigh the harm identified.
13. Notwithstanding this, in my assessment, the appellant's Heritage Statement and its addendum sets out sufficient reasoning and justification to support the appellant's outline application for the proposal. It is noted that the Council considers the site to be a redundant plot of land and recognises it as a former garden. Moreover, the Council supports the principle of residential development on the site. I appreciate the Council's points regarding the rarity and historic significance and value of the burgage plot. Nonetheless, I find that the proposed dwelling would not result in the removal of its significance or its significant defining feature, that being the continuous masonry wall along the north and east boundary of the site.
14. The proposal would infill the plot. However, in my view, it would not erode the historic linear pattern of development defined by its historic burgage plot boundary treatment. The wall would remain visible and would be able to be read from land to the north of it. As such, the proposal would not significantly diminish its historic context and value or the setting of nearby heritage assets.
15. Although close to several listed buildings and the CA, the proposed dwelling would appear separate from these assets. The character of the local area appears to have changed substantially in recent times, not least by the development of new dwellings to the north east of the site. Therefore, the context for the proposed site has evolved. The site appears visually and physically separate from 'Lansdowne House' and the other nearby listed buildings. The proposed dwelling would be outside the CA boundary and this is confirmed by the Council. In my view, it would have limited visibility from or to the CA due to the position of the site, the scale of existing properties to the south and the separation distance from the CA to the west. As such, I the secluded position of the proposal and its context would lead to no substantive impact on the significance and setting of the CA.
16. Having carefully considered all relevant issues and evidence regarding this matter, I find that the potential for substantive harm to the identified heritage assets resulting from the proposal is reduced and would be very limited. Furthermore, the harm to the character, appearance, significance and setting of the CA and that of the other heritage assets, including 'Lansdowne House', would be less than substantial. Moreover, I consider that any limited cumulative harm resulting from the proposal could be satisfactorily dealt with by suitably worded planning conditions and further detailed submissions at reserved matters stage.

The Planning Balance

17. The proposed dwelling would increase the built form in the immediate area and would be constructed within part of an historic burgage plot which reflects the historic pattern of development in the locality. However, whilst the historic nature

and context of the proposed site is acknowledged, the character and appearance of the surrounding area has changed significantly. The proposal would be outside of the CA and, from what I have seen, would not be visible to or from the CA. Similarly, its relationship to the listed buildings in the area would be diminished due to surrounding properties and new development adjacent to the site. As a result, the amount of visual and physical harm to these heritage assets arising from the proposal would be limited.

18. The principle of residential development is accepted by the Council. Although only in outline, I find that the proposal would provide a family dwelling in a location close to local services and amenities which, in my assessment, would result in no substantive harm to the qualities of its surroundings. It would also bring an area of overgrown redundant land back into use. Moreover, I note that the proposal would be in accordance Policy Her1 of the MNP. Therefore, I find that the significant public benefits of the proposal, including achieving the optimum viable use for the site, would outweigh the limited cumulative harm to heritage assets that has been identified.
19. Consequently, I conclude that the proposed development would have no significant adverse impact on, and would preserve the setting and significance of, the Morpeth Conservation Area, nearby listed buildings, including the Grade II Listed 'Lansdowne House' and other heritage assets. As such, it would comply with Paragraph 196 of the Framework which seeks to ensure that any harm to heritage assets from development is weighed against the public benefits of the proposal, including securing its optimum viable use.

Other Matters

20. Concerns have been raised regarding access to the site and a potential increase of traffic congestion, the privacy of future and neighbouring occupiers and surface water drainage at the site which are not addressed within the main issue. I have also had regard to other appeal decisions and planning applications which have been referenced by various interested parties.
21. It is important to emphasise that the proposed development has sought outline planning permission. As such, the reserved matters stage will suitably and appropriately consider and deal more fully with matters and concerns relating to access, layout, scale, appearance and landscaping issues. Concerns relating to privacy for future and neighbouring occupiers will also be considered at that stage with conditions imposed if necessary. Notwithstanding the above, I note that no objection has been made by the highway authority with regard to access and traffic matters at this stage and there is nothing substantive before me to indicate that I should differ from that view. Matters relating to surface water drainage can be suitably dealt with by conditions.
22. In terms of other appeals and planning decisions, I have had regard to these as material considerations and given due weight to them in determining this appeal. Notwithstanding this, I must and have assessed the proposal before me on its own merits and circumstances and reached my decision accordingly.

Conditions

23. I have had regard to the conditions suggested by both parties. Where necessary, and in the interests of conciseness and enforceability, I have altered the conditions to better reflect the relevant advice within the Planning Practice Guidance.
24. In addition to the standard conditions relating to reserved matters, timing and accordance with the approved plans, I have imposed conditions relating to external

materials, the submission, approval and compliance with a sustainable surface water drainage scheme and restrictions to the hours of operation at the development site. These conditions are necessary and reasonable for reasons of character and appearance and in the interests of the residential amenity.

25. It is necessary that the requirements of Conditions 5 and 6 are agreed prior to the commencement of the development hereby permitted in order to ensure an acceptable development which provides appropriate, effective and sustainable surface water drainage.

Conclusion

26. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale hereinafter called "the reserved matters" shall be submitted to, and approved in writing by, the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Location Plan'
- 5) Prior to the commencement of the development hereby permitted, details of the materials (including roofing, walls, windows and doors) shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of the development hereby permitted, a scheme for the disposal of surface water from the development, which shall use sustainable drainage techniques wherever possible, shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to the occupation of the development hereby permitted, details of surface water drainage to manage runoff from private land shall be submitted to, and approved in writing by, the local planning authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the development is occupied and thereafter maintained in accordance with the approved details.
- 8) Demolition or construction works relating to the development hereby permitted shall take place only between 08:00 hours and 18:00 hours Monday to Friday and 08:00 hours and 13:00 hours on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE