



Appeal Decision

Site visit made on 26 November 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/W3005/W/19/3236717

24 Ogle Street, Hucknall NG15 7FR

- 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 Richard Swanson against the decision of Ashfield District Council.
 - The application Ref V/2019/0020, dated 18 December 2018, was refused by notice dated 8 March 2019.
 - The development proposed is convert the existing building into two residential units. The proposal will entail: one unit as a three-bedroom terraced house and the other as a three-bedroom semi-detached house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has confirmed that following its decision on the planning application, the Hucknall Conservation Area (CA) became designated on the 20 March 2019. The Council's appeal statement raises concern as to the visual impact of the proposal on the special character of the CA and the host building, which is a locally listed non-designated heritage asset. The appellant has seen the Council's statement and has set out their response in respect of the visual impact of the proposal and the relationship with the existing building in their final comments. In the circumstances I am elevating this matter to a main issue.
3. With regards to the first main issue, the Council has not provided any development plan policies relevant to this issue. However, I have a statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. For the purposes of meeting my statutory duty, I have assessed the proposal against the relevant parts of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the CA; and
 - the living conditions of occupants of the neighbouring properties at No 26 Ogle Street and Nos 11 and 13 Annesley Road with particular regard to privacy.

Reasons

Character and appearance of the CA

5. No 24 Ogle Street is an attractive non-designated heritage asset situated within the CA. The quality of the building lies in its substantial scale and traditional design features, including its red brick façade, hipped roof arrangement and window and door fenestration which combine to give the building a symmetrical quality when viewed from the street. The design quality of the building makes a positive contribution to the CA which, on Ogle Street, is characterised by buildings of mainly traditional design, layout and materials. The Grade II Listed St Mary Magdalene's Church and its associated grounds are situated opposite the appeal site.
6. The proposal includes provision of a balcony on the side elevation of the building. Given the scale of the proposed balcony and the degree of separation from St Mary Magdalene's Church, the significance of the listed building would be preserved. I acknowledge that the composition of the balcony would largely comprise of glass panels and it would be set well back from the front elevation of the building. However, due to the elevated position the contemporary design of the balcony would be visible from the public realm on Ogle Street and from neighbouring properties within the CA. It would appear as an alien addition, out of character with the traditional design of the building and would fail to preserve or enhance the character and appearance of the CA.
7. Taking into account the limited scale and relatively discreet position of the balcony it would result in less than substantial harm to the character and appearance of the CA. Paragraph 196 of the Framework states that where a development proposal will 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 including, where appropriate, securing its optimum viable use.
8. The proposal would provide an outdoor space of limited proportions for occupants of the proposed terrace house although this would be a private benefit. There would be some moderate public benefit through the refurbishment of the non-designated heritage asset and the provision of the residential units would make a modest contribution towards the Council's housing requirements. There would also be a limited social and economic benefit through the development of the site and the expenditure of future occupants using local services and facilities. However, I must pay special attention to the desirability of preserving the setting of the CA. I find therefore that the moderate, modest and limited public benefits identified do not outweigh the less than substantial harm that would result from the proposal.
9. For the foregoing reasons, the proposal would not preserve or enhance the setting of the CA or the character and appearance of the host building. Consequently, in that regard, the development would be contrary to the requirements of the Framework.

Living conditions for neighbouring occupants

10. The proposed balcony would sit in close proximity to the boundary with No 26 Ogle Street and Nos 11 and 13 Annesley Road. During my site visit, I was provided with access to an existing obscure glazed window which is

positioned at the approximate height that the proposed balcony would be provided. I was able to obtain views into the rear private amenity space serving these neighbours. I have taken into account the fact that the balcony would not project past the existing walls that sit closest to the boundary and the intervening vegetation and outbuildings that serve these neighbouring properties. Even so, the close proximity of the balcony to these private spaces would be imposing and the views that could be obtained would result in material harm to the privacy of neighbouring occupiers.

11. My attention has been drawn to the fact that views from the upper floor windows of dwellings on Ogle Street and Annesley Road already overlook neighbouring properties. However, there is a greater degree of separation between existing neighbouring windows and the extent to which neighbouring external space can be appreciated. The elevated height, ability to sit out on the balcony and its close position to the side boundary of neighbouring properties means that the potential for an overlooking impact is greater than currently exists between properties. The degree to which the potential for overlooking would be limited by the likely number of occupiers in the proposed terraced house and any influence that weather and hours of daylight might have in reducing the use of the balcony would not diminish the harm to neighbouring privacy that would occur when the balcony was in use.
12. The appellant suggests that Nos 11 and 13 Annesley Road are occupied by a care home. Nevertheless, even for a communal residential use, there is still a expectation that a degree of privacy should be provided to external areas. Furthermore, this does not overcome the effect on the living conditions of occupants of the dwelling at No 26 Ogle Street.
13. My attention has been drawn to a High Court Judgement¹ as well as balconies at St Marys View, which neighbours the site, and to a new development at the opposite end of Ogle Street. However, from the limited information before me and what I observed on site, I am not persuaded that these examples justify the unacceptable effect on neighbouring living conditions that would result from the specific relationship of the proposal to neighbouring private external areas.
14. To conclude and for the reasons given the development would result in harm to the living conditions of occupants of neighbouring properties at No 26 Ogle Street and Nos 11 and 13 Annesley Road. Consequently, in that regard, the development would be contrary to Saved Policy ST1 (Development) and HG5 (New Residential Development) of the Ashfield Local Plan Review 2002. The proposal also conflicts with Paragraph 127 of the Framework which amongst other things which requires that development provides a high standard of amenity for existing and future users.
15. The Council's decision also refers to the Supplementary Planning Document: Residential Design Guide 2014. I have not been provided with a copy of this document. Nevertheless, the conflict with the development plan is the predominant and overriding issue in this instance.

¹ Fearn and Others v The Board of Trustees of the Tate Gallery [2019] EWHC 246 (Ch) (12 February 2019)

Other Matters

16. A lack of objections from neighbouring occupiers does not override the need to assess the potential effect of the proposal against the relevant development plan policies. The fact that the Council has not raised concerns as to the acceptability of the principle of development nor any other related planning matters does not overcome the identified harm that would result from the balcony.

Conclusion

17. For the reasons set out, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR