



Appeal Decision

Site visit made on 9 June 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2020

Appeal Ref: APP/F2415/W/19/3242993

6 Leticia Avenue, Scraftoft LE7 9SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Stewart against the decision of Harborough District Council.
 - The application 19/00591/FUL, dated 10 April 2019 was refused by notice dated 11 June 2019.
 - The development proposed is described as change in use of land from a public open space to a private garden.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character and appearance of the Scraftoft Conservation Area (CA).

Reasons

3. The appeal site is within a landscape strip (LS), which is part of an area of public open space (POS) adjacent to the end of rear gardens of houses on the eastern side of Leticia Avenue. The site and wider LS are covered by substantial, mainly broadleaf trees which are protected by a Tree Preservation Order (TPO)¹. The topography of the LS is somewhat obscured by vegetation. Nevertheless, from what I saw during my site visit, it appears to comprise a slope, covered by trees and the understorey of plants beneath them, which runs down from the pavement towards the rear fences of dwellings. The site is located within the CA.
4. The CA covers an area focused around Scraftoft village, broadly from Main Street and Beeby Road to the north, to Scraftoft Lane and Covert Lane to the south. A Conservation Area Appraisal has not been provided. However, from what I have observed and read, the CA's significance lies in the relationship between the former agricultural village core, the historic Scraftoft Hall and All Saints Church and the green framework of various types of open spaces which knit the older and more modern areas together. Moreover, the setting of the CA includes areas of fields to the south, west and north.

¹ Ref: TPO 239 (2019).

5. The appeal site contributes positively to the significance of the CA as part of a tree covered LS, which acts as a green buffer between the rear garden boundaries and the curving entrance stretch of Facers Lane.
6. The evidence before me indicates that POS, including the LS, was covered by a Section 106 agreement (S106) in 2005. Amongst other things, the S106 document presented includes provision for the following: an Open Space Scheme to be submitted to and approved by the Council; the POS to be offered to be transferred to the Council; and payment of a sum to the Council for maintenance of the POS. For reasons which are not entirely clearly set out, it appears that the LS was not included in the transfer of POS to the Council, and the appeal site and parts of the LS to the rear of two neighbouring properties have instead been transferred to residents.
7. Notwithstanding the above, the following combination of factors indicate that the LS, including the substantial trees within it, is significant to the character of the CA and is an important part of the design rationale for the housing estate around Scraftoft Hall. The Council's evidence indicates that trees on the present housing estate, including within the LS, are a surviving part of the historic parkland landscape around Scraftoft Hall. The Council's Neighbourhood and Green Spaces Officer confirms that mature trees were identified for retention as part of the development, due to their high amenity value and contribution to the POS. The TPO designation further corroborates the amenity value of tree cover within the LS. It is not disputed that the LS was included in an approved landscape scheme for the POS.
8. From what I have read and seen during my site visit, substantial trees - including some associated with the historic parkland landscape around Scraftoft Hall - in unfenced public open spaces are a key characteristic of the 'green framework' of the housing estate around the Hall. The trees on the site and the wider LS together constitute an important local landscape element, visible above, between and from dwellings, noticeable from various viewpoints around the estate. The site is also part of the verdant vista looking south down Facers Lane to the countryside beyond Covert Lane.
9. Given the sloping topography and vegetation beneath the trees, the site is not obviously accessible to the public. Nevertheless, there are other areas of green space and public rights of way network in the vicinity, which provide opportunity for public exercise. The above does not diminish the visual and bioclimatic contribution of the LS to the sylvan and verdant dimension of the CA, which provides relief from built-up elements and helps to integrate the older and newer development. I note the appellant's view that the LS is an unattractive 'wasteland which serves no useful purpose'. However, for the reasons outlined above I consider that the LS - of which the appeal site is an integral part - contributes positively to the character and appearance of the CA.
10. The appellant considers that the proposal would improve the appearance of the site through allowing them to take control over and tidy the site. I note the appellant's account of a Council planning enforcement investigation into the condition of the LS in 2018, which, according to the appellant, was not 'bad enough for the Council to pursue'. Nonetheless, there is not substantive evidence before me of a significant past or current littering or flytipping problem with the LS. Nor is a substantive landscape management evaluation

presented to show that the appeal site could not be managed effectively other than through the proposed incorporation into a private garden.

11. The proposal is likely to invite the following: fencing off of the appeal site adjacent to the pavement and road, which would appear as a visually harsh element at a prominent entrance to Facers Lane, and jar with the unenclosed, verdant character of the estate's green framework and the vista to the countryside; and domestic paraphernalia and garden landscaping in the vicinity of the trees which would place a pressure for disfiguring pruning, root damage and possibly tree removal due to branch drop and shading.
12. I note that, according to the appellant, two neighbouring residents are in the process of submitting a planning application to fence off parts of the LS behind their properties. Be that as it may, the LS is currently unfenced, and taking the above together, I find that, on balance, the proposal would be of significant detriment to the character and appearance of the LS.
13. The effect would be localised and therefore constitute less than substantial harm to the significance of the CA as a whole. In such circumstances I necessarily weigh the harm against the public benefits of the proposal.
14. With regard to the above, the proposal would provide the appellant with a greater sense of control over the appeal site, which they wish to enclose with fencing, which would prevent public access. The appellant considers that the site is unsafe for public use due to its slope, and impractical to manage, and so enclosing it would improve public safety. However, the LS appears to be well established and there is not substantive evidence before me of a track record of public safety issues arising within it, since the housing estate was developed. Nor is a substantive landscape management appraisal provided to show that the site could not be managed safely other than through the proposal. Whilst the proposal would provide the property with a larger back garden, this would be a private benefit. The above together leads me to find that it is not decisively shown that the proposal would provide significant public benefit.
15. Consequently, the public benefits do not outweigh the great weight given to the conservation of the CA and the less than substantial harm to its significance which I have identified.
16. To conclude, the proposed development would fail to preserve or enhance the character and appearance of the CA. As such, it would conflict with Policies GD8 and HC1 of the LP. Together, the policies seek to ensure that development is of appropriate design and appearance to preserve or enhance the historic environment. The policies are broadly consistent with the approach of the National Planning Policy Framework in respect of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR