



Appeal Decision

by **M L Milliken BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **21 July 2020**

Appeal Ref: APP/G2435/D/20/3244784

The Cedar, 36 High Street, Castle Donington DE74 2PP

- 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 Adams against the decision of North West Leicestershire District Council.
 - The application Ref 18/01919/FUL dated 05 October 2018, was refused by notice dated 14 November 2019.
 - The development proposed is erection of a garden room/summer house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In response to travel restrictions currently in place due to the COVID-19 pandemic, I consider that this appeal can be determined without the need for a physical site visit. This is because, having reviewed details of the extensive evidence previously submitted, I find that I am able to undertake an appropriate assessment and to reach a conclusion based on the information already available to me. Having sought the views of interested parties, no formal objection has been received and I am therefore determining the appeal on that basis.
3. From the evidence before me, I am satisfied that the Council considered the proposal on the basis of the plans submitted with the planning application. It is also clear that the proposed development has already been erected, and there is nothing before me to suggest that the building, as constructed, is not in accordance with the plans as submitted. Notwithstanding this, for the purposes of this appeal I am basing my decision on the submitted drawings.
4. Although the wording of the decision notice is somewhat unclear, it is apparent from the case officer's report and other documentation before me, including the reference in the decision notice to section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, that the reason for refusal relates specifically to the effect of the proposed materials of the building on the settings of the host property and of No. 34 High Street, both of which are Grade II listed buildings.

Application for costs

5. An application for costs was made by Mr Adams against North West Leicestershire Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue is the effect of the proposed development on the special architectural and historic interest of the host building and of No. 34 High Street, with particular regard to their settings.

Reasons

7. The appeal site is located within the Castle Donington Conservation Area (the CA), along the main route through the town. The proposed development would be situated in the grounds of the host property, a Grade II listed building. The Council has provided me with a copy of the Listing Description. The building is described as '*House. Circa 1830, altered, with slight traces of earlier building*'. It would appear that the significance of the asset relates to, in part, its form, the use of classical architectural design details and materials, including the use of whitewash roughcast and decorative render. The building is set within a spacious garden, which serves to enhance its setting. An adjacent property, No. 34 High Street, is also a Grade II Listed Building however I have not been provided with the Listing Description for that particular property.
8. The proposed development would be a large detached building, constructed of white painted timber with a blue shingle roof. These materials, by reason of their form, contrast markedly with the host property. Although it would be physically separated from the host building but still within the grounds, the proposed materials would not be historically consistent with those of the host property. The combination of proximity and materials, in the context of the listed building, would result in the proposed development appearing discordant and would ultimately serve to undermine the historic and architectural significance of the host property, which has been largely retained with limited external modifications. As the proposed development would have little direct relationship to the host property, it would appear incongruous in the context of the listed building and its setting.
9. The appellant asserts that the setting of the host building has been excessively altered over time. Whilst this is noted, the proposed development would ultimately sit within the immediate setting of the listed building and would be constructed of unsympathetic, inappropriate materials. Although the proposed building would have no direct public exposure, the scale of the building would exacerbate the impact of the materials, relative to the host building.
10. The appellant has drawn my attention to the use of high quality materials and asserts that the location and style of the proposed development would reflect its status as an ancillary garden building, which would therefore be sympathetic to the host property. It is considered that these factors do not outweigh the harm arising from the materials as already set out.
11. I note that there is clear dispute between the parties regarding which is the principal elevation of the host property. Whilst the appellant asserts that the rear of the host building is a former service area and therefore not an aspect of the setting to be appreciated, the proposal would consist of a large, freestanding structure of incongruous materials, set within the grounds. The entirety of the grounds are integral to the listed building and contribute to its setting and are therefore assessed accordingly.

12. Vegetation is present on the site, including a number of mature and protected trees. Whilst the existing vegetation present would provide an element of screening, this would not outweigh the harm I have identified in relation to the host building and its garden setting. I have considered the possibility of requiring additional planting through the use of a planning condition however this does not alter my overall conclusions on this matter.
13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Whilst the proposed development would not be clearly visible from the main road, it would be located within the CA. The Council have not cited the CA in the decision notice and, following assessment, I also find that there would be no harm in that regard.
14. With regards to No. 34 High Street, it is clear from the evidence before me that it is not part of the garden of the host property and the effect of the proposal would be lessened by the fact that its principal elevation faces the main road, together with the distance between the existing property and the proposed development and the presence of existing vegetation. As a consequence, I consider that the proposed development would have no adverse effect on the setting of No. 34 High Street.
15. Overall, I consider that the proposed development would result in less than substantial harm to the significance of the setting of No. 36 High Street, a listed building, and thereby the significance of the designated heritage asset.
16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
17. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 196 of the Framework confirms that where a development proposal would 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 securing its optimal viable use.
18. The appellant asserts that the proposed development will help to maintain the optimum viable use of the host building as a residential dwelling. Notwithstanding this, I consider that the proposed development is not pivotal to ensuring the longevity of the host property. The appellant also asserts that the proposed development reduces the risk of extending the host property, however as any such extension if proposed would be the subject of a separate planning application and listed building consent as appropriate, and this does not add significant weight to the argument in favour of the appeal.

19. The potential for improved maintenance of the grounds is noted, however I am not satisfied that the appellant would not seek to maintain the grounds in any event. Claims relating to the benefit of the proposed development enhancing local character and being easily distinguishable from the main building are not accepted, for reasons already set out. Whilst I acknowledge that the proposed development signifies investment into the appeal site, for the reasons given the proposed development would not be appropriate and would result in harm to the setting of the host property. Improvements and repairs already carried out to the host property by the appellant do not justify the harm I have identified.
20. The appellant asserts that an additional benefit of the proposed development would be its temporary nature. There is however no evidence before me to suggest that the proposed development would be a temporary structure, and if so, for what time period. The proposed development would be constructed of robust materials that, if well-maintained, could potentially last a significant number of years.
21. Although I have had regard to all the potential benefits put forward by the appellant, I do not consider that, in overall terms, the public benefits proposed outweigh the scale of the harm to the Grade II Listed host property that I have identified.

Other matters

22. The appellant has drawn my attention to other examples of timber buildings in nearby gardens, including car ports and sheds. Although there are some similarities with regards to the materials used, the examples are not directly comparable with regards to their form, scale and immediate locations. In any event, I have considered the proposal before me on its own particular merits and I therefore attribute limited weight to the examples provided.
23. The appellant asserts that the proposed development was completed during determination of the planning application, as it was expected that the development would gain permission. Whilst I understand the appellant's frustrations in this regard, this is not a matter relevant to the planning merits of the development.
24. Whilst I have had regard to comments regarding the assertion that trees have already been removed to accommodate the proposed development, there is no evidence before me to confirm whether this has occurred and, if so, which specific trees were impacted upon. Based on the evidence before me, including a tree plan and schedule, no protected trees would be impacted upon as a result of the proposed development.

Conclusion

25. The statutory duty in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposed development would fail to preserve the setting of the Grade II Listed host property and would therefore have an adverse effect on the significance of a designated heritage asset. The harm I have identified would not be outweighed by any public benefits.
26. As the proposed development would have an adverse effect upon the special architectural and historic interest of the Grade II Listed host building, it would be contrary to adopted Policy He1 of the North West Leicestershire Local Plan

(November 2017) which states, amongst other things, that development should conserve or enhance the significance of heritage assets within the district and their setting, retain features and spaces which form part of the significance of the heritage asset and its setting, and contribute to the local distinctiveness, built form and scale of heritage assets through the use of appropriate design, materials and workmanship.

27. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

ML Milliken

INSPECTOR