



Appeal Decision

Site Visit made on 18 December 2020

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/W4515/D/20/3257322

Garden Cottage, Rear of South View, Front Street, Benton, Newcastle upon Tyne, NE7 7XE

- 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 P Younas against the decision of North Tyneside Council.
 - The application Ref 20/00596/FULH, dated 11 May 2020, was refused by notice dated 6 July 2020.
 - The development proposed is new detached double garage to rear.
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Decision

1. The appeal is allowed and planning permission is granted for new detached double garage to rear at Garden Cottage, Rear of South View, Front Street, Benton, Newcastle upon Tyne, NE7 7XE in accordance with the terms of the application, Ref 20/00596/FULH, dated 11 May 2020, subject to the conditions contained in the schedule attached to this decision.

Preliminary Matter

2. The Council's second reason for refusal relates to insufficient information being submitted to demonstrate that the proposed development would not result in a significant impact to existing trees within the site. The appellant has submitted with the appeal an Arboricultural Implication Assessment (AIA) (Andrew Hampton – July 2020). In their consideration of the AIA, the Council have commented that they consider this has overcome the second reason for refusal subject to conditions. I have no reason to form a different view and accordingly will determine the appeal on the basis of the remaining reason for refusal.

Main Issue

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

Reasons

4. The appeal site comprises a detached dwelling that is situated behind a row of terraced houses known as South View. There is a railway line to the north of the property with an intervening tree belt. To the west is the car park of a public house and a four-storey office building. There are several mature trees within the property which are largely confined to the boundary. The appeal site is located within the Longbenton Conservation Area that is characterised by its historic evolution around Front Street, predominantly comprising various styles of residential and commercial properties.

5. The development subject to the appeal would be situated within the garden of the dwelling which, for the most part, is situated at a lower level than the host dwelling. Due to the difference in levels, to allow for a level access from the elevated section of the property, the garage incorporates a void at the lower level. The result would create a structure somewhat larger than a standard garage construction on a level site. Due to its siting, the garage would not be readily visible from any public vantage points, with the retained mature trees within the site and those outside the site providing further screening. It would also not dominate the host property which sits at a higher level, nor would it appear as an incongruous feature in the street-scene.
6. The Council refer to the erosion of the green space, openness and separateness on the edge of the CA. The proposal would develop a relatively small proportion of the garden area and would retain a gap of 9.9m with the northern boundary of the property. It would not extend further northwards than the significantly more imposing office block to the west. From the evidence before me, and my observations on my site visit, I am not persuaded that the role of the garden in terms of openness and separateness is a hugely positive feature of the CA, particularly in the context of the siting and size of the proposed development which would represent a small incursion into the area.
7. I therefore conclude that the development would not cause harm and thereby preserve the character and appearance of the CA. It would comply with Policies S1.4, DM6.1, DM6.2 and DM6.6 of the North Tyneside Local Plan (2017). Collectively, these policies seek to ensure good quality design and resist development that would have a detrimental impact on heritage assets and their significance.
8. The proposal would also comply with guidance contained in the Design Quality Supplementary Planning Document (2018) that also seeks to ensure good design including in relation to residential development and developments within areas of historic significance.
9. The proposal would comply with the National Planning Policy Framework requirement that development within CA's either preserves or enhances the significance of the asset.

Other Matters

10. The Council have referred to the planning history in relation to the site and its evolution from forming a garage for No. 5 South View. I do not have full details of the previous applications and I have in any event determined the proposal on its own individual planning merits.
11. I note objection received to the proposal from the adjacent public house. Reference is made to the implications of the construction phase and vehicles. Such matters are not pertinent to the main issue and there is no substantive evidence that such matters would cause unacceptable levels of harm to living conditions, highway safety or other issues of acknowledged importance. On the matter of the public house refusing to allow access for construction to be undertaken, this would be a matter between the affected parties, and I am not persuaded that the development should be prevented on this basis.

Conditions

12. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
13. The Council has suggested several conditions which I have considered against advice in the National Planning Policy Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
14. It is necessary to impose a planning condition requiring the use of materials to match the host dwelling. The reason for this condition, is in the interests of amenity and the character and appearance of the CA.
15. Conditions requiring that no trees are removed, that existing trees and their rooting zones are protected, and details of pruning, are necessary in order to protect landscape features that are to be retained, in the interests of the character and appearance of the CA. It is necessary that the Arboricultural Method Statement (AMS) incorporating a Tree Protection Plan (TPP) is submitted, approved and protective measures installed prior to commencement of development to ensure the protection of landscape features for the duration of the construction phase.
16. Save for the requirement to protect trees to be retained, I am not presented with substantive evidence why it is necessary that a development of this scale would require the submission of a Construction Method Statement as suggested by the Council.
17. I note the conditions recommended by the Council's Highway Engineer. Although only an abbreviated summary of the conditions is provided, these relate to vehicle parking, garaging before occupation and refuse storage detail provided before occupation. As the development relates to a structure that would be associated with an existing dwelling it is not necessary to impose the conditions as suggested to make the development acceptable in planning terms.

Conclusion

18. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should succeed.

A M Nilsson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site and Roof Plan, Drawing Number 20.25.01, Proposed Plans, Drawing Number 20.25.02.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted, in particular the stonework and roof tiles, shall match those used in the existing building.
- 4) No trees, shrubs or hedges within the site which are shown as being retained on the submitted plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed during the development phase other than in accordance with the approved plans or without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within three years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.
- 5) Prior to any ground being broken on site and in connection with the development hereby approved (including, tree works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery), detailed design and construction method statement of any works within the root protection area (as defined by BS5837:2012), a detailed Arboricultural Method Statement (AMS) incorporating a Tree Protection Plan (TPP) in accordance with BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations' is to be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved tree protection scheme and Arboricultural Method Statement. Tree protection measures shall be installed in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site
- 6) All works within the RPA of the retained trees that include (but not limited to) any excavation of soils, construction, lighting and drainage, are to be carried out in complete accordance with the AIA, Arboricultural Method Statement, BS 5837:2012 and the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees'. Cabins, storage of plant and materials, parking are not to be located within the RPA of the retained trees as defined by the Tree Protection Plan and maintained for the duration of the works.
- 7) All pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998: 2010 - Recommendations for Tree Works, details of which are to be submitted for approval.