



Appeal Decision

Site visit made on 22 September 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2021

Appeal Ref: APP/X2410/W/20/3254081

Land rear of 67 Main Street, Queniborough LE7 3DB

- 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 Terry Kee against the decision of Charnwood Borough Council.
 - The application Ref: P/19/1367/2, dated 24 June 2019, was refused by notice dated 17 December 2019.
 - The development proposed is described as: Erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Planning permission was refused for four reasons relating to the effect on the setting of nearby listed buildings, the effect on the Queniborough Conservation Area, inadequate information in respect of the effect on biodiversity and protected species, and inadequate information regarding the archaeological potential of the site.
3. The appellant submitted a Preliminary Ecological Appraisal and an Archaeological Assessment with the appeal. Although these reports were not before the Council when it determined the planning application, it has had the opportunity to comment on these as part of its appeal submissions. In its statement the Council has advised that it considers that the Archaeological Assessment addresses its concerns in respect of the potential for archaeological remains and that any outstanding matters relating to this can be addressed by a planning condition. The Council consequently has withdrawn the fourth reason for refusal cited on the decision notice. The Council also advises that it maintains its objections in respect of the ecological implications.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the Queniborough Conservation Area and the setting of the nearby Grade II Listed Buildings at 71-81 Main Street; and
 - The effect of the proposed development on biodiversity and protected species.

Reasons

The effect of the proposal on heritage assets

5. The appeal proposal seeks to subdivide the rear garden area of number 67 Main Street to provide a building plot for a single new dwelling together with a detached double garage. The new plot would be accessed via an existing entrance from Main Street to a driveway that passes to the side and rear of the existing house.

The setting of nearby listed buildings

6. A number of the buildings on Main Street are listed with closest to the appeal site being numbers 71 -81, which are on the same side of Main street and are listed Grade II. On the north side of Main Street, opposite the donor property for the appeal site, numbers 82-86 are also listed. These buildings range in age from the sixteenth to the nineteenth century and their design varies accordingly. From what I have seen and read, the significance of these buildings and their setting, in so far as it relates to this appeal, is that they are illustrative of the evolution of the built form over time within the context of the historic burgage plots which are still evident to the rear of the buildings and form a key part of their setting.
7. Section 66(1) of the Act requires that in considering whether to grant planning permission which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
8. There is a difference of opinion between the parties as to how far from the appeal site these buildings are, with the appellant stating 70 metres and the Council 40 metres. From my site visit, I consider that the Council's figure is more accurate. This notwithstanding, I observed that the appeal site is separated from these properties by two intervening garden areas associated with unlisted buildings at number 69a and 69 Main Street. Although there would be some intervisibility between the appeal site and the rear of the listed buildings, due to the degree of separation and the intervening plots, the appeal proposal would not affect the ability to understand these buildings in their historic context or undermine their significance. The Council has not raised any concerns in respect of the listed buildings at 82-86 Main Street, and I would concur with this assessment. The effect of the proposed development on the setting of the nearby listed buildings would, therefore, be a neutral one.

Character and appearance of the conservation area

9. The appeal site lies within the Queniborough Conservation Area. The conservation area encompasses the historic core of the village with the built form generally following a linear pattern along Main Street. Houses in the village are generally of 1½ or 2 storeys apart from a small number of 3 storey properties. The houses are generally of a simple rectangular form with a single ridge parallel to the street. The buildings exhibit a range of ages and architectural styles with a small number of modern interventions amongst the older buildings. These are generally built close to the street edge at the front of the plot. The materials used are generally brick, some of which is painted or

rendered, with roofs finished in slate or dark tiles with some thatched roofs present.

10. From what I have read and from what I observed during my site visit, the significance of the conservation area, in so far as it relates to this appeal, is the retention of the medieval plan of the village with its marketplace and the influence of historic burgage plots on the layout, and that the historic core of the settlement is still obvious within its historic landscape setting and largely unaffected by twentieth century development. The gradual building of houses across the whole width of the historic burgage plots contributes to the present visual characteristic of a strong building frontage to the main street with only occasional openings in the street frontage and the burgage plots remaining to the rear.
11. The appeal proposal would result in a new dwelling well behind the street edge and the strong built form resulting from the historic pattern of development. Although the Queniborough Conservation Area Character Appraisal (the CACA) notes that in more recent times a few closes and culs-de-sac have been built to access houses at the rear of plots on Main Street, the CACA is also clear that these later developments have introduced a suburban element and have resulted in the loss of some of the essence of the medieval village plan. The management plan contained in the CACA sets out that that the distinct patterns of built form and spaces are part of its historic development and are to be protected. It further states that the building line of the medieval street and marketplace are an important element of its character and that new development should adhere to this line.
12. Although there are other developments behind the line of Main Street, the CACA does not regard these as positive, nor does it regard as positive those twentieth century houses built on Main Street that are set away from the street frontage. The presence of these do not, of themselves, justify the appeal proposal and the proposal would not conform to the guidance in the management plan for adherence to the building line of Main Street. The appeal proposal would further undermine the pattern of historic burgage plots, truncating the plot to the rear of number 67 in a relatively arbitrary manner. Whilst the general proportions would remain discernible, the additional dwelling, large double garage, and hardstanding area, cumulatively with the existing garage and hardstanding to the rear of the donor property would fundamentally alter its appearance.
13. The submitted Design & Access Statement provides little explanation of the design evolution of the scheme and how it relates to its context. Consequently, it is not clear how the current proposed design solution for the site was arrived at and how it is intended to relate to its context. The Design and Access Statement only refers briefly to the scale and character of the property at 16 Mere Lane, which is a modern insertion dating from the early 1980's, as influencing the overall scale and layout of the proposal.
14. The evidence points to Mere Lane being a historic route to fields behind the village and it was clear from the site visit that historically some houses were developed along this lane. Although I have noted the appellant's point in respect of number 16, I have no information relating to the circumstances that lead to this being accepted or what policies were in place at this time. I observed that this property also erodes the pattern of the historic burgage

plots. Nonetheless, this property has a visual and functional relationship with Mere Lane that appeal proposal would not, as the proposed new building would be clearly separated from Mere Lane by the existing boundary wall of the plot and would be accessed from Main Street. The external appearance of the proposed new dwelling would be similar to the architectural approach taken at number 16 Mere Lane, but I saw that this dwelling does not take any evident design cues from other buildings in the conservation area. I also saw that Numbers 27, 29 and 31 Mere Lane, which are cited in the appellants evidence, are also recent developments. However, these houses are outside the conservation area boundary. Consequently, I do not find that these developments constitute a compelling argument in favour of the appeal proposal.

15. My attention has also been drawn to recent developments at Manor Farm, further to the east of the appeal site, and I was able to see these when I visited the site. Although these result in a built form that runs back from main street, the 1903 Ordnance Survey map reproduced in the CACA shows that historically this was extensive farm steading. The new development may have slightly increased the historic extent of this farm steading but, nevertheless, it maintains the historic form and general layout and I do not consider that this is analogous to the appeal proposal.
16. The further erosion of the historic burgage plots and the introduction of a further suburban element of a type that the CACA recognises erodes the medieval village plan would be harmful to the character and appearance of the conservation area and to its significance.
17. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. In addition, Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any harm should have a clear and convincing justification.
18. The appeal proposal would cause harm to the significance of the conservation area. However, due to the location of the appeal site, there would only be limited public views through the entrance from main street and from parts of Mere Lane. There would also be some visibility, albeit from private property, from the rear of houses on Main Street. This, in combination with the relatively small scale of the development proposed, would result in the harm being localised to that part of the conservation area in the near vicinity of the appeal site. Given this, I find the harm to be less than substantial in this instance but, nevertheless, of considerable importance and weight.
19. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant has not specifically identified any public benefits that would arise from the appeal proposal. This notwithstanding, there would be an economic benefit resulting from investment in the construction of the new dwelling and, once occupied, additional expenditure in the local economy, although due to the small scale of the development this economic benefit would necessarily be

modest. In addition, the Council has advised that it currently cannot demonstrate a deliverable five year supply of housing land. The appeal proposal would add a further dwelling to the Council's housing stock. Whilst the Framework seeks to significantly boost the supply of homes, the Council states that it currently has a housing land supply of 4.1 years and a single new dwelling would only make a modest contribution to increasing supply. Taken together, these factors weigh moderately in favour of the development, nevertheless, this is not sufficient to overcome the great weight that must be given to the preservation of the heritage asset.

20. I therefore conclude that the proposed development would cause harm to the character and appearance of the Queniborough Conservation Area. This would fail to satisfy the requirements of the Act and the Framework and would conflict with policies CS2 and CS14 of the Charnwood Core Strategy 2015 (the Core Strategy) and Saved Policy EV/1 of the Borough of Charnwood Local Plan 2004 (the Local Plan) which seek, among other things, to ensure that new development protects heritage assets and is of a high standard of design that has regard to its context. As a result, the proposal would not be in accordance with the development plan.

Biodiversity and protected species

21. Policy CS13 of the Core Strategy is supportive of development that protects biodiversity, or which would enhance, restore, or recreate biodiversity. It expects development proposals to take account of the potential effects on nationally and locally designated sites, protected species, and ecological networks. Where there would be adverse effects, it seeks mitigation or compensatory provision. This policy is broadly consistent with paragraphs 170 and 175 of the Framework.
22. The appellant has submitted a Preliminary Ecological Appraisal (PEA) as part of the appeal submissions. This identifies the potential features of interest present on the site and concludes that there is no requirement for further surveys for amphibians, badgers, or bats. The PEA also concludes that there are no rare or notable habitats present within the survey area, nor any habitats that are considered to be Habitats of Principal Biological Importance. The PEA makes a number of recommendations for proposed mitigation and enhancement measures.
23. The Council generally accepts the assessment of the present habitat value of the site and considers the suggested mitigation measures during the construction period are adequate. It also welcomes the recommendations for bird nesting and bat roosting features and the translocation of a patch of bluebells. However, the Council points out that the PEA does not evaluate the extent or magnitude of habitat loss that would result from the development, or the effect on the local ecological network. The Council calculates that the proposal would result in approximately a 45% loss of the sites current biodiversity value.
24. The appellant does not directly dispute this latter point but maintains that it has been demonstrated that the proposal would avoid harm to features of biodiversity, protected species, or their habitats, and that appropriate mitigation can be provided. From the submitted evidence and from what I saw when I visited the site and the surrounding area, I would agree with the

Council's position that the appeal site can properly be considered to form part of a local ecological network.

25. The submitted PEA provides baseline data that indicates a very low probability of protected species and recommends mitigation during the construction phase to address this. However, it does not purport to be an Ecological Impact Assessment, nor does it include a formal assessment of the effects of the proposal on the biodiversity value of the site or identify the potential effect of this on the local ecological network.
26. The additional information submitted with the appeal partly addresses the Council's third reason for refusal. However, based on the evidence before me, I cannot conclude that the proposal would protect biodiversity or provide adequate mitigation for any potential adverse effect.
27. I therefore find that it has not been demonstrated that the proposed development would not cause harm to biodiversity. Consequently, it would not meet the relevant requirements of Core Strategy Policy CS13.

Other matters

28. The appeal site is within an archaeological alert zone. The Framework states that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. The Planning Practice Guidance sets out that where an initial assessment indicates that the site on which development is proposed includes, or has potential to include, heritage assets with archaeological interest, applicants should be required to submit an appropriate desk-based assessment. Whilst there was no information with the original application, the appellant submitted an Archaeological Desk-Based Assessment with his appeal documents. This assessment concludes that the appeal site has moderate potential for medieval and post medieval archaeological remains to be present.
29. In its statement of case the Council confirms that it is satisfied with the findings of the desk based assessment and that whilst further investigation is necessary, this could be achieved through a planning condition requiring the submission for approval of a written scheme of investigation and its subsequent implementation. On this basis, the Council has withdrawn the fourth reason for refusal cited on the decision notice.
30. From what I have read, I am satisfied that the desk based assessment is a thorough and appropriate assessment, and that any further investigation of the site is a matter that could be addressed by way of a planning condition.
31. The Council accept that the principle of new development within the village is not, of itself, inherently objectionable. Nonetheless, this is contingent on the proposal meeting the requirements of other policies in the development plan. I have also noted that the Council has not raised any concerns in respect of the proposed access to the site, or the effect on the living conditions of the occupiers of neighbouring residential properties. However, none of these points lead me to a different conclusion in respect of the main issues.

Conclusion

32. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be

made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would cause harm to the character and appearance of the conservation area and that it has not been demonstrated that the proposal would not cause harm to biodiversity. The proposal would conflict with Policies CS2, CS13 and 14 of the Core Strategy and Saved Policy EV/1 of the Local Plan. These policies are generally consistent with the requirements of the Framework.

33. The Framework is capable of being a material consideration. The Council has advised that it cannot currently demonstrate a deliverable five year supply of housing land. In these circumstances the proposal must be considered in the context of the presumption in favour of sustainable development set out in Paragraph 11 of the Framework. Paragraph 11d) sets out that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 6 to Paragraph 11d) makes it clear that such policies include those relating to designated heritage assets. As I have found that the appeal proposals would conflict with policies in the Framework which relate to heritage assets, the presumption in favour of sustainable development would not be engaged.
34. No other material considerations have been identified that would indicate that planning permission should be granted for a proposal that conflicts with policies in the development plan.
35. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR