



Appeal Decision

Site visit made on 22 December 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2021

Appeal Ref: APP/V2635/W/20/3250741

Victoria Cottage, Gong Lane, Burnham Overy Staithe PE31 8JG

- 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 William Lock against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/01953/F, dated 8 November 2019, was refused by notice dated 6 February 2020.
 - The development proposed is described as a "proposal for the renovation of the existing house, demolition of the existing flat roof rear extension. Construction of a two-storey rear extension and the replacement of the roof terrace".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council state that within its decision notice that the building is a non-designated heritage asset (NDHA). The appellant questions whether the building is indeed such an asset given that it is not identified as an "*important unlisted building*" on the Burnham Overy Staithe Conservation Area (BOSCA) plan and its status as a NDHA was never revealed when the Council considered a development at the adjoining property known as Lazy Winds in 2017¹.
3. In considering such matters, the advice within the national Planning Practice Guidance (PPG) states that there are a number of processes through which a NDHA may be identified. Importantly however, regardless of how they are identified, the decision to identify them as a NDHA must be based on sound evidence. Moreover, accessible, clear, and up to date information on a NDHA must be made available to the public to provide greater clarity and certainty for developers and decision-makers, including information on the criteria used to select NDHA and about the location of existing assets. The PPG also stresses that it is important that all non-designated heritage assets are clearly identified as such².
4. The property displays some design features on its front façade which, along with its use of materials, can also be attributed to other buildings on Gong Lane. However, there is no clear evidence before me to support the Council's suggestion that the appeal building is unique nor has it been put forward that there is interest resulting from any notable historical associations, or that the building was designed by a well-known architect.
5. Moreover, I have not been provided with any substantive evidence, such as a Local list of historic buildings or Historic Environment Record, that enables me to

¹ Planning application 16/02151/F

² Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019

conclude that the appeal property has been identified as a NDHA via a process as outlined in the PPG. Consequently, notwithstanding the comments of the Conservation Officer, I consider that the available evidence does not demonstrate the status of the building as a NDHA, having regard to the guidance outlined within the National Planning Policy Framework (the Framework) and the PPG.

Main Issues

6. The main issues in this appeal are:

- whether the proposed development would preserve or enhance the character or appearance of the BOSCA, including the host property; and,
- the effect of the development on the living conditions of adjoining occupiers, with particular regard to overshadowing and outlook to Lazy Winds.

Reasons

The Burnham Overy Staithe Conservation Area (BOSCA)

7. The site lies within the BOSCA and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
8. The BOSCA is quite large and encompasses the core of the village along Wells Road and has an open and rural character which is reflected in the spacing of dwellings and intervening landscaping. Gong Lane itself contains a range of style and size of property which, on the whole, are set back from the road and tend to benefit from decent sized rear gardens contributing to the overall spaciousness of the village and the BOSCA.
9. The Council do not raise any objection to alterations to the building, such as the new and replacement dormers and a new timber framed porch. From the information presented to me, I find no reason to disagree with that assessment.
10. The proposal also seeks to replace an existing rear extension with a further two storey extension that would largely follow the length of the existing building and at a similar depth. A further addition would also be added perpendicular to the rear extension. Although the projecting element would be sunken and its ridge set lower than the main dwelling, it would nonetheless protrude almost to the rear boundary of the garden. Together the proposals would create a building that would be substantially larger in terms of its footprint and floor area in comparison to the original dwelling and its existing rear extension.
11. The depth and width of the proposed extensions would also take up a considerable amount of the garden area, leaving very little open space to the rear of the building. Whilst the appellant calculates that some 60% of the rear garden space would remain available, the proposal would nonetheless result in a disproportionate development when considered against the existing dwelling and one which, due to its substantial footprint, would result in only a small rear garden area remaining in comparison to the overall development of the site, which is indicative of overdevelopment.
12. Therefore, as a result of the size of the proposed development and the resultant rear garden space, the proposal would introduce a form of development that would appear out of scale and cramped within its plot, which would be harmful to the

character and appearance of the area, and thus failing to preserve or enhance the BOSCA.

13. Given the size of the BOSCA, the harm to its significance would be less than substantial. Accordingly, the Framework requires at paragraph 196 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 optimum viable use. Paragraph 193 of the Framework places great weight upon the conservation of designated heritage assets, and although the harm is less than substantial, it should not be treated as a less than substantial objection to the proposal.
14. The appellant suggests that the public benefits of the proposal in this particular case are the improvements to the appearance of the building and the site. I have carefully considered the appellant's Heritage Statement³, and whilst the magnitude of harm identified in respect of the BOSCA as a whole may be considered less than substantial in the context of paragraph 196 of the Framework, in acknowledging that the maintenance of the existing building would be a benefit, it would not be a clear public benefit. Therefore, I am not persuaded overall that these matters represent any more than a limited benefit which would be insufficient to outweigh the otherwise identified harm and the substantial weight I must attach to the designated heritage asset's conservation.
15. Thus, the development would fail to preserve or enhance the character or appearance of the BOSCA. It would be in conflict with Policies CS06, CS08 and CS12 of the King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy 2011 (the CS), Policy DM15 of the King's Lynn and West Norfolk Borough Council Site Allocations and Development Management Policies Plan 2016 (the SADMP) and paragraphs 127 c) and d), 130, 193 and 196 of the Framework which seek, amongst other things, to ensure that developments protect and enhance the historic environment and add to the overall quality of an area.

Living Conditions

16. The appeal site lies to the south of its neighbouring property, Lazy Winds. The appellant has undertaken a Daylight and Sunlight Report⁴ which concludes that the extensions would comply with BRE⁵ guidelines for daylight, sunlight, and overshadowing. This includes an assessment of the development during winter and summer for both garden areas and south facing windows on Lazy Winds. Thus, it has been adequately demonstrated that the development would not affect the adjoining property through overshadowing, which the Council also accept in its written statement.
17. Lazy Winds is set at a lower level than the appeal site and the proposed extensions would be developed almost the full length of the boundary, leaving a small gap between the wall that separates the sites. I acknowledge that the development would not result in harm through overshadowing or overlooking, and that the garden area of Lazy Winds contains a summerhouse close to its boundary with the appeal site. However, the scale of the proposed extensions which would be developed along almost the full length of the rear garden, at a higher level and being developed at such close proximity to its shared boundary, leads me to conclude that it would be an overbearing development that would result in an

³ Heritage Statement, Authentic Futures

⁴ Thomas Croft Architects, Ref: 1681/JN dated 10 April 2020

⁵ Building Research Establishment

unacceptable loss of outlook when viewed from the neighbouring property at Lazy Winds.

18. Thus, the proposal would harm the living conditions of the occupiers of the adjoining property through an overbearing development. It would be in conflict with Policy CS08 of the CS, Policy DM15 of the SADMPP and paragraph 127 of the Framework which seek, amongst other things, to ensure that developments do not have a significant adverse impact on the amenity of others.

Other Matters

19. Reference is made to the extension approved at Lazy Winds which also contains a rear extension that extends to its rear boundary. However, the plot for Lazy Winds was considered large enough to accommodate the proposed extensions, whilst leaving an acceptable level of private amenity space. In addition, the extension at Cressy Cottage was approved in 1994 and under a different development plan. Therefore, I do not find the developments at Cressy Cottage or Lazy Winds a compelling reason to find in favour of the proposal before me. In any event, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.
20. The appellant makes reference to the proposed development being reduced in scale during the Council's consideration of the planning application. Nevertheless, I have still found the development as proposed unacceptable for the reasons as set out above.

Conclusion

21. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR