
Appeal Decision

Site visit made on 8 February 2021 by A J Sutton BA (Hons) DipTP MRTPI

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021

Appeal Ref: APP/T3725/W/20/3262350

Hobournes, Upper Spring Lane, Kenilworth, CV8 2JR

- 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 A Frisby against the decision of Warwick District Council.
 - The application Ref W/20/1055, dated 26 June 2020 was refused by notice dated 11 October 2020.
 - The development proposed is construction of two detached dwellings and ancillary site works.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The postcode cited on the application form was incorrect and has been altered accordingly.
4. I have considered the revised street-scene plan¹, submitted as part of this appeal, under the principles established by the Courts in *Wheatcroft*.² The plan simply reflects the set of plans which formed the basis of the Council's decision, and therefore I have concluded that to take it into account in this case would not deprive those who should have been consulted on any change, the opportunity of consultation. It has therefore informed this appeal.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the Kenilworth Conservation Area.

Reasons for Recommendation

6. The appeal site is a section of a large mature garden within the urban area of Kenilworth. It is located at the convergence of two character areas of the Kenilworth Conservation Area; Fieldgate Lane extends from the town centre to

¹ Drawing No 1445 12 Rev C

² *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

the town's edge, and, near the site, is characterised by large individual dwellings in generous plots with mature gardens, with a looser pattern of development to the east side of the Lane, whereas Upper Spring Lane and Tainters Hill has a general rural character, comprising few large residences and is an area where the maintenance of semi-rural limited residential use is identified as important.³

7. This semi-rural characteristic is evident at the appeal site, which is a corner plot where the existing bungalow is barely discernible from the public realm. It has a pleasing aesthetic by virtue of its mature vegetation, trees and essentially undeveloped quality. In these respects, it is significant in the graduation from denser town centre development to the less sparsely developed settlement edge and open space of Parliament Piece with surrounding countryside beyond.
8. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. At paragraph 192 of the National Planning Policy Framework (Framework), it sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
9. The proposed dwellings would form a continuation of residential development along Fieldgate Lane. The mass and height of the dwellings would not be dissimilar to those opposite the site and would have some individual design details. However, the pattern of the proposed built form would distinctly contrast with development at the southern boundary on the east side of the Lane, which is characterised by individual larger dwellings set in their own grounds. As such, the proposal would fail to harmonise with the existing character of the street scene in the immediate vicinity of the appeal site.
10. Although the development would be set back from the road, limited to the south of the site and with some screening, the character of the site would be largely altered by the proposed suburban style of development, including the shared access. Despite the proposed density, the footprint and bulk of the development would be substantial and would detrimentally change the valued undeveloped appearance of the site. Furthermore, it would result in a significantly reduced plot size for the large existing dwelling which would be out of keeping with the spatial composition of development on this part of Upper Spring Lane. As such it would harmfully erode, and, therefore fail to preserve, the semi-rural character which distinguishes this part of the Conservation Area.
11. Much of the boundary vegetation and all the street trees would be retained, there would be space for further landscaping, and additional structures could be restricted by condition. However, these matters would not adequately address the harmful change in the appearance of the site, a large proportion of which would be given over to sizeable structures and the associated driveway. Nor could the harm be addressed through attachment of other conditions for this stated reason.

³ Kenilworth Conservation Area Appraisal Assessment of Character Areas 12 and 16

12. The development would result in less than substantial harm to the significance of the designated heritage asset and in accordance with paragraph 196 of the Framework, should be weighed against the public benefits of the proposal. The proposal would contribute to boosting the supply of housing, would utilise land within a settlement and the design would incorporate some sustainable measures. However, these benefits would be small given the quantum of the development and would not be sufficient to outweigh the harm to the Conservation Area. No other public benefits have been advanced in this case which would justify this harmful development.
13. I have had regard for the evolution of the scheme and have taken account of the officer's recommendation which, although material, provides an individual judgement which is not binding on decision makers.
14. In assessing all the evidence, I conclude for the reasons outlined, that the proposed development would not preserve or enhance the character or appearance of the Kenilworth Conservation Area. Whilst the proposal may generally accord with the spatial strategy set out in Policy DS 4 of the Warwick District Local Plan 2017 (Local Plan), I find it would conflict with Policy H1 of the Local Plan that seeks development which will harmonise with the character of the street. It would also be inconsistent with Policy HE1 of the Local Plan which requires that development should not lead to harm to the significance of designated heritage assets. Furthermore, it would be contrary to Policies KP 13, KP 13M and KP 13S of the Kenilworth Neighbourhood Plan 2018 which collectively require development proposals to achieve a standard of design that is appropriate to the local area.

Conclusion and Recommendation

15. For the reasons outlined above, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and concur that the appeal should be dismissed.

RC Kirby

INSPECTOR