



Appeal Decision

Site Visit made on 13 April 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2021

Appeal Ref: APP/P1045/W/20/3259383

Elmcroft, Derby Road, Cromford, DE4 3RP

- 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 David Potter against the decision of Derbyshire Dales District Council.
 - The application Ref 20/00610/FUL, dated 1 July 2020, was refused by notice dated 27 August 2020.
 - The development proposed is new house with associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the proposal on the setting of Rock House (a Grade II Listed Building), the character and appearance of the Derwent Valley Mills World Heritage Site, and whether it would preserve or enhance the character or appearance of the Cromford Conservation Area; and (ii) the implications for the retention and health of protected trees, on the site.

Reasons

Significance of Heritage Assets

3. The appeal site falls within the settlement boundary of Cromford. It is located within the Cromford Conservation Area (CA) and Derwent Valley Mills World Heritage Site (WHS). The site itself, comprises of an area of land forming part of the grounds to Rock House which is a Grade II Listed Building (LB).
4. The CA covers the settlement, former cotton mills and the Arkwright estate. It also extends over the eastern and northern banks of the River Derwent and other historic parkland and Willersley Castle. It was first designated within 1971 and has been extended over time. The Cromford Conservation Area Appraisal identifies Rock House being situated on higher ground overlooking Derwent Valley to the south east and is set in attractive gardens and parkland. The grounds have been developed with detached housing of which have adversely affected the character of the area.
5. Nevertheless, the immediate CA surroundings to the appeal site are characterised by a mix of modern 20th century residential dwellings, varying in size but overall have similar architectural features and appearance. The dwellings are spread across the grounds of Rock House and are separated by spacious areas of open lawns with planting and mature protected trees.

Immediately adjoining the appeal site is a 1970's substantial detached bungalow.

6. The appeal sites location is particularly important within the context of the CA and the setting of the historic grounds of Rock House. It forms part of the established character of the open and spacious verdant surroundings, incorporating lawns and parkland, which positively contributes to the overall character and appearance of the CA and its setting.
7. Rock House and associated Grade II LB's built Circa 1780 are of high historical significance, as the former home of the affluent inventor in the industrial revolution, Sir Richard Arkwright. It is a grand three storey building constructed of brick and ashlar, with other historic buildings within the grounds. Changes to the building from the 19th century indicate that the appearance is of a Victorian building than a Georgian one. In the 1930's it was converted to flats and is currently divided into 9.
8. The grounds to Rock House and parkland appear as a designed setting which was formed to enhance the presence and visual interest of the house in its context. The appeal site, in terms of its location, character and appearance is clearly associated grounds to the LB. For these reasons, the appeal site makes a positive contribution to the setting of Rock House within which the architectural, visual and historical significance of the LB can be appreciated.
9. The appeal site also falls within the WHS, inscribed in 2001, being of outstanding universal value and includes the majority of the CA. The whole of Derwent valley falls within the buffer zone, which is primarily the landscape setting of the valley, this is required by UNESCO to safeguard the setting of the site. It is a heritage asset of the highest significance as set out in Paragraph 184 and 194 of the National Planning Policy Framework (the Framework) and Planning Practice Guidance.¹ Any harm to, or loss of, the significance of the heritage asset, from its alteration or destruction, or from development within its setting, should require clear and convincing justification.
10. The proposal involves the erection of an undercroft house. It would comprise of a buried/sunken property accessed from two 'Victorian' style glasshouses on the surface 'Glasshouse A' (A) and 'Glasshouse B' (B). Below ground accommodation would mainly consist of bedroom areas and a tv room with above ground consisting of kitchen and dining in building 'A' and a lounge area in 'B'. The glasshouses would be constructed of aluminium mid grey frames, with clear glass and solar glazing, stall walls would be in brickwork with tarmac and stone paving for external ground surfaces.
11. The scheme also incorporates an area of land, adjoining the appeal site and within the appellants' ownership to be made available as parkland to a resident's group 'Rock House Grounds Committee' or 'local resident' through undertaking a legal agreement. This is outlined in blue on the accompanying site plans.
12. The appellant maintains that the appeal site, land to the east of the drive is not evidentially part of the curtilage garden of Rock House, or other properties. The evidence before me is not conclusive as to the previous use of the appeal site, including that of a tennis court or croquet lawn or rose garden. However, in my

¹ Paragraph: 026 Reference ID: 18a-026-20190723; Revision Date 23 07 2019

- opinion historically it would have been likely associated with Rock House, its grounds and wider parkland.
13. It appears from the evidence that the inspiration for the design of the proposed dwelling was taken from associated original Rock House Victorian glasshouses, located some distance away on Derby Road, opposite to the lodge and were shown on early OS Maps. Nonetheless, it appears historically these buildings would have been for service use and away from Rock House, its curtilage and grounds.
 14. I acknowledge that there would be some screening around the appeal site. However, the design and style would appear rather at odds with the existing residential development and the traditional architecture of Rock House. Despite the use of innovative technology within the proposed materials and construction, the glazed structures would appear incongruous and of a stark appearance on an area which is currently free from any built form. That, positively contributes to the spacious open character of the CA and setting of the LB.
 15. Moreover, the land would be further eroded by the adjustment to the levelling of the land and associated domestic paraphernalia. The appeal site is clearly visible from higher vantage points along the surrounding area including the A6, and immediately along the access road of the grounds. The proposal would therefore be visually intrusive and detrimental to the character, appearance and setting of these historic grounds.
 16. The appellants' contention is that due to the direction of Rock House, internal views from its principal rooms are restricted by the built form and trees, whilst the structures of 'A' and 'B' would be above ground glass structures, beyond Elmcroft and out of view. The proposals would not affect the fabric of LB, but the assertion is somewhat unfounded that if the appeal site cannot be seen from looking out of principle room windows, there would be no harm identified to the important significance of the heritage asset and its setting. I am therefore not persuaded by this argument.
 17. In arriving at this conclusion, I have taken into account the previous appeal decision². In paragraphs 8, 9 of that decision, the Inspector found that the proposals would not be in keeping with the character and appearance of the CA, WHS and cause visual harm to designated heritage assts. The Inspector concluded that the development would harm the setting of the LB, WHS and fail to preserve or enhance the character of the CA. As such, I have no reason to disagree with their findings, particularly as the case before me has similarities.
 18. Taking the above points together, and mindful of the duties arising from sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I conclude that the proposed development would fail to preserve or enhance the character or appearance of the CA, it would harm the setting of the LB and the WHS. It would be contrary to Policies S1, S3, PD1 and PD2 of the Derbyshire Dales Local Plan, 2017 (LP). Taken together these policies require developments to make a positive contribution towards sustainable development, having regard to settlement boundaries; permission will be granted where it is compatible with character, appearance and amenity

² APP/P1045/W/19/3225891

- of the part of the settlement and protects the historic environment; including protection for designated heritage assets and their settings, WHS and its buffer, conservation areas and LB's.
19. Whilst the harm to the heritage assets would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.
 20. Paragraph 196 of the Framework states that where a development proposal will 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, where appropriate, securing its optimum viable use. From the evidence before me, there is limited public benefit to the proposed development, although there would be a contribution to the Council's housing land supply, this would be limited due to the quantum of development proposed.
 21. There would be a small social benefit in providing the house and economic advantages would also arise from the construction and occupation of the new house, however this does not outweigh the harm found to the significance and the weight to be given to the conservation of these heritage assets.
 22. The proposal would also be contrary to Section 16 of the Framework as it would not conserve the heritage assets in a manner appropriate to its significance, or positively contribute to local character or distinctiveness.

Trees

23. The trees located within the appeal site are covered by a Derbyshire County Council, Tree Preservation Order No.123 (TPO). The appellant submitted an arboricultural report³ which includes a tree survey schedule. This identifies that those trees closest to the proposal, Group 1 (G1) – Lime, Horse Chestnut, Red Oak, fall into retention category B with Tree 2 (T2)– Holly, being within category C. The retention category is in accordance with the British Standard 5837:2012 '*Trees in Relation to Design, Demolition and Construction Recommendations*'. Therefore, category B trees are of moderate quality and value, including public visual amenity value and should be considered for retention. Whilst category C trees should not be allowed to impose a constraint on development.
24. The proposed development would not involve the removal of any of the trees on the site. Nonetheless, the canopy spread of G1 and T2 would be in close proximity and T2 would overlap the structure of 'B'. Given the materials of construction for the glasshouse incorporating an aluminium frame with clear glazing, it would be likely that there would be a threat of potential branch drop, impact or contact on to the structure causing damage. This would likely lead to pressures of excessive pruning of these trees by future occupiers wishing to remove this threat to the dwelling, leaving the trees vulnerable, causing harm to their health, safety and long-term wellbeing.
25. Furthermore, the large mature trees located forming G1 are located to the south of the proposed glasshouse structures. It would be likely that this group of large mature trees would cast shade across the glazed living areas for the majority of daylight hours. This would be exacerbated within the lounge area

³ Arboricultural Survey Report & Method Statement, John Booth Arboricultural Consultants Ltd, dated April 2020

due to the materials, layout and position of 'B', which potential would also impact on any future occupiers' outlook from this structure. In the absence of any evidence to the contrary, I consider that the shading from this group of trees would be excessive and not be an acceptable situation for any future occupiers. Moreover, this would lead to increased pressures on protected trees to be lopped, topped or even removed, of which would have an unacceptable effect on the amenity value of the protected trees.

26. I acknowledge the appellants' intention to develop a future management plan and implement specialist recommendations including replacement trees which would become necessary in time. However, I have no substantive evidence to consider this is a realistic prospect, or that it could overcome the harm I have identified above in relation to those protected trees.
27. For the reasons given above, I conclude that the proposed development would have significant implications for the retention and health of protected trees, on the site. It would be contrary to Policy PD6 of the LP. This policy requires trees of value to be retained and integrated within development; permission will be refused for development resulting in the loss or deterioration of aged or veteran trees, unless the need for, and benefits of the development clearly outweigh the loss.
28. It would also be contrary to the guidance as set out in paragraph 175 of the Framework, relating to conserving and enhancing the natural environment, where development should be refused that results in the loss or deterioration of irreplaceable habitats.

Other Matters

29. Local residents have raised other concerns relating to highway safety, water and sewage management, infrastructure and impact of glass panels. However, these were not reasons for refusal on the Council's decision notice and I have no substantive evidence to support these concerns.
30. The appeal is supported by a draft legal agreement (unilateral undertaking) pursuant to Section 106 of the Town & Country Planning Act 1990. If executed this could commit the appellant to transfer the remaining land '*Parkland available for residents' group*' to the resident's association or a local resident. However, the lack of an obligation did not form a reason for refusal and the Council have raised concerns over the implementation of such a proposal, given that there is local objection from residents. Consequently, this matter is determinative, therefore it is not necessary for me to consider it any further.
31. Furthermore, as the obligation would be related to the Rock House Grounds Residents Association and to only local residents who own land in the vicinity (within 150m) of the blue land, its benefits would be restricted to those. Moreover, in the absence of any substantive evidence as to what the management plan would entail, it appears to me that the responsibility and upkeep of the blue land would fall to the said agreed party and it would only allow members of the association or local resident to use it as open space. As such I find that no wider public benefit would accrue as a result of the draft obligation.
32. Although, I appreciate that the appellant has sought to engage local residents on a way forward to pursue his desire to build a new house on the land. This

matter does not outweigh the concerns and harm I have found to the significance and setting of those heritage assets and the impact on protected trees. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

33. For the reasons given above I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR