



Appeal Decision

Site Visit made on 7 July 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/F3545/D/21/3270066

Adderbury, Aldridge Lane, Fornham All Saints, Bury St. Edmunds, Suffolk, IP28 6JT

- 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 R Clark against the decision of West Suffolk Council.
 - The application Ref DC/20/1267/HH, dated 30 July 2020, was refused by notice dated 7 January 2021.
 - The development proposed is (i) detached double garage and (ii) new access.
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Decision

1. The appeal is dismissed

Preliminary Matters

2. Within my banner heading I have used the description of development as it appears on the decision letter and the appeal form as this more accurately reflects the scope of the proposal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the site and the surrounding area, with particular reference to the Fornham All Saints Conservation Area (the CA), trees and other planting.

Reasons

4. Adderbury is a detached dwelling within a corner plot formed by the junction of two arms of Aldridge Lane. The plot is spacious and the dwelling is set back from the road behind a generous front garden. At the time of my site visit, the front garden in the vicinity of the proposed building was relatively clear of planting. The appeal site lies within the CA.
5. The local area is characterised by substantial dwellings of varying architectural styles set well back from the road within generous landscaped plots bounded by hedges incorporating trees. The significance of the CA, in so far as it relates to this appeal, derives from its aesthetic value found in its peaceful, verdant village character and appearance.
6. The proposal is for a double garage, and an associated new vehicular access. Alongside the proposed location of the garage is a mature sycamore tree, which forms part of a laurel hedge and is included within a Tree Preservation Order. This tree is prominent in the street scene, being visible from some distance in the local area and makes a positive contribution to the visual amenity of the CA. The application was accompanied by an arboricultural report

- (AR) seeking to assess the effect of the proposal on this tree and another lying further along the hedge.
7. The proposed garage would cover a significant part of the tree's root protection area (RPA). A substantial proportion of the RPA is already covered by the paving of Aldridge Lane, which would restrict the trees roots. It is reasonable to assume that further restriction and damage to the roots resulting from construction works, including excavation, would adversely affect the tree.
 8. To mitigate this the AR recommended that careful consideration must be given to foundation design and identified possible types of specialist foundation to mitigate damage. Further, the AR identified that the proposed vehicular access would also occupy part of the RPA and recommended a "no dig" construction.
 9. Whilst the AR identified a cavity within the tree, and as a result the appellant has raised concerns about the safety of himself and his property, it did not raise any fundamental issues with the tree's viability in the immediate future, subject to maintenance. The AR also recognised the high visual amenity of the tree.
 10. Specialist construction methods are sometimes considered acceptable within RPAs. However there is doubt, in this case, that they would prevent damage to the tree, which is in a vulnerable state due to the existing restrictions on its root system and the cavity.
 11. I cannot be satisfied that, given the degree of encroachment into the RPA and uncertainty of the impact of that on the health of the tree, that any damage would not result in the loss of this tree. Given the importance that I have placed on the verdant character of the CA, the loss of this prominent tree would result in harm to the character and appearance of the CA.
 12. The proposed garage would occupy a prominent position on the junction and would be highly visible to persons approaching along the lane. Whilst I saw other garages and outbuildings in the area forward of their host dwellings, none occupied such a prominent position. The proposed garage would be a prominent feature in its location and its ancillary nature would be apparent and incongruous with the layout of the area. Further, the current open nature of the site frontage would increase the conspicuousness of the garage.
 13. Bringing these matters together, the proposal would introduce a conspicuous and incongruous feature and, should the tree be lost, reduce the verdancy of the prominent location. In this case the inappropriate location of an ancillary building and any loss of verdancy would amount to harm to the character and appearance of the area and undermine the significance of the CA which I have identified above.
 14. My attention has been drawn to an electricity sub-station on the opposite side of Aldridge Lane. Whilst this building is of a utilitarian nature its positioning is set back within mature planting and it is not conspicuous to persons approaching along Aldridge Lane.
 15. The appellant has suggested that the scale of the building and its design could be changed to reduce its visual impact. However, I have no details of any alternative proposals and I have determined this appeal with regard to the proposal that was before the Council at the time of its decision.

16. The appellant has stated his intention to augment the existing planting to soften the effect of the proposal, and, were I minded to allow the appeal, such planting could be controlled by means of a suitable planning condition. However I have no proposals before me to demonstrate the effectiveness of such a planting scheme. Planting would take time to establish itself and I have no certainty that it would successfully address the effects of the proposal.
17. My attention has been drawn to previous development in the area which, the appellant considers has set a precedent for development. I have limited information before me regarding these and I have, in any case, determined this appeal on its own merits.
18. I therefore find that the development would cause material harm to the character and appearance of the CA. The proposal would not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would be contrary to Policies DM2, DM13 and DM17 of the West Suffolk Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document -2015- and Policy CS2 of the St Edmundsbury Local Development Framework Core Strategy -2010.
19. These policies jointly, amongst other things, require new development to be designed to a high quality and reinforce local distinctiveness or enhance the character and appearance of the area; preserve or enhance local character and distinctiveness of the historic environment, including Conservation Areas, and landscape; and protect and enhance natural resources.
20. Whilst predating the National Planning Policy Framework -2019- (the Framework), these policies are in close conformity with the aims of Sections 12, 15 and 16, with which the proposal would also be in conflict, and therefore carry significant weight.
21. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. As a consequence of its design the appeal scheme would have a harmful impact on the CA insofar as it would neither preserve nor enhance the character or appearance of the CA. The proposal would not lead to the loss of any buildings that make a positive contribution to the character or appearance of the CA. As such, whilst material, I find that the harm would be less than substantial. Paragraph 196 of the Framework directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
22. The development would provide minor public benefits to the local economy in terms of short term employment in the construction industry. However, benefits would be limited by the scale of the development.
23. The proposal would result in a high level of harm to the significance of a designated heritage asset. However, the harm must be considered in the context of the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA. I afford considerable importance and weight to this statutory duty. This does not amount to a direction to refuse proposals that harm, and thus fail to preserve, designated heritage assets, but it provides a strong presumption in favour of preservation.

24. Thus, I find that the material harm that would arise from the proposal would not be outweighed by its public benefits. Accordingly, there would be a conflict with Paragraph 194 of the Framework as harm to designated heritage assets would not have clear and convincing justification and the Framework states that great weight should be given to a designated heritage asset's conservation.

Other Matters

25. No objections to the proposals were received from the parish council or local residents. However, this does not outweigh the harm to the CA that I have identified above.

26. I note the desire of the appellant to improve his property and his frustration with controls placed on him by the planning system when carrying out works within specially protected areas. This, however, lies outside of my remit in determining this appeal.

Conclusion

27. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR