



Appeal Decision

Site Visit made on 1 June 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2021

Appeal Ref: APP/A4710/W/21/3266726

The Nathe, 4 John Naylor Lane, Luddenden Foot, Halifax HX2 6DP

- 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 Neil Wood against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00713/FUL, dated 22 June 2020, was refused by notice dated 24 August 2020.
 - The development proposed is a detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 20 July 2021, and this post-dates the Council's refusal notice. I have had regard to the revised Framework in my decision and I am satisfied that this has not prejudiced the main parties as they were provided with an opportunity to comment on this during the appeal proceedings.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the setting of nearby heritage assets;
 - The effect of the proposed access on highway safety, with particular regard to visibility; and,
 - Whether the proposal would provide acceptable living conditions for the existing occupants of The Nathe and for future occupants of the proposed development, with particular regard to private external amenity space.

Reasons

Character and appearance, including the setting of nearby heritage assets

4. The appeal site is the terraced garden of an existing property known as The Nathe. The land is of a significant gradient falling steeply from east down to west and is currently overgrown with vegetation. It is located to the east of, and further up the hillside from, Cooper House and an adjacent Barn with Cottage, both of which are Grade II Listed Buildings.

5. Cooper House is a 17th century two storey farmhouse set at a right angle to Magson House Road and comprises coursed squared stone elevations and a stone slate roof. The Barn with Cottage approximately 27 metres to north west of Cooper House is dated 1789 and constructed of stone over two storeys with attic and across three bays, the right of which includes the original cottage. Both buildings are visually robust and occupy a commanding position, with their elevated hillside location accentuating their historical significance and emphasising their connection with the surrounding landscape.
6. Whilst neither party has provided any historical mapping of the area, it is reasonable to assume that when these listed buildings were constructed there was less built form in the immediate vicinity, and they would have enjoyed a more open countryside setting. This is still evident to the north of the buildings and, to a degree, to their immediate east as part of the appeal site.
7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
8. The proposal is for the erection of a single detached dwelling rising to three stories in height. Given the proximity of the appeal site to the adjacent listed buildings, the site clearly forms part of the setting of these designated heritage assets, with its undeveloped and verdant character providing an uninterrupted backdrop to the listed buildings, allowing an appreciation of their historic significance. In this regard the appeal site makes a positive contribution to the setting of the listed buildings, providing a welcome relief from more recent developments that have incrementally encroached into the setting of these buildings.
9. The proposed development would introduce built form into the setting of these designated heritage assets, fundamentally altering the undeveloped and verdant character of the site. Owing to its height and proximity to the listed buildings, the proposed dwelling would be a highly prominent form of development that would have an imposing presence within the setting of the listed buildings, thus diminishing their significance. Furthermore, the elevated nature of the site would accentuate these harmful effects, resulting in an overly assertive addition to the street. In doing so, the development would dominate key views of the buildings on the approach from the north and in views from the west, across the valley, and thereby visually competing with the appreciation of the buildings from the surrounding area.
10. I appreciate that the proposed dwelling would be partially built into the existing hillside, but, for the above reasons, I do not share the view that it would be no more intrusive than the existing retaining/gabion walls. Furthermore, the development of a garage block in close proximity to Cooper House Barn does not provide a justification for the appeal scheme, which must be considered on its own merit.
11. Taking all these points together, the proposed development would result in significant harm to the character and appearance of the surrounding area and would fail to preserve the setting of nearby heritage assets. As a consequence, the appeal proposal would result in clear harm to the heritage assets.

12. In accordance with the Framework, it is for the decision maker, having identified harm to the designated heritage asset, to consider the magnitude of that harm. In this case, under the terms of the Framework, I consider the harm to be less than substantial, given the extent of the proposal and its consequent effects. Nevertheless, it is incumbent upon me to give considerable importance and weight to such harm. The Framework advises that any harm must be weighed against the public benefits of the proposal.
13. The main public benefit arising from the proposal would be the provision of a single dwelling that would add to the local supply of housing. Public benefits, both economic and social would accrue as a result of this, which weigh in favour of the appeal scheme to a moderate degree. However, the identified harm to the heritage assets attracts great weight and therefore tips the balance against the appeal scheme. Thus, the harm would not be outweighed by public benefits.
14. To conclude on this main issue, I have found that the proposal would result in significant harm to the character and appearance of the surrounding area, and it would fail to preserve the setting of nearby heritage assets. Accordingly, it would not meet the weighty requirements of the Act, as set out above. This harm is not outweighed by public benefits. The proposed development would therefore be contrary to Policies H2, H9, and BE15 of the Replacement Calderdale Unitary Development Plan 2006 (as amended) and sections 12 and 16 of the Framework. Together, amongst other things, these policies support the provision of new homes that do not adversely affect their surroundings or harm the setting of heritage assets.

Highway safety

15. The proposed dwelling would be accessed via a new vehicular access onto the public highway along Magson House Road, a narrow country lane with a 30mph speed limit. Owing to the sloping topography of the site, the access and parking to serve the proposed dwelling would be cut into the hillside resulting in high retaining walls flanking either side of the new access. The combination of these features means that the inter-visibility between a vehicle using the proposed driveway and users of the adjacent highway would be significantly constrained without the provision of sufficient visibility splays.
16. The Highway Authority advise that, in order to provide a safe access, a visibility splay of 43 metres is required in each direction, measured from a point 2.4 metres back from the kerb line, in accordance with guidance set out in Manual for Streets¹. The appellant does not dispute this and based on the evidence before me, I too see no reason to dispute this requirement.
17. The proposal access would not achieve the required visibility splays. Indeed, it was clear to me during my visit that the site's narrow frontage coupled with the proximity of the proposed retaining walls to either side, would severely restrict the visibility from the proposed vehicular access. The level of visibility would be considerably less than the requirements set out by the Highway Authority, and I note their objection in this regard.
18. The visibility from the proposed vehicular access would be constrained to such a degree that a driver exiting the driveway in a forward gear is unlikely to be

¹ Manual for Streets, Department for Transport, published 2007

able to safely see oncoming vehicles, including cyclists, until a large part of the vehicle had manoeuvred onto the carriageway. This would give rise to a significant risk of collisions with other vehicles and as such I find that this would have an unacceptable adverse effect on highway safety. Furthermore, the proposed parking area would be constrained and I am not convinced that it has been demonstrated that there would be sufficient space for vehicles to turn within the site, particularly if another vehicle was already parked. Consequently, the proposal would likely result in vehicles reversing out onto the highway with severely restricted visibility. This would undoubtedly compromise highway safety.

19. The appellant has suggested that the proposed access would be no worse than those serving other properties along Magson House Road, where vehicles already reverse onto the highway. I am also informed that traffic speeds along the road are low and there have been no recorded accidents in the vicinity. However, these matters do not provide a persuasive justification to increase the potential for an accident to occur in the future.
20. To conclude on this main issue, the proposed access would be detrimental to highway safety, posing an unacceptable risk to users of the adjacent highway along Magson House Road. Thus, it conflicts with policy BE5 of the RCUDP and the associated policies of the Framework which together seek to ensure that a safe and suitable access can be achieved and to maintain the safe and free flow of traffic in the interest of highway safety.

Living conditions

21. Policy BE2 of the RCUDP states that development proposals should not significantly affect the privacy, daylighting and private amenity space of adjacent residents or other occupants and should provide adequate privacy, daylighting and private amenity space for existing and prospective residents and other occupants. Accompanying guidance to the policy is set out in Annex A of the RCUDP (Privacy, Daylighting and Amenity Space). It advises that private garden areas are normally expected to be provided in new residential developments and that this must be of an adequate size, shape and level and should be in proportion with the proposed dwelling. However, neither the policy nor the supporting guidance specify any minimum space standards.
22. The proposal would provide a substantial detached dwelling with four bedrooms and accommodation over three levels. The appellant states that the proposal would provide in excess of 210m² of external amenity space for the proposed dwelling. However, it is unclear if this includes the parking and turning areas within the site that could not reasonably be considered as a private garden area.
23. A square-shaped area of amenity space is annotated on the proposed drawing² and shown to the front of the proposed dwelling. However, this appears to be quite small and owing to its location to the front of the property and adjacent to the roadside, it would not offer sufficient privacy for future occupants. For these reasons, I am not persuaded that the proposal would provide adequate private amenity space for future occupants. Accordingly, the lack of private external amenity space would be harmful to the living conditions of future occupants.

² Proposed Site Plan, Drawing No. 1177/1 Rev C

24. The private external amenity space at The Nathe comprises a balcony, paved patio, and a grassed terrace. The proposal would not significantly reduce these areas in size and would not result in these areas being overlooked to an unacceptable degree. I am therefore satisfied that the proposal would maintain an acceptable standard of external amenity space for the occupants of The Nathe.
25. Consequently, the proposal would provide acceptable living conditions for the existing occupants of The Nathe. However, I have found that the proposal would not provide acceptable living conditions for future occupants of the proposed dwelling, with particular regard to private external amenity space. This would therefore be contrary to RCUDP Policies BE1 and BE2 which together require proposals to be of a high standard of design and provide adequate private amenity space for prospective residents. This would also conflict with the policies of the Framework which seek to achieve high standards of amenity for future users.

Conclusion

26. Although I have found that the proposal would provide acceptable living conditions for the occupants of The Nathe, I have found it to be harmful to the character and appearance of the surrounding area and that it would fail to preserve the setting of nearby heritage assets. It would also compromise highway safety and would not provide acceptable living conditions for future occupants, with regard to private external amenity space.
27. Consequently, for the above reasons, the proposal is contrary to the policies of the development plan and no material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

J M Tweddle

INSPECTOR