



Appeal Decision

Site Visit made on 20 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/W4325/W/21/3273068

10 The King's Gap, Hoylake, Wirral CH47 1HE

- 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 Peter Nicholas against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/20/01063, dated 3 August 2020, was refused by notice dated 24 February 2021.
 - The development proposed is described as 'Erection of a dormer bungalow at the rear of the property (fronting onto Lighthouse Road) (Resubmission of APP/19/01560)'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Peter Nicholas against Wirral Metropolitan Borough Council. That application is the subject of a separate decision.

Procedural Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.
4. Amended plans were included with the appellant's comments on the revised Framework. These show the side elevations of the proposed dormers which were mistakenly omitted from the south-west rear elevation and north east front elevation on the original plans. As these changes do not alter the design of the proposal I do not consider that any party would be unfairly prejudiced by my determining the appeal with regard to the amended drawing ref:6483/05 A.

Main Issue

5. The main issue is whether the proposed development would preserve or enhance the character or appearance of the King's Gap Conservation Area.

Reasons

6. The appeal site is currently utilised as a large rear garden area to 10 The King's Gap, which is one half of a pair of large semi-detached Victorian dwellings. It is also located at the edge of but within the King's Gap Conservation Area (CA).

7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
8. The CA is located in between the sea and the Royal Liverpool Golf Course. I consider its significance to derive, in part, from large Victorian and Edwardian houses spaced along avenues on generously sized plots, that are enclosed, in the main, by sandstone walls. The appeal site in its current form as a part of a large Victorian dwelling's spacious plot and rear garden area thereby positively contributes to the significance of the CA.
9. On my site visit I noted the presence of some substantial buildings to either end of Lighthouse Road, including a hotel, apartment block, nursing home and former police house. However, other than for the former police house and No 4, which lie outside of the CA, there are no residential frontages on Lighthouse Road. I therefore agree with the Planning Inspector's views in the previous appeal on this site (Ref: APP/W4325/W/19/3244446) that there is a hierarchy of streets in the CA, and that Lighthouse Road, particularly its central section, which includes the appeal site, is characteristic of a secondary street. In this section of the street most dwellings back onto the highway, with the built form being predominantly smaller scale and ancillary in character, through the siting of a number of detached garages and outbuildings that sit within the spacious rear garden areas.
10. I appreciate that the existing vehicular access, trees and sandstone walls are proposed to be retained, and that the proposed dormer bungalow has been reduced in size from the previously dismissed scheme. The detailing now also incorporates a number of design features similar to those found on No 10. Nonetheless, the proposal is to construct a dwelling on what is the main rear garden area to a large Victorian dwelling which would visually sub-divide this historic plot into two smaller plots. Furthermore, the proposed dwelling would sit out of alignment with the other properties along this section of road in an area which predominantly comprises back garden land. As a result, the proposed dwelling would be completely at odds with the historic pattern of development in this area.
11. In addition, whilst the previously dismissed dwelling had two storey full height elevations with a roof above, it has not been disputed that the proposal would only be around one metre shorter in height than this. When combined with its uncharacteristic L shaped footprint and the introduction of two dormers within its roof slopes the proposed dwelling would appear conspicuous in comparison to the smaller scale and relatively simple form of the existing ancillary buildings nearby. As a consequence of these factors, it would still compete with the status of the houses in the CA.
12. I also recognise that the proposed dwelling would be set back behind the sandstone wall and trees, which would conceal views of the proposed hardstanding at close quarters. Nonetheless, its overall discordant effect would be plainly visible along Lighthouse Road and from a number of neighbouring properties. As a consequence, it would have a materially harmful effect on the significance of the CA.
13. In reaching this view, I have had regard to the appellant's reference to the influence of the local context, and a number of other buildings and a car park nearby. However, the proximity of these developments to the appeal site, the

majority of which are outside of the CA, does not justify harmful development within it.

14. Nonetheless, I consider the harm that I have identified above would, in the parlance of paragraph 201 of the Framework, be 'less than substantial'. Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. In paragraph 202 it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the proposal's public benefits, and I will turn to these below.
15. The proposed development therefore conflicts with Policies CH2 and HS4 of the Wirral Unitary Development Plan (2000). These seek, amongst other matters, to preserve and enhance the distinctive characteristics and layout of a conservation area, and to ensure that development proposals are of a scale that relates well to surrounding property and does not result in a detrimental change in the character of the area. It would also fail to accord with the design and heritage objectives of the Framework, specifically Sections 12 and 16.

Other Matters

16. There is some very limited inter-visibility between the appeal site and a Grade II listed building known as the 'lighthouse and adjoining keepers house'. The Council has not raised any objections to the effect of the development on the setting of the listed building. In reaching my decision I have also had special regard to the statutory duty to pay special attention to the desirability of preserving the listed building and its setting. In these respects, and in the absence of any evidence to the contrary, I am satisfied that it preserves those interests.
17. I have had regard to the important contribution that the proposal would make to the deliverable supply of housing in the area. However, given that the proposal is only for a single dwelling, any benefits in this respect would be somewhat limited. It has also been put forward that the principle of development is acceptable, that thermal insulation and an electrically heated central boiler system would be utilised, and that no overlooking, loss of sunlight, or risk to the existing trees (which could be protected via a landscaping planning condition) would occur. The lack of objection from the Council's Highway Engineers, Tree Officer, and Environmental Health Section, and the site's accessible location to public open space and the provision of adequate private garden and amenity space have also been put to me as favourable factors. Nonetheless, these matters did not appear to be contentious in the application and the absence of harm in these respects are neutral factors that do not weigh in favour of the proposed development.
18. Only little weight can be attached to an appellant's personal circumstances for a proposal, particularly where development would be permanent, and matters in respect of the processing of a planning application have had no bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.
19. My attention has also been drawn to a number of planning permissions in the CA that the appellant considers to be similar to the proposal. However, I do not have the full details of the circumstances that led to all of these proposals

being accepted before me so I cannot be certain that they represent direct parallels to the appeal proposal. Moreover, the previously approved dwellings referred to me are not situated within the immediate context of the appeal site and are therefore not in areas that share the same characteristics that I have identified that apply to the appeal proposal. I have, in any case, determined the appeal on its own merits.

20. The appellant has also pointed out that an outbuilding more than twice the footprint of the proposal could be constructed without the need for planning permission. However, there is no substantive evidence before me to indicate that there is a significant probability that such development would take place should this appeal be dismissed. This therefore limits the weight that I can attach to it as a fallback position.
21. In reaching my findings I have had regard to the previous appeal for a dwelling on the site (Ref: APP/W4325/W/19/3244446) and the appellant's comments in respect of the content of the revised Framework. I note that the appellant considers all issues raised by the Inspector in the previous appeal to have been addressed. However, for the reasons given above, I continue to find that the scheme conflicts with current local and national policies.

Conclusion

22. In light of the above, I find that neither the public benefits of the scheme, nor any other material consideration outweigh the harm that would result. They consequently do not justify allowing a scheme harmful to the character or appearance of the CA or, more broadly, in conflict with relevant provisions of the development plan.
23. As such, the proposal would fail to preserve the character and appearance of the King's Gap Conservation Area. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR