



Appeal Decision

Site Visit made on 6 September 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/B3030/W/21/3276386

Rose Cottage, 34 Lovers Lane, Newark, NG24 1HU

- 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 Messrs G, D & A Briggs-Price against the decision of Newark & Sherwood District Council.
 - The application Ref 21/00316/FUL, dated 8 February 2021, was refused by notice dated 10 March 2021.
 - The development proposed is the demolition of existing property and erection of 3 (three) town houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the relationship of the proposal to the protected trees and whether the proposal would lead to the unacceptable loss of a non-designated heritage asset.

Reasons

Protected trees

3. The rear of the appeal site is dominated by a pair of large, mature trees, subject to a Tree Protection Order. These trees are visible from some distance, and in my view, are an attractive green, natural element within the otherwise intensive built-form of the area. The trees are within and adjacent to the parking and manoeuvring area serving houses on The Tryst, adjacent to and at the rear of the site. A pair of more recent dwellings adjacent to the site are to the west of the trees, with the closest of the trees being on the boundary between those dwellings and the southern boundary of the site.
4. Owing to their size and relationship to the proposed dwellings, I consider that the trees would dominate the proposed dwellings and overshadow their gardens and rear windows. Their height and spread is significant, and their effect on light to the dwellings and their rear gardens would be substantial. Combined with the already obvious tree-debris on the ground around the trees, I consider that three additional dwellings close to the protected trees would be likely to lead to pressure for their future management or even removal. I do not consider that the proposed internal layout would be sufficient to mitigate against the effect of this overshadowing and overdominance on the living conditions of future occupiers of the appeal site.

5. In reaching this conclusion, I acknowledge that the Council would have ultimate control over this situation in the future, as any such works would require consent under a separate regime. However, given that the likely harm to the living conditions of future occupiers of the appeal site, and pressure on the protected trees is clear at this point, I do not consider it appropriate to ignore those future effects and pressure.
6. The suggestion from the appellant that the tree closest to the proposal would benefit from management for the benefit of existing and future residents, adds to my concerns over both the effect of the trees on the living conditions of future occupiers of the appeal site, and likely future pressure on the protected trees.
7. The proposal would not therefore have an appropriate relationship to the protected trees, with regard to both future pressure on those trees and their effects on the living conditions of future occupiers of the appeal site. The proposal is therefore contrary to Policies 9 and 12 of the Newark and Sherwood Local Development Framework Core Strategy and Allocations Amended Core Strategy (March 2019) (the Core Strategy), and Policies DM5 and DM12 of the Newark and Sherwood Allocations and Development Management Development Plan Document (2013) (the DMDP). These policies seek, amongst other things, to ensure that development proposals are appropriately designed, protect and enhance green assets and infrastructure.

Heritage

8. The appeal site is host to a building which is clearly of some age, older than the properties which immediately surround it and closer in age to the older buildings and earlier land uses of the area around the appeal site. I note that Historic England declined to list the building for a variety of reasons. Nevertheless, the building does add to the history and mix of the area, and third-party comments suggest that it is of some value to that character. As such, I consider that for the purposes of the National Planning Policy Framework (the Framework), and in light of guidance in the Planning Practice Guidance (the PPG) the building on the site can be considered a non-designated heritage asset (NDHA), even accepting that the Council has not yet fully adopted its assessment criteria. As such, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
9. The proposal would clearly result in the total loss of the existing building on the appeal site as a NDHA. However, this must be balanced against the provision of three dwellings, which is a clear benefit of the proposal. As such, I find that the proposal would not lead to the unacceptable loss of a non-designated heritage asset. In this respect, it would comply with Core Policy 14 of the Core Strategy and Policy DM9 of the DMDP which seek to protect and enhance the historic environment, as well as guidance in the Framework on the historic environment.

Conclusion

10. I have found that the proposal would not lead to the unacceptable loss of a non-designated heritage asset and that the delivery of housing is a clear benefit. However, I have also found that the proposal would not have a satisfactory relationship to the protected trees on and adjacent to the site. The

development plan conflict in this regard is significant, and I give it substantial weight which I find outweighs the other benefits.

11. For the reasons given I therefore conclude that the proposal conflicts with the development plan and there are no material considerations which indicate that a decision be taken other than in accordance with it. The appeal should therefore be dismissed.

S Dean

INSPECTOR