



Appeal Decision

Site visit made on 31 January 2022 by Darren Ellis MPlan

Decision by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/C1055/D/21/3286404

Orchard Cottage, 23 Church Street, Spondon, Derby DE21 7LL

- 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 Adam Tozer against the decision of Derby City Council.
 - The application Ref 21/00748/FUL, dated 28 April 2021, was refused by notice dated 20 August 2021.
 - The development proposed is to erect garden store building and allow the retention of existing containers for a period of not exceeding 6 months.
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Decision

1. The appeal is dismissed insofar as it relates to the retention of the existing containers.
2. The appeal is allowed insofar as it relates to the garden store building and is subject to the conditions below:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; and Existing and Proposed layouts, elevations and site block plans drawing no. JG/AT/2021/014/02, insofar as the drawings relate to the garden store building.
 - 3) No development shall take place above slab level until details/samples of the materials to be used in the construction of the external surfaces of the garden store building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

4. The main issue is the visual effect of the proposed development and its effect on the Spondon Conservation Area.
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Reasons for the Recommendation

5. Although I have been provided with a plan of the Conservation Area, there is no related Conservation Area Appraisal. At my site visit I found the designated area to be centred around the core of the historic village of Spondon. Its focus is St Werburgh's Church and the generality of Church Street itself. The Conservation Area is predominantly residential in character with a mix of, somewhat scattered, older dwellings, mainly of red brick and plain tiles with some slate, and more modern infill dwellings. Within the vicinity of the appeal site, the high, old, brick boundary wall to the school provides framing and enclosure. Well-established trees also make a positive contribution to the Conservation Area as a whole.
6. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Metal containers

7. The three existing metal containers are of an industrial appearance and are considerably out of character with the surrounding residential buildings. When viewed from the public footpath adjacent to the site, the containers are partly visible above the boundary wall and as such they are not a sympathetic addition to the site or the CA. Furthermore, the appellant acknowledges that the containers are inappropriate in this part of the CA.
8. Although it is proposed for the metal containers to only be present for a temporary period until they are replaced by the proposed garden store, their industrial appearance causes harm to, and subsequently fails to preserve or enhance, the character or appearance of the CA. Given the localised extent of the impact the harm to the CA would be less than substantial but still carries significant weight, having regard to the statutory duty to preserve or enhance the CA. Paragraph 202 of the National Planning Policy Framework (the Framework) states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposed development. No public benefits of the scheme have been identified. The desire to provide storage space until construction begins on the proposed garden store building would be a private benefit which would not outweigh the identified harm.
9. Moreover, the retention of the metal containers would conflict with and policies CP3(b) and CP4 of the Derby City Local Plan – Part 1 Core Strategy (January 2017) (CS) which, amongst other things, require development proposals to integrate well into its setting and to have no significant adverse effect on the character and appearance of the dwelling and street scene. It would also be contrary to paragraph 134 the Framework, which states that development that is not well designed should be refused, especially where it fails local design policies.
10. This part of the proposal would also fail to comply with LPR policy E18 and CS policy CP20, which both require development to preserve and enhance the special character and significance of the Conservation Area. The proposal would also fail to comply with the heritage policies of the Framework. Having regard to the requirements of Section 72(1) of the Act, the harm in that respect is a matter that attracts significant weight.

11. The reason for refusal also cites a conflict with saved policy H16 of the City of Derby Local Plan Review (January 2006) (LPR). However, this policy relates to housing extensions and makes no reference to outbuildings. As such policy H16 is not relevant in this case.
12. The first reason for refusal, which relates to the retention of the metal containers, states that the containers would also be detrimental to residential amenities. The reason for refusal also refers to LPR policy GD5 which requires development to not cause unacceptable harm to the amenity of the occupiers of nearby areas. Parts of LPR policy H16 also relate to residential amenity. However, no details of the harm to which residential amenities or to which neighbouring properties have been provided. The Council's delegated report only makes an assessment on the effect of the containers on the character and appearance of the appeal site and the CA, with no assessment of the effect on the residential amenities of neighbouring properties. Nevertheless, as I am recommending that the appeal insofar as it relates to the containers is dismissed on other grounds, this matter is not determinative in this case.

Garden store building

13. The Officer Report and the relevant reason for refusal express the view that the proposed garden store would be an excessively large structure in combination with an existing large garage. However, the related harm insofar as it relates to the character or appearance of the Conservation Area is not explained.
14. The proposed garden store building would be sited, in general terms, behind the existing frontage dwelling at 54 Church Street. Although it would be some 10 metres in width, it would have limited depth and, built in brick with a tiled pitched roof, it would have the appearance of a domestic outbuilding. The narrow view from the street, along the shared driveway, would limit the extent to which the building would be visible with the most significant element being its long, relatively low, roof. With a backdrop of well-established trees, the proposal would not appear intrusive and it would sit comfortably within its setting. Moreover, it would be sufficiently far away from the existing garage, and set within a large curtilage, such that it would not amount to over-development.
15. A narrow public footpath, between tall boundary features, runs along the northern boundary of the site. Again the most significant element would be the pitched roof, above the boundary, giving the impression of a link between no 54 and Orchard Cottage. In my opinion, the scale and characteristics of the proposed building would be entirely domestic in nature.
16. Overall, the proposed building would respect the residential nature of the surrounding area and would preserve the character and appearance of the CA.
17. The proposed garden store building would therefore comply with saved LPR policy E18 and CS policies CP3(b), CP4 and CP20. It would also comply with paragraph 130(c) the Framework, which seeks to ensure that that development is sympathetic to local character.
18. The Council's second reason for refusal also refers to LPR policy H16, however this policy does not apply in this case for the aforementioned reason.
19. LPR policy GD5 is also referred to in the second reason for refusal, which relates to the proposed new garden store building. However, the Council's

delegated report concludes that the building 'would not have a significantly negative impact in terms of visual and residential amenity for the occupiers' of 54 Church Street, the property immediately adjacent to the siting of the proposed building. Based on what I saw during my site visit and on the evidence before me, I have no reason to disagree with the Council's conclusion.

Conditions

20. In order to provide certainty and in the interests of proper planning it is necessary to impose the standard time limit and specify the approved plans. In the interests of the character and appearance of the CA and as only limited details have been provided, a condition is necessary specifying that full details and/or samples of the exterior materials to be used are submitted to and approved by the Council.

Conclusion and recommendation

21. I have found that the metal containers fail to preserve or enhance the character or appearance of the Spondon Conservation Area and their retention, even for a restricted period, would be harmful. On the other hand, subject to the approval of the external materials of construction, the proposed garden store would preserve the character and appearance of the Conservation Area.
22. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed insofar as it relates to the metal containers because of the conflict with the development plan and there being no material considerations which indicate that a decision should be made other than in accordance with the development plan, and allowed insofar as it relates to the garden store building which would accord with the development plan.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, agree with the recommendation and shall issue a split decision.

David MH Rose

INSPECTOR