



Appeal Decision

Site visit made on 8 March 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/M1005/W/21/3282295

Land adjoining No 8 Derby Road, Ambergate, Belper DE56 2GE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by G Simpson against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/0944, dated 8 October 2020, was refused by notice dated 31 March 2021.
 - The application sought planning permission for proposed dwelling with parking for 2 cars via existing access (This is contrary to the provisions of the Development Plan) without complying with a condition attached to planning permission Ref AVA/2016/1155, dated 26 May 2017.
 - The condition in dispute is No 2 which states that: The development shall be carried out in accordance with the details contained in the submitted plans and documents listed below: Planning Application Form received 9 November 2016; Flood Risk Assessment dated April 2017 received 12 April 2017; Sequential Test and Exceptions Test dated October 2016 received 9 November 2016; Heritage Impact Assessment Report dated November 2016 received 9 November 2016; Design and Access Statement dated 1 November received 9 November 2016; Site Location Plan received 16 November 2017; Proposed Plans drawing no. 0443.P.0101 Rev B received 3 May 2017; Proposed Elevations drawing no. 0443.P.0102 rev B received 3 May 2017; and, Levels and groundworks diagram drawing no. 0443.0103A received 3 May 2017.
 - The reason given for the condition is: in order to define the permission.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties refer to the submission of amended plans during the consideration of the application, although the appellant has submitted a later version as part of the appeal documentation which is not referred to by the Council. From the information before me, I am unclear as to whether consultation was carried out on this later version and therefore interested parties may be prejudiced by my consideration of it. My consideration of the appeal has therefore been made on the basis of the plans on which the Council made its decision.

Background and Main Issues

3. The appeal site lies adjacent to Derby Road which is the main road through Ambergate. The site lies within the Derwent Valley Mills World Heritage Site (the WHS).

4. Planning permission was granted in 2017 for a new two storey dwelling, with accommodation also within the roof space. The appellant now wishes to amend the design of the dwelling to increase the eaves height by approximately 1.63m and the ridge height by approximately 1.38m. The proposal also includes changes to the fenestration on the southern and eastern elevations. The Council's evidence confirms that its concern relates to the proposed increase in height of the dwelling.
5. Taking the above background into account, the main issues are the effects that varying the condition would have on:
 - the character and appearance of the area; and
 - the Outstanding Universal Value (OUV) of the WHS.

Reasons

Character and Appearance

6. The dwelling would be visible for quite a distance when travelling through Ambergate along Derby Road from the south given the position of the site on a slight bend in the road. Views from the north would be more restricted due to the screening effect of the railway bridge over the road, but the site comes into view immediately after passing under it. The dwelling would therefore be prominent in the street scene.
7. The proposed changes in the design would result in a dwelling markedly higher than the neighbouring buildings. The dwelling would be more obviously three storeys in height, accentuated by the relationship between the top floor windows and the building's eaves line and the pitch of the roof. Furthermore, the resultant expanse of render and the bulk and mass of the building would increase its dominance within the street scene.
8. A number of the dwellings on the opposite side of the road to the site are two storeys, some with dormer windows in the roof, and they sit above the road at a higher level than the site. However, due to land levels on this side of the road, there is a gradual increase in the height of the dwellings. In addition, they are set slightly back from the road, and although they sit above it, their eaves and ridge heights and overall bulk and mass are in keeping with the prevailing character of the properties along Derby Road. They do not therefore have the dominant bulk and massing that the proposed dwelling would have within the street scene.
9. The appellant highlights that the height of the dwelling was not raised as an issue on the original application. The increase in height of the roof ridge and eaves now proposed, even though relatively modest, is such that the dwelling would appear noticeably out of scale with the neighbouring properties and would therefore be an inharmonious development in the area.
10. The proposed dwelling, particularly given its prominent position, would be unduly dominant and incongruous in views when approaching along Derby Road from both directions. It would be harmful to the prevailing character and appearance of the street scene.
11. Consequently, the proposal would conflict with Policies LS3 and H12 of the Amber Valley Borough Local Plan, adopted 2006 (the Local Plan). These policies

require development to conserve or enhance the quality and local distinctiveness of the natural and built environment, respect local character, and be in scale and character with their surroundings, amongst other matters. The proposal would also conflict with the design objectives in the Residential Development Supplementary Planning Document 2007 and part 12 of the National Planning Policy Framework (the Framework) which seek to ensure that developments are sympathetic to local character.

OUV of the Derwent Valley Mills WHS

12. The Derwent Valley Mills is a WHS which is identified in paragraph 200 of the Framework as a heritage asset of the highest significance. The OUV of the WHS is in part attributed to its series of 18th and 19th century cotton mills and an industrial landscape of high historical and technological interest. The cultural landscape of the Derwent Valley was where the modern factory system was developed and established. It was in this area that for the first time there was large-scale industrial production in a hitherto rural landscape. The need to provide housing and other facilities for workers and managers resulted in the creation of the first modern industrial settlements.
13. The inter-relationship of the industrial buildings and their dependent urban settlements to the river and its tributaries, other industrial elements such as the canals and railway and the topography of the surrounding rural landscape into which the industrialisation was set, are important elements of the WHS, contributing to its significance.
14. Given my conclusions on the effects of the proposal on the character and appearance of the area above, there would be harm to the OUV of the WHS as the height, bulk and massing of the dwelling would visually compete with important elements of the WHS.
15. The Heritage Impact Assessment¹ submitted in support of the approved scheme concluded that it would have a negligible direct impact on the WHS by virtue of its scale. The appellant also highlights that harm to the WHS was not a concern of the Council with the approved scheme. The scale of the development now proposed is different to the approved scheme. For the reasons given above, the design of the dwelling as now proposed would cause harm to the character and appearance of the area and to the WHS.
16. As the proposal would affect only a very limited part of the WHS, the harm to its significance would be less than substantial. Even so, Framework paragraph 199 directs me to give 'great weight' to the conservation of such assets; less than substantial harm does not equate to a less than substantial planning consideration. Under such circumstances, paragraph 202 of the Framework advises that the harm should be weighed against the public benefits of the proposal.
17. The information submitted indicates that the increase in height proposed is to provide a more usable area in the roof space for occupiers of the dwelling. Whilst appreciating the appellant's desire to create a more usable space, this would not amount to a public benefit. The new dwelling would contribute to housing supply. There would also be employment benefits during construction and occupation, for example via new residents bringing trade to the area.

¹ Heritage Impact Assessment Report, November 2016

Those implications may be considered positive public benefits, however the weight that I can ascribe them in terms of one dwelling is limited.

18. Paragraph 199 of the Framework states that great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. Paragraph 200 requires clear and convincing justification for any harm to or loss of significance of a designated heritage asset. Consequently, the harm to the OUV of the WHS attracts very considerable weight against the proposal. The public benefits would not outweigh the harm that would be caused.
19. Accordingly, the proposed development would conflict with Policy EN29 of the Local Plan, which requires all development proposals within the WHS to preserve or enhance its character and appearance. Although this policy does not require a weighing of the harm against public benefits, it nevertheless seeks to conserve this heritage asset, which is consistent with the aims of the Framework. The proposed development would also conflict with the advice in part 16 of the Framework, the most relevant aims of which are summarised above.

Conclusion

20. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR