The Planning Inspectorate

Appeal Decision

Site visit made on 1 March 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/M1005/W/21/3284875
Orchard Cottage, 30 Lower Road, Mackworth, Derby DE22 4NF

- 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 and Mrs D Miles against the decision of Amber Valley Borough Council.
- The application Ref AVA/2020/1173, dated 9 December 2020, was refused by notice dated 14 April 2021.
- The development proposed is the demolition of existing buildings and erection of replacement dwelling house and garage.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposed development on the character and appearance of the area with specific regard to a) the Mackworth Conservation Area; b) the local landscape; c) the setting of listed buildings; and d) a scheduled monument.

Reasons

The Mackworth Conservation Area (CA)

3. The CA encompasses the village of Mackworth and the rural landscape immediately surrounding it. The eastern part of the CA is characterised by a small linear rural settlement comprising a mixture of modern and historic detached properties which face onto Lower Road. The western part of the CA, within which the appeal site sits, is of a rural character with retained historic field boundaries and sporadic individual plots and small farmsteads. Buildings associated with historic rural uses, such as the appeal building, tend to be of traditional size and scale, sitting recessively in what is an otherwise open and expansive landscape. The significance of the CA results from this and its historic, architectural and archaeological interest which includes historic field boundaries, several listed buildings and a scheduled monument, Mackworth Medieval Settlement.

4. The existing dwelling is a small, rendered cottage of one and a half storeys with a slate roof. It has been subject to a number of additions and alterations and its condition is now deteriorating, resulting in the property being of little historic interest. Due in the main to its small scale and orientation with its gable end fronting onto Lower Road, its contribution to the significance of the CA is limited.

5. The proposed replacement dwelling would be a five-bedroom two storey property constructed in brick with a slate roof. It would be very wide, a fact emphasised by an attached garage. Coupled with the additional height, the scheme would represent a significant increase in size from the existing property.

6. Whilst I acknowledge that the proposed use of red brick would conform more closely to the prevailing vernacular than the render used on the current property, by virtue of its significant size and massing the proposed development would represent a disproportionately large and overly dominant feature for both the street scene and the village. This effect would be exacerbated by the dwelling's orientation. The current cottage is broadly orientated north-south with the gable end facing onto Lower Road, however the proposed dwelling would be orientated northwest-southeast. This would increase the exposure of both the front and rear elevations when viewed from in front of the site on Lower Road, and from Jarveys Lane when travelling north from Ashbourne Road.

7. Although the appeal site is bounded on all but one side by mature trees and hedgerows and the topography of the land partially restricts views of the site from the south, the proposed dwelling would be a significantly more visible and prominent feature within the CA. Whilst the proposed development may not impede any 'key views' within the CA it would remain an incongruous feature due to its size, scale and orientation.

8. Consequently, the proposed development would fail to preserve or enhance the character or appearance of the CA. Paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of a designated heritage asset, great weight should be given to the asset's conservation. Whilst the harm I have identified would be less than substantial, it nevertheless is of considerable importance and weight. Paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.

9. I acknowledge that there would be benefits to the local economy through the construction process, however these benefits would be modest due to the small scale of the development. Additionally, whilst the proposal would replace the existing dwelling of deteriorating condition, there would be no net increase to the Council's housing stock. Taking these points together, I conclude that the benefits of the proposal would not outweigh the harm identified, which carries considerable importance and weight.

10. The proposed development would therefore conflict with saved Policy EN27 of the Amber Valley Borough Local Plan (2006) (LP) which, amongst other things and along with the Framework, seek to ensure that developments contribute to the preservation or enhancement of the CA.

Landscape Character

11. The appeal site is located within the Needwood and South Derbyshire Claylands settled farmlands character type within a medieval open field system. The key characteristic of settled farmlands is stated as being 'a gently undulating pastoral landscape of very little woodland but densely scattered hedgerow and trees'.

12. As referred to above, the proposed replacement dwelling would be significantly larger in terms of is massing and height resulting in it becoming a more visible and dominant feature within the landscape. I find that this dominance would be further exaggerated by the design and appearance of the proposed development which would be of an urban character, particularly with reference to its layout, highly prominent attached garage with large garage doors, and expansive block paved driveway.

13. As a result, the proposed development would fail to respect the character of the locality in terms of its scale, layout, density, height, massing and architectural style. Whilst given the significant extent of the landscape character area as a whole its impact would be fairly localised and modest, I find that the proposed development would result in harm being caused to the settled farmlands character type.

14. The appellant has referred to an outline planning permission recently granted by the Council for 600 dwellings and a primary school on land boarded by Ashbourne Road and Radbourne Road, which is also located within the Needwood and South Derbyshire Claylands character type area. However, from the information available to me that outline permission appears to represent an extension of the existing built-up area, and not a standalone development in amongst a rolling rural landscape. Furthermore, a scheme of that size would also bring about significantly more public benefits than the appeal proposal before me. Consequently, whilst I acknowledge that the 600 dwelling scheme would undoubtably result in a significant change of the landscape character in that particular part of the character type area, I do not consider that it justifies the approval of the appeal scheme on landscape grounds.

15. The proposed development would thus conflict with saved Policies EN7, LS3 and H12 of the LP which seek, amongst other matters, to ensure that the design of development is appropriate to the landscape character within which it is proposed which includes having regard to the scale, layout, design and detailing of local buildings.

Setting of Listed Buildings

16. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me, 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.

17. The appeal property is located approximately 75 metres from Home Farm, a Grade II listed three-storey farmhouse dating from the early 18th century. Home Farm is larger and consequently more imposing in the street scene than the surrounding buildings and properties, which along with its position on the junction of Jarveys Lane and Lower Road, gives it prominence and presence as a key landmark building within the CA.

18. Despite the separation distance between the two properties, Home Farm and Orchard Cottage are experienced within the same views of the surroundings. When approaching from both directions along Jarveys Lane and Lower Road the eye is drawn to the more prominent Home Farm, with Orchard Cottage very much a subservient building which does not seek to compete.

19. In being so much larger, the proposed building along with its orientation would result in a far more exposed and prominent building. Consequently, the proposed development would compete visually with Home Farm and would represent an overly dominant feature within its setting, particularly when approaching from the east along Lower Road. The development would therefore represent a detrimental change which would adversely affect the setting of Home Farm. Whilst this harm would be less than substantial, I do not find that this harm is outweighed by any public benefits of the proposal as outlined above.

20. To the east of the appeal site is the Gatehouse to Mackworth Castle, a Grade I listed building. Although the top of the Gatehouse is just visible from immediately outside of the appeal site on Lower Road, due to dense natural screening and the distance between the sites there would be no views of the proposed development from the Grade I listed building. As a result, I do not consider that the proposed development would have any impact upon the Gatehouse, therefore preserving its setting.

21. This would however be a lack of harm and thus would not affect the harm I have found to the setting of Home Farm. The proposed development would accordingly be contrary to saved Policy EN24 of the LP which requires, amongst other things, that new buildings contribute to the preservation of listed buildings and their settings, having regard to the elements which make up its special interest including the character, appearance and scale.

Scheduled Monument

22. The appeal site is immediately adjacent to the Mackworth Medieval Settlement, a scheduled monument (SM). The remains of the settlement survive as earthworks within pasture fields and as below ground archaeological remains. In particular these earthworks have an unusual level of surface visibility, including in close proximity to the appeal site where principally ridge and furrow are present. The settlement remains surrounded by an open, agricultural landscape with only a limited amount of modern development located to the south and southeast of the village.

23. Paragraph 189 of the Framework states that heritage assets, which range from sites and buildings of local historic value to those of the highest significance, are an irreplaceable resource and should be conserved in a manner appropriate to their significance. The significance of the SM is not disputed, with its landform providing a strong indication of the history of the site and the historical character of the settlement. The scheduling description also confirms that there is a very high probability that further archaeological evidence will be buried under ground. This is an important monument whose preservation is highly desirable.

24. Although the proposed development would not encroach beyond any existing field boundaries onto the SM, it is undoubtably situated within its setting. A key part of that setting is the experience of the medieval earthworks within a rural landscape with small scale and unobtrusive buildings scattered amongst it. The existing cottage is small scale and recessive in appearance and as a result has little impact on the SM or its wider setting.

25. However, by virtue of its significant size and massing, its orientation, and its more urban design and appearance, the proposed development would

represent a significant visual change within the landscape setting of the SM. The proposed development would be significantly more dominant and obtrusive within views of this area of the SM, and would erode part of the rural landscape causing harm to the significance of the SM.

26. Whilst this harm would be less than substantial, it would not be outweighed by any public benefits as outlined earlier in this decision. The proposal would therefore be contrary to saved Policies EN30 and EN31 of the LP which, amongst other things, seek to ensure that developments do not disturb or have an adverse impact on a scheduled monument or it's setting.

Other Matters

27. The Council in its reasons for refusal has stated that the applicant has not demonstrated that all of the appeal site has an existing use as domestic curtilage, and the proposed development was therefore in conflict with saved Policies EN1 and H5 of the LP. These policies seek to restrict new development in the countryside to limited purposes. The Council stated that these policies are considered to be out of date and not consistent with the Framework.

28. At the time of my site visit the full extent of the appeal site appeared to be one planning unit. However, the determination whether the entire site benefits from a lawful residential use does not fall within the scope of this appeal and is a matter that will be dealt with under a recently submitted application for a Lawful Development Certificate (Ref AVA/2021/1108).

29. In any event, I am satisfied from both my site visit and the information available to me that the proposed new dwelling, which is broadly situated in the same location as the existing dwelling, would be situated on land which benefits from a lawful residential use. It is the effect of the proposed built form which I have identified would result in harm to the landscape character and setting of the designated heritage assets, and therefore the issue pertaining to whether the full extent of the site benefits from a lawful residential use was not a determinative factor.

Planning Balance

30. Whilst the Council can demonstrate the supply of housing sites as required by the Framework, there is mention in the evidence pertaining to some policies being out of date due to inconsistency with the Framework. I have alluded to this above. It seems sufficiently clear from my earlier findings that there are policies important to the consideration of the proposed development that would not be so affected.

31. However, and if I were to take it that they were, I would not be taken to the circumstances of paragraph 11 d) ii of the Framework given the stance of 11 d) i which explains that planning permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this particular case, and with regard to applicable footnote 7, the proposed development would cause unacceptable harm to a number of heritage assets. Harm that would not be outweighed and this indicative of a clear reason for refusing the development proposed. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.

Conclusion

32. The proposal would conflict with the development plan and there are no material considerations, including the approach of the Framework and worthy of sufficient weight, which would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

David Jones

INSPECTOR