



Appeal Decisions

Site visit made on 11 May 2022

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 17th May 2022

Appeal A Ref: APP/F2415/C/22/3290209

32a Coventry Road, Market Harborough, Leicestershire LE16 9BZ

- 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 Michael Donington against the decision of Harborough District Council.
- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Michael Donington against an enforcement notice issued by Harborough District Council.
- The notice was issued on 2 December 2021.
- The breach of planning control as alleged in the notice is the erection of a sectional concrete garage on the Land in the approximate location hatched black on the plan
- The requirements of the notice are to:
Dismantle the concrete sectional garage from the Land in its entirety including all fixtures and fitting associated with the structure and remove any resulting debris from the land, returning the Land to its profile prior to the unauthorised works taking place.
- The period for compliance with the requirement is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld

Appeal B Ref: APP/F2415/W/21/3286148

32a Coventry Road, Market Harborough, Leicestershire LE16 9BZ

- 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 Michael Donington against the decision of Harborough District Council.
- The application Ref 21/01002/FUL, dated 27 May 2021, was refused by notice dated 9 August 2021.
- The development proposed is erection of a sectional garage.

Summary of Decision: The appeal is dismissed

Decisions

Appeals A and B

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

Preliminary Matters

2. Appeal A includes under ground (a), a request for planning permission for the building being enforced against. Since Appeal B is against the refusal of planning permission for the same building, I can address both appeals in the same Decision Letter.

The appeal under ground (b)

3. An appeal under ground (b) is that the matter stated in the enforcement notice namely the erection of a concrete sectional garage has not occurred as a matter of fact. The burden of proof is on the appellant and the relevant test is the 'balance of probabilities.'
4. The appellant indicates that this ground applies because the garage, the subject of the notice, has only been partially completed. The structure that is shown on the photographs taken before the issue of the notice and which from my site observations is still present on site is clearly identifiable as a garage with walls and a framed roller shutter door. Although the Council has referred to the appellant's intention to have a roof, even without a roof, the structure is clearly identifiable as a garage with its current features. I am satisfied that the breach namely the erection of a sectional concrete garage has occurred as a matter of fact. The appeal under ground (b) fails.

The ground (a) appeal and the deemed planning application and the Section 78 appeal

Main Issue

5. The main issue is whether the development preserves or enhances the character or appearance of the Market Harborough Conservation Area (the CA)

Reasons

6. Conservation Areas are designated heritage assets as defined by the National Planning Policy Framework (the Framework) and great weight is to be given to their preservation and conservation. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special attention be given to the desirability of preserving or enhancing the character or appearance of a conservation area.
7. The CA covers the historic core of a county market town and the boundaries of the CA roughly follow the boundaries of the area originally attached to the Grade I Listed Church of St Dionysius (the Church) which is at the heart of the CA. The appeal site is on the edge of the CA but nevertheless is within an area where characteristic features of the CA are present which contribute positively to the CA designation. Those features include yards which remained after original burgage plots were built upon. Narrow streets and lanes are also a legacy of how the town has expanded over the years.
8. The appeal site includes buildings on the corner of Coventry Road and School Lane as well as an area to the rear where the appeal building is located. That area is used for parking and outside space for the buildings within the appeal site. There are also parking spaces for nearby new development that fronts onto Talbot Yard which in turn leads to the Church. School Lane is a characteristic narrow lane which runs along the side of the appeal site with

traditional buildings that form part of Brooke House College to the other side of the lane.

9. The appeal building has been constructed with pale concrete blocks with a framed roller shutter door at one end. The height of the appeal building and the natural slope upwards along the lane from Coventry Road means that it is particularly prominent above the traditional red brick boundary wall between the appeal site and the lane. Views of the higher parts of the appeal building with the pale concrete blocks contrast with the materials of the boundary wall, and the red brick materials of Brook College buildings. The build and use of materials is not of high quality and the appeal building does stand out in an area where traditional brick built buildings which reflect the CA status are prevalent. I accept that that the original views of the Church from just beyond the boundary wall have been altered by the new buildings along Talbot Yard. Nevertheless, the appeal building due to its appearance and design does detract from existing views across to the Church from the lane.
10. The overall appearance of the appeal building including the use of materials which are not representative of the traditional character of the area, the quality of the build, and the prominent location means that the building does not preserve or enhance the character or appearance of the CA.
11. The appellant has referred to a garage to the rear of the Conservative Club which he considers to be of identical construction to the development. However, the other garage is not within the CA and even if it had been, the location of that building in terms of prominence and relationship to other buildings is entirely different to the appeal building. It remains the case that each development has to be assessed on its own merits and circumstances.
12. Having regard to the prominent location of the development together with its height and design, it does appear out of place in an area where development is of a more traditional design. I do find that the development does not preserve or enhance the character or appearance of the CA as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm caused to the significance of the Conservation Area is less than substantial. Although paragraph 196 of the Framework states that the harm that I have identified should be weighed against any public benefits of the development, the appellant has not referred specifically to any public benefits. There are no public benefits or other considerations that outweigh the harm.
13. For the reasons given, the development fails to preserve or enhance the character or appearance of the CA. It is therefore in conflict with Policy GD8 of the Harborough Local Plan 2011-2031 (the Local Plan) which amongst other things states that development should represent a high standard of design and reflect the characteristics of Conservation Areas and integrate as far as possible with the existing street scene. It is also in conflict with Policy HC1 of the Local Plan which amongst other things states that development within the Conservation Area will only be permitted where it preserves or enhances the character or appearance of the Conservation Area including local design and materials. It is also contrary to Paragraph 130 of the Framework which states that developments should add to the overall quality of the area and be visually attractive.

Conclusion

14. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

E Griffin

INSPECTOR