
Appeal Decision

Site visit made on 26 April 2022

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 18 MAY 2022

Appeal Ref: APP/X2410/W/22/3293698

67 Main Street, Queniborough, Leicestershire LE7 3DB

- 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 Terry Kee against the decision of Charnwood Borough Council.
 - The application Ref P/21/1269/2, dated 3 June 2021, was refused by notice dated 20 September 2021.
 - The development proposed is the erection of detached dwelling and double garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on, firstly, the character and appearance of the Queniborough Conservation Area (QCA) and secondly, whether the effects on local ecology could be satisfactorily mitigated.

Background

3. A similar scheme on the appeal site was dismissed on appeal in February 2021¹. Amongst other things, that decision considered the effect of the development upon local heritage assets including the historic settlement pattern of the QCA. Upon consideration of the evidence the Inspector concluded the proposal would erode "*the historic burgage plots*" and introduce "*a further suburban element*" which would be harmful to the character and appearance of the QCA². In an attempt to overcome these concerns, the Appellant has submitted additional information in the form of historical mapping evidence³.

Reasons

Character and appearance of the QCA

4. The appeal site is within the QCA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

¹ PINS Ref: APP/X2410/W/20/3254081

² See paragraph 16 of the Decision Notice

³ See section 7 of the PCAS Heritage Assessment

5. The “*National Planning Policy Framework*” (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.
6. At the local level, Policy CS2 of the 2015 Charnwood Local Plan Core Strategy (the CS) requires new development to respect the character of the area, having regard for scale, density, massing, height, landscape, layout, materials, and access arrangements. CS Policy CS14 seeks appropriate forms of development that conserve and protect heritage assets and their settings. Saved Policy EV/1 of the 2004 Borough of Charnwood Local Plan (the LP) states that planning permission will be granted for new development which respects and enhances the local environment, including the form and function of existing settlements and is of an acceptable design and layout.
7. The appeal site is within the curtilage of No 67. It is accessed from Main Street via the gated driveway with a frontage to Mere Lane at its southern end. The site is flanked by existing residential development to the north, east and west.
8. The application seeks full planning permission for a single two-storey dwelling which would be predominantly clad with timber. The rectangular property would be positioned ‘side on’ to Mere Lane and feature red/orange facing bricks and a natural slate gabled roof with black aluminium windows. A double garage of similar materials is also proposed to the north of the house, adjacent to the existing garage serving the host dwelling. The dwelling would be served via the existing gated access from Main Street between Nos 67 and 69a.
9. The historic core of Queniborough is arranged in linear form along High Street and comprises a handsome array of historic buildings many of which occupy historic burgage plots which date back to Medieval times. Buildings generally adhere to a uniform front building line which is set back generously from the roadside behind manicured grass verges. These characteristics result in picture postcard views up and down Main Street which are of the very highest order.
10. The Conservation Area Character Appraisal (CACA) was published in 2011 and this describes the historical development of the settlement and those elements of the Conservation Area that contribute to its special architectural and historic interest and significance. Of particular relevance to the appeal scheme, the CACA identifies that “*the existing Medieval plan of the village*” and the “*historic core of the settlement*” are still evident today and “*largely unaffected by 20th Century development*”. The CACA goes on to highlight that the narrow and long open burgage plots, give the QCA a very distinct grain or pattern which is part of its historic development and should be protected.
11. The Appellant’s Heritage Assessment confirms that Queniborough was established in the medieval period as a “*linear settlement, with planned burgage plots of toft and croft lining both sides of Main Street and the open fields beyond*”. There is also no dispute that the appeal site “*would have originally occupied a medieval burgage plot*”. However, it points out that at some point the crofts to the rear of some of the plots, including the appeal site, were amalgamated to form larger holdings. Whilst the Appellant’s assessment accepts it is not possible to precisely date when the appeal site was amalgamated, it is suggested that it was “*most likely*” in the 18th or 19th Century. On that basis, the Appellant argues that the character of the land is

not in fact historic but as a result of more recent land acquisition and merging of ownerships.

12. Having carefully considered the additional information in Section 7 of the Heritage Assessment, I am not persuaded that the evidence supporting the above view is particularly strong. As confirmed in Section 8, the mapping evidence does not allow the layout of the land between Mere Lane and Main Street in the early post-medieval period to be accurately determined. There is however evidence to suggest some of the crofts to the burgage plots, including the southern part of the appeal site, started to be divided and amalgamated prior to 1876.
13. To my mind, whether or not the current form and layout of the appeal site dates back to medieval times or is the result of something more recent is not a determinative issue in this appeal. Even if I were to accept the Appellant's evidence at its highest, it does not diminish the very important contribution that the site currently makes to the distinctive settlement pattern in this part of the QCA - something which the CACA seeks to protect, irrespective of the precise evolution of each individual plot.
14. Consequently, and notwithstanding the design improvements that have been made, the type of backland development proposed in this case would very clearly jar with the distinctive urban grain causing significant and irreparable harm to the character of the QCA.
15. Although the level of harm would be towards the lower end of the '*less than substantial harm*' range, paragraph 202 of the Framework indicates that where this is the case, the harm should be weighed against the public benefits. Notwithstanding the Council's five-year housing land supply position, I have not identified any significant public benefits in this case. I therefore conclude that the development would fail to preserve or enhance the character of the QCA conflicting with CS Policies CS2 and CS14, LP Policy EV/1, the CACA and the Framework.

Ecology

16. CS Policy CS13 is supportive of development that protects biodiversity, or which would enhance, restore, or recreate biodiversity. It expects development proposals to take account of the potential effects on nationally and locally designated sites, protected species, and ecological networks. Where there would be adverse effects, it seeks mitigation or compensatory provision.
17. As I saw on my site visit, the majority of the appeal site is bare earth. There are three small trees and a hedgerow along the western site boundary. Although the trees on the site may once have formed part of a larger historic orchard within Queniborough, I have seen no substantial evidence to support this. Since the previous appeal decision, the Appellant has submitted an updated Ecological Report which included a Biodiversity Impact Assessment. This confirms that there are no notable or protected species or habitats on the site. I therefore take issue with the Council's view that the site has '*substantive value for biodiversity*'. That is plainly not the case.
18. This report recognises that the appeal site forms part of a local ecological network and has some potential to support protected and notable species.

There is no dispute in relation to the baseline habitat value of the site nor the 33% reduction that would occur as a result of the appeal scheme. Rather, the issue at hand is whether and how that loss could be mitigated.

19. The Appellant has suggested that a biodiversity net gain could be secured by the creation of a traditional orchard, a UK priority habitat. For reasons I agree with, the Council argues that this would not be practicable in a small-scale domestic setting. However, the creation of an orchard is not the only measure proposed in the Report. A range of other possible measures are set out in the Report including wildflower and species rich hedgerow planting, boxes for hedgehogs, bats, birds, and insects with an access point to the fields to the south of the site and the creation of replacement log pile. The above could be supplemented by tree planting to replace those trees that would be removed.
20. I have considered the findings of the previous Inspector in relation to biodiversity. However, based on all the information before me including my own observations and the updated Ecological Report and Biodiversity Impact Assessment, I am satisfied that it would be possible to mitigate the ecological harm by way of a Biodiversity Enhancement Plan which could be conditioned as part of any consent.
21. I therefore conclude that the proposed development would not cause unacceptable harm to ecology. Accordingly, there would be no conflict with the relevant requirements of CS Policy CS13.

Other Matters

22. The "*Planning Practice Guidance*" states that Inspectors may use their powers to make an award of costs where they have found unreasonable behaviour, including in cases where no application has been made by another party⁴. This includes when an appeal has no reasonable prospect of succeeding for example when it follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period⁵.
23. In light of the above, I have given serious thought to exercising these powers in this instance given the failure of the Appellant to adduce any substantial new evidence to overcome the previous Inspector's unequivocal findings in relation to the first main issue. Nevertheless, I have exercised my discretion not to initiate an application for costs on this particular occasion. The Appellant should however take note of these comments to avoid any prospect of such an award being made in the future.

Conclusion

24. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector

⁴ Paragraph: 036 Reference ID: 16-036-20140306

⁵ Paragraph: 053 Reference ID: 16-053-20140306