



Appeal Decision

Site visit made on 26 July 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 4 August 2022

Appeal Ref: APP/P2365/W/22/3295927

Dingle Road, Skelmersdale WN8 0HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Akil Properties Limited against the decision of West Lancashire Borough Council.
 - The application Ref 2021/0293/OUT, dated 18 May 2021, was refused by notice dated 5 October 2021.
 - The development proposed is described as 'Outline planning application for two storey detached house, boundary treatment and hardstanding forming driveway'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original application was submitted in outline, with all detailed matters reserved for future approval. I have therefore dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area and the setting of the Up Holland War Memorial, which is a Grade II listed building.

Reasons

4. The appeal relates to a roughly triangular shaped area of grassland that has a hedgerow and number of tall mature trees planted along its northern boundary. These trees and vegetation also provide a backdrop to the adjacent landscaped gardens of the Grade II listed Up Holland War Memorial (UHW) and are therefore within its setting.
5. My site observations confirmed that whilst the immediate area is predominantly residential, other pockets of open space and landscaped verges that include grass, shrubs, footpaths and trees are prevalent along Dingle Road. These combine to present a soft edge to the built environment and positively contribute to the pleasant and relatively spacious character of this part of the road.
6. The appeal scheme has been submitted in outline and I appreciate that the proposed layout plan is only indicative. However, the introduction of a dwelling and its associated boundary treatment and hard surfaces would increase the built form and density of development across the site. This would significantly

intrude upon the spacious character that is maintained by the relatively open landscaped frontages along this end of Dingle Road.

7. Furthermore, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon me to have special regard to the desirability of preserving the setting of a listed building (defined by the National Planning Policy Framework (the Framework) as the surroundings in which it is experienced).
8. The historic UHWM takes the form of a freestanding stone obelisk on a stepped square shaped base. It sits within a landscaped garden at a prominent corner location adjacent to the junctions of Dingle Road, College Road and Grove Road. War memorials have a deep emotional resonance with people at a local level and are a powerful reminder of the two world wars and the lives lost. They remain a focal point for commemoration and a place for reflection. On the basis of the evidence before me, I consider the significance of this designated heritage asset to thereby derive from its age, history and modest architectural form.
9. In my view, the setting of the listed building, and the contribution that this makes to its significance, insofar as it relates to this appeal, is taken from the unhindered juxtaposition of the war memorial and the surrounding landscaped gardens as a place of reflection and remembrance. Whilst I note that the UWM is located in closer proximity to 17 Grove Road than the proposed dwelling, the dense and verdant canopies of the boundary trees create a strong sense of enclosure not only inside the landscaped gardens but also outside. As such, the trees form a prominent feature of amenity value, that positively contribute to the landscaped gardens and thus, the setting of the listed building.
10. Policy EN2 of the West Lancashire Local Plan 2012-2027 Development Plan Document, October 2013 (Local Plan) states that to assist the Council in decision-making, sufficient information should be submitted alongside proposals for development to enable the Council to assess the effects on trees. The level of detail should be in accordance with BS.5837:2012 – Trees in relation to design, demolition and construction, or any subsequent document.
11. I am satisfied that the appellant's Arboricultural Impact Assessment (AIA) demonstrates that the proposed dwelling could be laid out in a way so that it would not encroach into the root protection areas of the trees. Furthermore, the use of a layer of 'no-dig' cellular confinement with a permeable final surface could provide some mitigation if a driveway was to be located adjacent to the trees. I am also aware of the other recommended measures to protect the trees during construction, and the appellant's suggested condition in this respect.
12. However, the AIA identifies this group of trees as providing outstanding visual amenity value due to their presence on the landscape and amount of passing commuters. The AIA highlights that a number of tree canopies overhang the proposed area for development and that 3 of these (T2, T3, and T6), which represent a large proportion of the trees along the shared boundary would require pruning and crown raises. I also share the Council's Arboricultural Officer's views in respect of the likely post development pressure from future residents to reduce the crown and branches to prevent overhanging and improve their living conditions.

13. Given the pruning works proposed and the potential future reduction in the density of the tree line, I am concerned that the dwelling would be readily apparent and clearly come into view as a part of the listed building's backdrop when approaching from the north. This would particularly be the case in the winter months when the trees would not be in leaf. The additional bulk and height of the proposal would therefore visually distract from views of the UHWM when seen from this direction. As a result, the proposal would negatively affect the ability to appreciate the significance of the listed building, and thereby not preserve its setting.
14. Nonetheless, the harm that I have identified above is, 'less than substantial' given that only part of the setting would be affected. Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. In paragraph 202 it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset, this harm should be weighed against the proposal's public benefits. However, no public benefits associated with the proposal have been put forward to be weighed against this harm.
15. I therefore find that the proposed development would have a materially harmful effect on the character and appearance of the area and the setting of the Up Holland War Memorial, a Grade II listed building. As such it would conflict with Local Plan Policies GN3, EN2 and EN4. These seek, amongst other things, for developments to be of a high quality of design, having regard to West Lancashire's Natural Environment, the historic character of the area, and the requirement to protect and enhance heritage assets, including their setting.

Other Matters

16. The appellant's frustrations about the Council's handling of the case are noted. In particular, the lack of communication during the time the application was being determined. However, this has had no bearing on my determination of the appeal as I have only had regard to the planning merits of the case, on the basis of the evidence that is before me.

Conclusion

17. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be dismissed.

Mark Caine

INSPECTOR