



Appeal Decision

Site visit made on 9 August 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Appeal Ref: APP/G2435/W/22/3295098

63 Nottingham Road, Kegworth, Derby DE74 2FH

- 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 M Barker-Lane against the decision of North West Leicestershire District Council.
 - The application Ref 21/00595/FUL, dated 19 March 2021, was refused by notice dated 4 November 2021.
 - The development proposed is the demolition and the erection of five dwellings and associated works.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr M Barker-Lane against North West Leicestershire District Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area, including the Kegworth Conservation Area.

Reasons

4. The appeal site is located at the junction between Nottingham Road and Borough Street. It is a spacious plot that contains a sizeable, detached dwelling that appears to be a mixture of Victorian and later additions. The Victorian portion of the building still displays original architectural features and detailing. I understand that the building was last used for flats but is currently vacant. The rest of the site is set aside as a parking area and overgrown garden area. The host building and the site generally are in a fairly poor state of repair
5. Whilst I have not been provided with an appraisal for the Kegworth Conservation Area (the KCA), it was clear from my site visit and the submissions before me, that it covers a varied area forming the historic core of the settlement. I find that the significance of the conservation area stems from the extent to which this core is still legible through the retention of the historic buildings, which appear largely to be intact.
6. The appeal site, although outside of the conservation area is sited amongst a string of historic buildings which form the approach to the KCA on Nottingham Road. Given that the appeal site contains an historic building and forms part of

this approach, I find that it is within the setting of the conservation area. Although the conservation area also extends along parts of Borough Street, I find the appeal site is not read in relation to this part of the KCA given the degree of separation.

7. The National Planning Policy Framework (the Framework) under paragraphs 200-202 set out the considerations for proposals affecting heritage assets. Such proposals include those which affect the setting of a conservation area. I am mindful that the Council do not have a defined buffer or setting for the KCA, but this is not required by local or national policy. Therefore, whilst the appeal site is not within the KCA, and is not a heritage asset in itself¹, as it is within the setting, I must still consider the proposal against these requirements.
8. Although I find that the appeal site is within the setting of the conservation area, given the poor state of the site, extensions and host building, it does not contribute positively towards it. I am mindful of the original features still present on the host building and boundary treatments, and that some improvement could be achieved by way of tidying and repairing the site and building. Nevertheless, I do not think that the retention of the building is necessary in order to preserve the setting of the KCA.
9. The proposed development would provide a terrace of five dwellings facing on to Nottingham Road. Their siting close to, and facing on to, Nottingham Road, as well as their terraced nature would reflect the pattern of development along Nottingham Road. Moreover, the relatively plain side elevation facing on to Borough Street would emulate the elevations of the other nearby end of terrace properties, including on the opposite side of Borough Street.
10. Although the host building is taller than the other dwellings on either of the surrounding roads, it is a detached, feature-building and so the height is not discordant. In contrast the proposal would, by way of introducing a terrace, attempt to be more in keeping with the linear development along Nottingham Road. Consequently, the resultant height would, by being greater than the immediate neighbours, be a jarring feature. This would be further exacerbated by the modern design of the terrace, including the porches and dormers, and the palette of materials, especially on the roof. Whilst the design is not poor, it is not in keeping with location within which it sits, especially given its relationship with the conservation area.
11. The height and solid nature of the proposed brick boundary wall would harm the character and appearance of Borough Street by way of its height that would jar with the otherwise more open front boundaries along the street. I do not, however, find that this boundary wall would harm the setting of the KCA.
12. Given the above identified harm, the proposal would fail to preserve or enhance the setting of the conservation area. I am mindful of the scale of the development in relation to the designated heritage asset and find that the harm caused would be less than substantial. However, the Framework is clear that great weight should be given to an asset's conservation. In this case the harm that I have identified needs to be weighed against the public benefits of the development.

¹ APP/M1005/W/18/3215333 and APP/M1005/W/19/3235829

13. The Government's objective is to significantly boost the supply of housing and the proposal would provide five new dwellings in a location with adequate access to services. It would also lead to a small and time limited economic benefit during the construction phase, as well as social and economic benefits resulting from future occupiers. There is also the potential for some very limited environmental improvements. Collectively, and given the small scale of the proposal, these public benefits would attract moderate weight.
14. Whilst these matters are public benefits, in the circumstances of this case, I find that they do not outweigh the considerable importance and weight I give to preserving the setting of the designated heritage asset.
15. Therefore, in light of the above, the proposal would result in harm to the character and appearance of the surrounding area, including the conservation area, as a result of the appearance of the proposed dwellings. The proposal would therefore conflict with Policies D1 and He1 of the North West Leicestershire Local Plan which, amongst other matters, require that developments are well designed, conserve and enhance the historic environment, including the setting of heritage assets, by way of appropriate use of design and materials. The proposal would also conflict with Chapter 16 of the Framework and in particular Paragraphs 200-202 as outlined above.
16. In reaching this decision I have been mindful of the good practice advice supplied by Historic England² and to the judgements³ referred to by the appellant with particular regard to considering the significance and setting of heritage assets.

Other Matters

17. The appellant has also directed my attention to a recent development⁴ along Long Lane, the continuation of Nottingham Road away from the KCA. Although these dwellings are not particularly characteristic of the conservation area, they are nevertheless more traditional in appearance and are set a significant distance away from the conservation area. Consequently, I find that they are not within the setting of the KCA and that their context is not comparable. Moreover, as the proposal before me is considerably more modern in appearance, the development is also not fully comparable.
18. Although I have been provided with a copy of the decision notice⁵ relating to the demolition of an existing dwelling and the building of a replacement dwelling adjacent to number 29 Garden Row, I have not been provided with any details of the development. It is not, therefore, clear which building this permission relates to. Nevertheless, I note a modern building on Garden Row which is very close to the appeal site. Whilst mindful of this proximity, I do not find that it is readily visible in relation to the KCA and as such is not within the setting. Given the above this matter has not been determinative in my consideration of this appeal.

² Managing Significance in Decision-Taking in the Historic Environment, and The Setting of Heritage Assets

³ Bedford Borough Council -v- Secretary of State for Communities and Local Government and Nuon UK Ltd [2013] EWHC 2847; South Lakeland District Council Appellants v Secretary of State for the Environment and another Respondents [1992] 2 A.C. 14; Forge Field, Barruad and Rees v Sevenoaks District Council, West Kent Housing Association and Rt. Hon. Philip John Algernon Viscount De L'Isle [2014] EWHC 1895 (Admin); and, Catesby Estates Ltd v Steer, [2017] EWHC 1456 (Admin)

⁴ 14/01132/FULM

⁵ 09/00312/FUL

Conclusion

19. The proposal would harm the character and appearance of the area, including the Kegworth Conservation Area, in conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Samuel Watson

INSPECTOR