



Appeal Decision

Site visit made on 4 October 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Appeal Ref: APP/M1710/W/21/3281216
63 Wellhouse Road, Beech, Alton GU34 4AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Philip Osmond against East Hampshire District Council.
 - The application Ref 55498/004 is dated 16 March 2021.
 - The application sought planning permission for a two storey dwelling with integral three car garage without complying with a condition attached to planning permission Ref 37851/013, dated 18 December 2012.
 - The condition in dispute is No 8 (Permitted development rights) which states that: Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order) no development falling within Classes A, B, C and D of Part 1 of Schedule 2 shall be carried out without the prior consent of the Planning Authority, through submission of a formal planning application.
 - The reason given for the condition is: In order that the Planning Authority can properly consider the effect of any future proposals on the character and amenity of the locality.
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Decision

1. The appeal is dismissed and planning permission is refused for planning permission for a two storey dwelling with integral three car garage without complying with condition 8 attached to planning permission Ref 37851/013, dated 18 December 2012.

Procedural Matters

2. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council has subsequently advised it would have refused the application for the following reason:

'The removal of condition 8 pertaining to planning permission 37851/013, by virtue of the property's designation within Beech Special Housing Area and proximity to heritage assets could result in extensions/alterations to the dwelling that could individually or cumulatively be harmful to the low density and well-wooded character of the Beech Special Housing Area, including existing trees and Tree Preservation Orders, and the setting of nearby heritage assets, including the Grade II listed Donkey Wellhouse. As such, the proposal is contrary to....'

3. I have noted the Council's concerns in considering the main issues below. Although not referred to specifically in the original reason for the condition, having regard to my duties under section 66(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 (LBCAA), I have taken into consideration the effect of the proposal upon the setting of the Listed Building referenced by the Council into account, which is reflected in the main issues below. The appellant has had the opportunity to respond to this matter through the appeal process, so would not be prejudiced by my approach.
4. I am the Inspector considering another appeal at the property (Ref. APP/M1710/W/21/3287653) for the removal of planning conditions attached to a subsequent permission for rooflights at the property. I am aware of the details of the case and will have regard to it as appropriate.

Main Issues

5. The main issues are whether condition 8 is reasonable and necessary having regard to the effect upon:
 - the setting of the Grade II Listed Donkey Wheel House; and,
 - the character and appearance of the Beech Special Housing Area (the BSHA) including surrounding and protected trees.

Reasons

Listed Building

6. Under section 66(1) of the LBCAA I am required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Donkey Wheel House derives its significance from its special architectural, historic and evidential value of a bygone lifestyle as a historic renovated timber framed building housing a wheel and axel, understood to have been used in association with the well within the housing.
7. The dwelling position and mature surrounding hedgerows means the setting of the wheel house is somewhat restricted. The dwelling frontage, some sides and the space and hedgerows around it are within the setting of the wheel house, including small part of Wellhouse Road. The setting contributes to the significance of the wheel house by providing a largely verdant and open space behind which are the well-designed relatively simple uncluttered elevations, strong defined building lines, lightweight pergola, traditional materials and mature hedgerows, around which the building can be appreciated and viewed. Therefore, despite being a sizeable building, these attributes of the dwelling and its surrounds result in an overall neutral contribution to the setting.
8. Additions such as further rooflights, new dormers, porches and side extensions permitted under classes A – D would have the potential to harm the setting of the listed building, to which the existing dwelling and garden space is a significant component. This is because development permitted could introduce further building lines, increase dwelling volume, reduce space in areas where there is intervisibility, add clutter to visible elevations and roof slopes, reduce space and vegetation, and introduce similar but less sensitive materials. This could clutter the setting, distract from the listed building, erode space, inhibit visibility and reduce vegetation, thereby harming the setting.

9. Therefore, the removal of condition 8 could result in development that could harmfully affect the setting of the heritage asset. Consequently, its removal would conflict with the aims of section 66(1) of the LBCAA as it could permit development that would not preserve and could be harmful to the setting of a Listed Building. It would also conflict with Policy CP30 of the East Hampshire Local Plan Joint Core Strategy (2014) (the JCS) and Policy HE12 of the East Hampshire District Local Plan (2006) (the LP) which have similar objectives.

Character and appearance

10. The appeal site is located within the BSHA in which Policy H10 of the LP requires amongst other things, development is not harmful to the character and appearance of the area, retains as many landscape features as possible, and dwelling size is in keeping with the plot size. In its present form No 63 is an attractive well-designed dwelling incorporating relatively simple uncluttered elevations and good spacing within a well vegetated verdant plot.
11. Additions permitted under classes A – D would have the potential to increase dwelling volume and footprint and encroach upon some Root Protection Areas of nearby hedgerows. While some additions might be comparatively limited, some such as certain extensions may nevertheless add significant amounts of additional footprint and volume. Therefore, such development has the potential to erode the spacious appearance and nature of the plot, and damage and reduce vegetation, such that it could be out of keeping with this part of the BSHA and the aims of Policy H10.
12. Development under Classes A – D could also introduce further building lines, add clutter to visible elevations and roof slopes, and introduce similar but less sensitive materials of a less traditional appearance. Some harmful effects are likely to be visible from limited parts of Wellhouse Road, as well as some parts of a limited number of neighbouring properties.
13. Although the Council has referred trees subject of a Tree Preservation Order, at my visit two had been felled. However, even had they not, or replacement trees were to be planted, given their position and significant intervening space, the Council has not demonstrated development under classes A – D could be detrimental to the health or amenity value of protected trees. Therefore, the proposal would not conflict with the aims of Policy C6 in respect of damaging or destroying protected trees.
14. However, the removal of condition 8 could result in development harmful to the character and appearance of the BSHA in conflict with the aims of Policies CP29 of the JCS and Policy BPC07 of the Beech Neighbourhood Development Plan (2020) (the NP). Amongst other things these seek an exemplary standard of design that respects the character, distinctiveness and identity of the area, with a layout that reflects development within the immediate vicinity, and maintains as many positive landscape features as possible. It would also conflict with Policy H10 of the LP, the relevant provisions of which I have set out above.
15. I do not find a direct conflict with Policy BPC06 of the NP as this sets out criteria which are primarily in relation to new dwellings and buildings rather than extensions and additions. Therefore, it is of less relevance than the policies I have set out above.

Other Matters

16. The evidence suggests that the previous 2011 permission is no longer capable of implementation, and it was granted before the JCS was adopted. Therefore, it attracts limited weight. The appellant puts it to me the Council's original reasoning provides little analysis. However, having regard to the Council's submission as a whole the reason for the condition is adequately articulated.
17. I do not have the full details and evidence that was before the Inspectors for the decision letters provided by the appellant¹. However, as far as I can ascertain, the appeal sites for Refs 3004224 and 3216921, were not within the setting of Listed Buildings. Although the Inspector's attention was drawn to a Listed Building and Conservation Area in Ref 3255007, no harm was considered likely to either. For the reasons I have set out, I find differently for this proposal. Therefore, these appeals are not directly comparable to this appeal proposal, which I have considered on its own merits and impacts.
18. There might be some small filtered intervisibility with the Grade II Listed The Old Farm House on the opposite side of Wellhouse Road. However, as I am dismissing this appeal for other substantive reasons, development under Classes A - D would not take place as a result of my decision on this particular appeal. Therefore, I have not considered this matter further.
19. Development under classes A – D might result in some renewal of building fabric, provide limited amounts of additional accommodation, additional comfort, some energy and resource and efficiency, and some economic benefits through construction. However, these are very limited, constituting a small public benefit. Therefore, the benefits of removing condition 8 do not outweigh the potential harm to the setting of the Grade II Listed Donkey Wheel House, in conflict with the aims of Policy CP30 of the JCS which requires that development conserves the setting of heritage assets and reflects national policies in respect of heritage.

Conclusions

20. The removal of condition 8 could result in harm to, and thereby not preserve the setting of a listed building in conflict with the aims of the LBCAA and the development plan, and could result in harm to the character and appearance of the BSHA. Therefore, it would be in conflict with the development plan read as a whole. It is reasonable for the Council to retain control and assess the impact of proposals to prevent harmful development and the clear justification required by paragraph 54 of the National Planning Policy Framework (2021) (the Framework) exists. Therefore, the condition meets the tests of being both reasonable and necessary. There are no considerations advanced, including the policies of the Framework which outweigh these findings. Therefore, for the reasons given the appeal is dismissed and planning permission is refused.

Dan Szymanski

INSPECTOR

¹ APP/P5870/W/15/3004224; APP/C3240/W/18/3216921 and APP/R1845/W/20/3255007.