



Appeal Decision

Site visit made on 28 September 2022

by E Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2022

Appeal Ref: APP/A4710/W/22/3298408

36 Staups Lane, Halifax, HX3 7AB

- 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.
 - The appeal is made by Katherine Scargill against Calderdale Council.
 - The application Ref 20/01215/FUL, is dated 29 September 2020.
 - The development proposed is described as 'construction of a detached four bedroomed dwelling.'
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. Since the proposal relates to the setting of a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The appeal is against a failure of the Council to give notice of its decision within the prescribed period. The Council's statement indicates that the proposal would fail to preserve the setting of the Grade II* listed building at neighbouring Staups House and would appear crammed into the street-scene. These putative reasons for refusal, and the other evidence submitted with the appeal, have led to my identification of the main issue as set out below.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, and whether it would preserve the setting of the nearby Grade II* listed building at 34 and 36, Staups Lane, Halifax HX3 7AB (Ref: 1261494).

Reasons

5. The appeal site comprises part of the rear garden of Staups House. Constructed in coursed rubble stone with stone slate roofs as a substantial wool merchant's dwelling in 1664, Staups House is grandly designed with three gables to the main west frontage and mullion windows. The impressive building fronts Staups Lane and sits in an elevated and dominant position in relation to the road. It is located part way up on the hillside and is seen as a feature from across the adjacent Shibden valley.
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6. Despite its division into two dwellings and the addition of a considerable modern extension to the rear, the building retains its sense of grandeur, status and historic legibility as a notable local residence. As a Grade II* listed building Staups House is of particular importance being of more than special interest, and is considered by the Council to be one of the most important and significant of Calderdale's historic buildings. In so far as relating to this appeal, the significance of Staups House is derived from its architectural and historic interest as an important local higher status dwelling along with its relationship with the surrounding Shibden valley.
7. The National Planning Policy Framework (the Framework) defines setting as the surroundings in which a heritage asset is experienced. Historically Staups House would have been located in considerable open rural surroundings on the valley side. Housing development has been introduced to either side of it along Staups Lane, as well as in Kell Lane which runs parallel to Staups Lane at a higher level along the edge of the valley. Here the houses are seen to the rear of Staups House in an elevated position. I accept that the historic setting of Staups Hall has been significantly altered and eroded over a long period.
8. Despite these factors, I find that the setting of the listed building, and the contribution this makes to its significance, insofar as it relates to this appeal, is derived mainly from what remains of the original extent of its historic open grounds, as well as its position on the valley side and in the rural area. These elements contribute to the setting of the house and affect how it is appreciated.
9. Staups House has a raised garden area to the north and east of the building which extends in an L shape behind the house. This part of its garden slopes steeply up to Kell Lane to the east and forms a strip of land between 29 and 41 Kell Lane and makes up the appeal site. It is heavily vegetated and in an elevated position above Staups House which has a tall retaining wall close to the rear of the building. There is a stone footpath down the southern side of Staups House and the appeal site which links Staups Lane with Kell Lane.
10. Whilst there are no specific features on the appeal site with a direct historic link to the building, the appeal site is nevertheless a surviving remnant of the original extensive grounds associated with Staups House. Sited on the eastern side of the valley to the rear of the building it would have formed part of its formerly wider rural backdrop. As a component of its historic grounds, and as one of the few remaining areas of open land stretching between Staups Lane and Kell Lane, the open nature of the appeal site speaks of Staups House's formerly more wide ranging grounds and rural surroundings on the valley side. Thus it has a historic relationship with the listed building and allows an appreciation of its background and former status.
11. There is also a visual relationship between the appeal site and the listed building. Despite the topography and existing vegetation some inter-visibility exists between the two. Views of the appeal site are possible from the rear of Staups House in its garden area. Although more oblique in nature, they are also possible from the upper floor of its more modern rear element through both the rear and side facing windows there. Views of Staups House taken from across the valley from the west include the appeal site as part of its backdrop. Additionally, despite the existing vegetation there, some views from within the appeal site westwards include the rear roof of the listed building.

12. Thus, the appeal site has both a historic and a visual relationship with Staups House and therefore contributes to the setting and understanding of that important heritage asset and the appreciation of its significance. I have had special regard to this matter in considering the appeal.

The effect of the proposal

13. The proposal is for a split level four bedroom house which would be located between Nos 29 and 41 Kell Lane. It would be single storey to the front and 2.5 storey to the rear to reflect the topography. Constructed in stone with a blue slate roof it would have a generally traditional design though incorporating some modern features.
14. Kell Lane displays a variety of house designs and ages. The proposed house would have a similar front building line and ridge and eaves heights to its immediate neighbours. It would also be set off the boundaries with those properties, and would be generally in keeping with their design. Whilst I note the concerns of the Council and neighbouring residents, I am generally content that the proposal would sit comfortably in the street scene in Kell Lane and would not disrupt any existing views of Staups House from there.
15. However, from the rear and side the considerable height and bulk of the proposed house would be more obvious and prominent. It would face the rear of Staups House at relatively close quarters and in a significantly elevated position. Whilst there would be no direct views of it from inside the historic part of Staups House, as set out above, it would be appreciated in some views from the upper floor of its rear addition and from its garden area. Although it would not be visible in the context of the building's main frontage when viewed from Staups Lane, the proposal would be appreciated from the adjacent driveway to the north. Furthermore, despite the context of the surrounding residential development and the backdrop of the woodland to the east of Kell Lane, it would also be seen as a substantial structure in longer range views from across the valley.
16. I accept that Staups House's historic rural surroundings have already been considerably eroded over a sustained period of time. This is due to the introduction of the surrounding residential development, and also to the subsequent alteration and extension of some of these dwellings. The appellant refers in particular to the recently approved and constructed extensions to the rear of No 41 Kell Lane which are visible in the views described above.
17. That said, although the significance of Staups House has already been compromised by development in its setting, consideration still needs to be given to the cumulative impact of any further development including as to whether additional change would further detract from the significance of that heritage asset.
18. I appreciate that the appeal site is heavily vegetated and is not completely clear or unobstructed. Nor is it highly visible or seen as a significant open space on Kell Lane. Nevertheless, in constructing a dwelling the proposal would introduce built development to what is an open area. It would be appreciated as a large and dominating addition to the site that would lead to the loss of an important surviving vestige of the rural surroundings and garden area associated with Staups House.

19. Part of the garden to the north and immediately to the rear of the house, along with an area of open land on the other side of Staups Lane, would be retained. Nevertheless, the proposal would result in the development of a good deal of the remaining grounds associated with the historic building. It would also see the loss of one of the few areas of undeveloped land that remains between Staups Lane and Kell Lane. Thus it would result in negative change that would do away with one of the final links between the house and its original setting.
20. Bringing matters together, whilst no historic fabric would be lost, in introducing the proposed house to the appeal site within the setting of the nearby historic building, for the reasons given, the proposal would unacceptably intrude into an important part of what is left of the building's original rural setting and diminish the contribution of the setting of the building to its significance. For these reasons I find that the proposal would fail to preserve the setting of Staups House.
21. I note the appellant's argument that the extensions at No 41 are more intrusive than the appeal scheme and were permitted with no objections from the conservation officer. Be that as it may, I am not aware of the full circumstances that led to that existing development and in any event am not persuaded that it justifies harmful development on the appeal site.

The heritage balance

22. I therefore conclude on the main issue that the proposal would be harmful to the character and appearance of the area and would not preserve the setting of the listed building. I give this harm considerable importance and weight in the balance of this appeal.
23. The National Planning Policy Framework (the Framework) advises at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 of the Framework goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
24. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Paragraph 202 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
25. The appeal site is within a primary housing area and a sustainable location in terms of access to services and facilities. The appellant considers that the Council cannot demonstrate a 5 year housing supply and I appreciate that the proposal would provide an additional dwelling that would boost housing land supply. However, given the modest scale of the proposal for a single dwelling this benefit would not be great.
26. The proposal also includes the repair and proposed illumination of the public footpath which runs along the southern boundary of the site and has been in a poor state of repair for many years. This is a public benefit of the proposal. However, whilst I note the appellant's view that there is no realistic chance that it will be improved in the foreseeable future, I am mindful that these

improvements could nevertheless be secured in the absence of the appeal proposal. This tempers the weight to be afforded to this benefit.

27. Thus overall, I find that the public benefits of the proposal would not outweigh the harm to the significance of the designated heritage asset I have identified.
28. The proposal would be contrary to Policy BE15 of the Replacement Calderdale Unitary Development Plan (RCUDP) which states that development will not be permitted where it would harm the setting of a listed building. It would also be at odds with RCUDP Policy BE1 which indicates that development should contribute positively to the quality of the local environment or at the very least maintain that quality.
29. Thus overall the proposal would fail to satisfy the requirements of the Act and paragraph 197 of the Framework and would be in conflict with the development plan.
30. I note the appellant's reference to the presumption in favour of sustainable development and footnote 8 of paragraph 11 of the Framework. However, with footnote 7 in mind, and since the proposal concerns a designated heritage asset, I find that the application of policies in the Framework which seek to protect assets of particular importance provides a clear reason to refuse the development in this case.

Other Matters

31. Local residents are concerned about a number of other matters including the effect of the proposal on living conditions, highway and pedestrian safety, ecology and biodiversity, and the construction phase. I am aware that subject to the imposition of a number of conditions, the Council raises no objections to the proposal on any of these grounds. Important though these matters are, since I am dismissing the appeal in relation to the main issue as identified, and as this in itself provides compelling grounds to resist the proposal, I have not considered these matters further.
32. I appreciate that the application was with the Council for some time before the appeal was lodged and am aware of the appellant's attempts to chase up progress and his frustration in this regard. However, that is a matter between the Council and the appellant. I confirm that I have considered the proposal on its own planning merits and made my own assessment as to its potential impacts.

Conclusion

33. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

E Worthington

INSPECTOR