



Appeal Decision

Site visit made on 24 November 2022

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/E2205/W/21/3287099

Land between Old Watch House and Chi An Geltyon, 2a The Street, Appledore, TN26 2DA

- 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 Ed Middleton against the decision of Ashford Borough Council.
 - The application Ref 21/00385/AS, dated 1 March 2021, was refused by notice dated 23 September 2021.
 - The development proposed is described as erection of dwelling, access and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The appellant has submitted a cross section drawing with the appeal which includes a number of site and building levels. As it purely clarifies existing and proposed levels, I am satisfied that the plan can be accepted without prejudice to any parties.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the Appledore Conservation Area (ACA).

Reasons

4. The Appeal site is located on the edge of the built-up area of Appledore and within the ACA. The ACA includes most of the properties within the built-up area as well as some of the surrounding paddocks and the Royal Military Canal. It is a linear and primarily residential conservation area which includes a diverse range of buildings of varied ages and occupying different sized plots. The primary building materials is red brick with plain tiles, although there is some painted brick, weatherboarding and a few timber framed buildings. This diversity highlights the incremental development of the village, which includes infilling.
5. The core of the settlement lies around the St Peter and St Pauls Church, the public house and the Smithy. The development in this part of the village is more intensive than that located further to the north and south.

6. Towards the southern end and eastern wing of the ACA the Royal Military Canal is an important open space. Together with the paddocks on the edge of the built up area, the canal and views towards it contribute to the identity of the ACA. They form a rural transition between the settlement and its open marshland setting. Within The Street there is an abundance of grass verges; soft planting within the front gardens; trees; and views between existing buildings towards soft planted rear gardens and the open countryside beyond.
7. The above features contribute to the spacious and rural village character, appearance and significance of the ACA.
8. The appeal site is located to the south of the core of the ACA and comprises part of a paddock which falls away to the south towards Military Road, with the canal just beyond. The appeal site itself is narrow, funnel shaped and slopes up to the west. Currently the front section of the appeal site has a crushed stone surface with a field gate and pasture land beyond. To the north of the appeal site is a narrow public footpath with a tall close boarded fence beyond. This fence encloses the spacious and mature landscaped gardens to the adjacent properties. From the evidence submitted the public footpath was recently constructed as part of a housing and car park development to the northwest of the appeal site. However, as stated in the submitted evidence, it has been installed closer to the adjacent boundary fence and is thus not as wide as shown on the approved drawings.
9. Immediately to the south of the appeal site is a deep oblong single storey utility building, the garden to Corner Cottage and rough grassland within a utility site. To the south of the oblong utility building is The Old Watch House, which is Grade II listed. It comprises a modest sized single storey dwelling with sash windows, ragstone walls with red brick dressings and a slate roof. The listing description states that it may have been built to keep watch on the Royal Military Canal. These factors contribute to the character, appearance, significance and setting of The Old Watch House. The listed building is screened from the street scene and the appeal site by buildings, mature hedges and trees.
10. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LB&CA Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Policy ENV14 of the Ashford Local Plan 2030 (LP), similarly states that proposals should preserve or enhance the character and appearance of conservation areas.
11. Collectively paragraphs 193, 194 and 196 of the National Planning Policy Framework (the Framework) state that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. Any harm requires clear and convincing justification, whilst opportunities for new development in conservation areas should be sought. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
12. Together and amongst other things LP Policies SP1, SP2, SP6 and HOU5, seek to focus development in accessible and sustainable locations and to meet housing needs. This includes developments close to the built up confines of settlements. New development should be of the highest quality design and

- promote a positive sense of place, which responds to the prevailing character of the area. LP Policy ENV3a requires proposals to demonstrate particular regard to the landscape characteristics of the site. Paragraph 130 of the Framework, seeks to ensure that new development is visually attractive and adds to the overall quality of the area, whilst making effective use of land.
13. Currently there are open views into the countryside from the entrance into the site from The Street. The appeal site is an integral part of the pasture land which makes a significant contribution to the open and rural character of the public footpath, providing open views into the countryside and towards the canal.
 14. The form, mass and design of the proposed dwelling would, in itself, respect the character and appearance of the ACA. However, the proposed dwelling and sunken path and patio would project close to the adjacent public footpath. They would be cut into the slope of the land, with the drop between the public footpath and the rear patio being approximately 1.5 metres. A retaining wall would be constructed along the boundary between the side path and rear patio and the public footpath, which would have a 1.2 metre high fence on top of it. The front garden and access would be dominated by hardstanding. It would taper to a narrow shared access with the footpath and would be flanked on one side by a deep narrow building and on the other by the public footpath and a tall fence.
 15. As a result of these factors the proposed dwelling would obscure views towards the open countryside from the footpath. It would have an enclosing and urbanising impact on the footpath, which is already flanked by a tall fence along its northern side. This urbanising impact would be exacerbated by the narrow width of the path, the large expanses of hard surfacing to the front of the proposed dwelling and the shared access onto The Street. The proposed dwelling would similarly obscure views into the open countryside from The Street. Together with the level of hard surfacing to the front of the dwelling, it would have an urbanising impact on the street scene.
 16. In addition, due to the juxta-position between the dwelling and its sunken path and patio with the public footpath, together with the narrow shared access and the expanse of hardstanding proposed, the development would appear unduly cramped when viewed both from the footpath and The Street.
 17. For these reasons, the proposal would harm the character and appearance of the ACA and detract from its significance. As indicated above, the pasture land, open views into the countryside and the rural setting of the ACA are an integral part of the character, appearance and significance of the ACA. Whilst the harm to the significance of the ACA would be limited and thus less than substantial, it nonetheless needs to be weighed against any public benefits that would arise from the proposed development.
 18. As stated by the appellant there has been a number of recent infill developments in the village. They have blended into the street scene with varying degrees of success and none are directly comparable to the appeal site. Rather than set a precedent they serve to reinforce the importance of assessing each proposal on its individual merits and in light of the prevailing planning policies.

19. The construction of the proposed dwelling would result in some local employment and the provision of a small dwelling in an accessible village location. It would also make a small contribution to the supply of dwellings in the District and as stated in the officer report the District has a modest shortfall in its five year supply of deliverable housing sites. In this instance these benefits would clearly fail to outweigh the harm to the significance of the ACA. This is not a matter that could be satisfactorily dealt with by condition.
20. Having regard to the distance and screening between the appeal site and The Old Watch House I am satisfied that the proposal would preserve the character and appearance of the listed building and would not detract from its significance.
21. I conclude on the main issue that the proposal would unacceptably harm and would fail to preserve the character or appearance of the ACA. Further, the limited level of harm it would cause to the significance of the ACA would not be outweighed by any public benefits. Accordingly, the proposal would conflict with LP Policies SP1, SP2, SP6, ENV3a, ENV14 and HOU5 and paragraphs 130, 193, 194 and 196 of the Framework.

Other matters

22. There is an Oak tree located close to the appeal site, which is the subject of a Tree Preservation Order. This tree is prominent and makes a valuable contribution to the character and appearance of the street scene. Part of the proposed access and parking area fall within the root protection zone of this tree. As stated in BS 5837:2012, *Trees in relation to design, demolition and construction – Recommendations*, the default position should be that structures are located outside root protection zones (rpa's) unless there is an overriding justification. It is noted that there would be a grassed area within most of the RPA and that the areas within the rpa are shown as being hand dug. As stated in the appellants arboricultural report, any impact on the tree can be minimised through protection and construction methods.
23. Overall, I find that the construction of a small part of the development within the rpa would not, in itself, amount to a reason for refusal. However, it highlights the cramped nature of the proposal.
24. Concerns have been expressed regarding highway safety, due to the dual use of the proposed crossover and its location within The Street. This part of The Street is narrow, there is no pavement outside the appeal site and visibility from the proposed access is restricted to the right. Irrespective of this, forward visibility of the crossover from The Street would be good. Also, the road is subject to a 30mph speed limit and a short distance to the north of the appeal site the width of the carriageway narrows. These factors encourage low speeds. Also, visibility between users of the footpath and the access to the dwelling would be good. Having regard to this and the modest size of the proposed dwelling, I find that the proposal would not have an unacceptable impact on highway safety.
25. Concern has been expressed that the existing footpath has not been constructed in accordance with the approved plans for that development. As the existing footpath is not within the appeal site and does not form part of the proposal, it is a matter that falls outside the scope of this appeal.

26. Finally, I note that the Council has confirmed that, at the time the appeal application, the council could only demonstrate a 4.8 years supply of deliverable housing land. However, together paragraph 11d) and footnote 7 of the Framework requires permission to be granted unless, as in this case, policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development proposed.

Conclusion

27. Whilst I have found in favour of the appellant on some points, the conclusion on the main issue amounts to a compelling reason for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR