



Appeal Decision

Site visit made on 21 February 2023

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/A0665/D/22/3310406

13 Curzon Park South, Chester CH4 8AA

- 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 Dr S Agarwal against the decision of Cheshire West and Chester Council.
 - The application Ref 22/01577/FUL, dated 27 April 2022, was refused by notice dated 25 August 2022.
 - The development proposed is described as 'Proposed retention of entrance gates and fence'.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. Planning permission was granted for the demolition of a former care home and the redevelopment of a new residential dwelling in 2019 (Ref: 19/02070/FUL). This consent included new boundary treatment. However, the boundary treatment was not constructed in accordance with the approved plans. Permission was subsequently applied for and refused for the development (22/01577/FUL), which is the subject of this appeal. The development applied for has therefore been carried out.
3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans that the development comprises entrance gates, 2 brick gateposts, 2 stone gateposts, 2 brick posts, side brick walls, and a fence. I have therefore dealt with the appeal on this basis.

Main Issue

4. The main issue is whether the development preserves or enhances the character or appearance of the Curzon Park Conservation Area.

Reasons

5. The appeal relates to a large, detached dwelling that sits within generous grounds and is located within the Curzon Park Conservation Area (CPCA).
6. The terms of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The National Planning Policy Framework (the Framework) states that heritage

assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance.

7. Although slightly diluted by some taller means of enclosure, I consider the significance of the CPCA, in so far as this appeal is concerned, to derive from large, detached housing of varying styles that sit within substantial plots and are enclosed by a combination of low walls and fences, hedgerows, shrubbery and trees. Grass verges and mature highway trees also combine with these factors to provide the CPCA with a pleasant, landscaped and relatively spacious green character.
8. The appeal site's immediate surroundings, along the southern side of Curzon Park South, predominantly comprise softly landscaped frontages containing a mixture of hedgerows, trees and shrubbery. This section of the highway thereby makes a positive contribution to the significance of the CPCA.
9. The Council has not raised any objections to the height and design of the gates, or the brick gateposts directly to either side of them, due to their set back from Curzon Park South. I have no substantive reason to disagree with this view.
10. However, two brick posts are sited directly behind the existing stone gateposts and are considerably taller and bulkier than them. Approximate 1.75m high intervening walls, including a pedestrian side entrance, also infill the areas between the brick posts and the brick gateposts to both sides of the driveway. Despite the use of contrasting brickwork and coping stone, this arrangement visually dominates and largely subsumes the original gatepost features.
11. The brick posts at around 2.05m in height, in addition to the approximate 1.75m high walls, in such proximity to the Curzon Park South footway, are also out of scale with the garden frontages, and in combination with the length of the high solid concrete pillar and post timber fencing, has resulted in the introduction of an unduly stark and dominant feature. The development thereby appears conspicuous and visually unsympathetic in the context of the softly landscaped character and appearance of the immediate surroundings.
12. This impact is also likely to be compounded by the use of the lighting which draws the eye, and further accentuates its visual prominence, in the hours of darkness. The replanting of the hedgerow appeared to be very sparse, and therefore not an enhancement, on my site visit. As such these factors do not overcome the harm that I have identified.
13. I have also considered the appellant's plan and photographs showing examples of gates, posts and fences at other properties in the area. However, these do not alter my judgement, based on the Council's evidence and my site observations, as to the overall character and appearance of the conservation area.
14. In light of the above, I therefore find that there is harm to the significance of the conservation area. Accordingly, the development fails to preserve or enhance the character or appearance of the CPCA and conflicts with Policies ENV5 and ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies 2015 and Policies DM3 and DM46 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies

2019 (LP2). These seek, amongst other things, to ensure the protection of heritage assets and to promote high quality design.

15. There is also little substantive evidence before me to demonstrate that the development complies with LP2 Policy DM45 and advice within the Council's Supplementary Planning Document 7.

Heritage Planning Balance

16. I consider the harm that has occurred to the significance of the CPCA is 'less than substantial' within the meaning of the Framework. Nonetheless, I am mindful that Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, irrespective of whether it amounts to less than substantial harm to its significance, and that any harm, requires clear and convincing justification.
17. I recognise the security and privacy needs of the appellant and I have had regard to the crimes that I am informed have been reported in the area. However, it has not been clearly demonstrated that fencing, posts and walls of this height and design are the only practical means of ensuring the immediate security of the site or the privacy of its occupiers. I have therefore given these factors limited weight.
18. With the above in mind, I find that the public benefits do not outweigh the harm that has been caused to the significance of the CPCA.

Conclusion

19. Given the above, the proposal does not preserve or enhance the character or appearance of the Curzon Park Conservation Area. It does not accord with the development plan and there are no other considerations to outweigh that finding. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR