



Appeal Decision

Site visit made on 23 March 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2023

Appeal Ref: APP/B3030/W/22/3310381

Ringstead, 48 Kirklington Road, Bilsthorpe, Nottinghamshire NG22 8SS

- 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 Ian Walker against the decision of Newark & Sherwood District Council.
 - The application Ref 22/01423/FUL, dated 15 July 2022, was refused by notice dated 20 September 2022.
 - The development proposed is erect double garage with apartment at first floor level.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of residents of the host property with regard to outlook and light.

Reasons

Character and Appearance

3. The appeal site comprises a detached bungalow that fronts onto a main road and sits just outside the boundary of the Bilsthorpe Conservation Area (the CA). The properties along Kirklington Road in the vicinity of the site are generally positioned on a distinct building line and are set back from the road. This contributes positively to a sense of spaciousness and breadth in this part of the street scene. There are examples of buildings that have no set back, but this is not a defining characteristic of the area in the vicinity of the site. The host property currently respects the prevailing building line and as a result retains an open character to its front.
4. The proposed building would be sited in the front garden and significantly in front of the building line along this part of Kirklington Road. Because of its location within the site, together with its height and mass, the proposal would result in a loss of the characteristic open space in front of the host property. Consequently, the sense of spaciousness and breadth resulting from a lack of built form in front of the building line would be greatly diminished.
5. The relatively tall hedge along one boundary of the site would provide some screening of the proposal when approaching from the north. The proposed

building would be especially apparent when approaching from the other direction towards the CA, where it would appear as a dominant and incongruous feature due to its scale and location, notwithstanding that it would be viewed against the backdrop of the hedge. This would be the case irrespective of whether the host property is extended to create a first floor in line with the planning permission granted in 2022¹. The use of matching materials would not provide adequate mitigation.

6. Consequently, I conclude that the proposal would significantly harm the character and appearance of the area. It would therefore conflict with Core Policy 9 of the Newark and Sherwood Amended Core Strategy², adopted 2019 (the ACS) and Policy DM5 of the 2013 adopted Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document (the DPD) which seek to protect local distinctiveness, amongst other matters. There would also be conflict with the design objectives of the National Planning Policy Framework (the Framework) and the design guidance in the Planning Practice Guidance and the Council's 2014 Householder Development Supplementary Planning Document.
7. The Council also asserts conflict with Core Policy 14 of the ACS, Policy DM9 of the DPD and the Framework on the basis of harm to the setting of the CA. The Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. Conservation areas fall within the definition of a designated heritage asset in the Framework Glossary.
8. The CA covers the historic part of the village. Little substantive evidence has been provided in respect of the significance of the CA. However, from what I saw when I visited the site and surrounding area, its significance, insofar as relevant to this appeal, is derived from its architectural and historic interest associated with the development of the area, the inter-relationship of the buildings with each other and the spaces that they occupy, and the evidence it provides of the architectural style and building techniques of the time. Neither party has submitted any clear evidence in respect of the contribution that the setting of the CA makes to its significance. Views into and out of the CA are, nonetheless, a component of the setting.
9. From the evidence before me and from what I saw when I visited the site, the host property has a neutral effect on the significance of the CA. However, the siting and scale of the proposal would significantly alter the appearance of the site. The proposed building would impinge into views into and also out of the CA to a much greater extent than the host property. In the light of my reasoning set out above, I conclude that the proposal would harm the setting of the CA.
10. In terms of the Framework, I assess the harm as less than substantial. In such circumstances, paragraph 202 of the Framework states that the harm should be weighed against the public benefits of the proposal. While appreciating the appellant's desire to create additional space, this would not amount to a public benefit, and would not represent 'clear and convincing justification' for harm to or loss of significance of the designated heritage asset as required by

¹ Permission reference 22/01243/HOUSE

² Review of the Newark & Sherwood Local Development Framework Core Strategy and Allocations, Amended Core Strategy, adopted 2019

paragraph 200 of the Framework, nor would it outweigh the 'great weight' that paragraph 199 states should be given to the asset's conservation.

11. I therefore conclude that the proposal would cause less than substantial harm to the setting of the CA, a designated heritage asset, and in the absence of any public benefits to outweigh this harm, would be in conflict with Core Policy 14 of the ACS and Policy DM9 of the DPD. These policies seek to ensure the conservation and enhancement of the character, appearance and setting of the District's heritage assets. There would also be conflict with the historic environment objectives of the Framework, the most relevant of which are summarised above.

Living Conditions

12. The host property has windows in its front elevation, one of which would be close to the proposed building. Given the proximity and height of the proposed building, it would have a significant enclosing effect on the outlook from this window and would substantially reduce the amount of light reaching it. As a result, the proposal would have a harmful effect upon the living conditions of the residents of the host property, with regard to outlook and light. The fact that the host property has planning permission to increase its height would not alter this harmful effect.
13. The appellant argues that the '45 degree rule' means that the proposal would not cause an overbearing or overlooking issue. My understanding is that this method is more commonly used to establish whether there would be a loss of light to a window of a neighbouring property from a development that is perpendicular to the window in question, which would not be the case here. In any event, no evidence is before me to demonstrate how the 45 degree rule would apply to the proposal.
14. I therefore conclude that the proposal would unacceptably harm the living conditions of residents of the host property with regard to outlook and light. Accordingly, it would conflict with the residential amenity requirements of Policy DM5 of the DPD and the Framework.

Other Matters

15. I note the appellant's contention that there would be no adverse effect on the living conditions of other neighbouring residents, and that a safe access, adequate parking and outdoor amenity space would be provided for users of both the proposed development and host dwelling. However, a lack of harm in other respects is effectively neutral in the planning balance.

Conclusion

16. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. Accordingly, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR