



Appeal Decision

Site visit made on 18 April 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2023

Appeal Ref: APP/F2415/W/22/3312782

The Old House, 10 Old Green, Medbourne, Leicestershire LE16 8DX

- 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 K Jenkins against the decision of Harborough District Council.
 - The application Ref 22/00994/FUL, dated 19 February 2022, was refused by notice dated 7 November 2022.
 - The development proposed is erection of a detached dwellinghouse and detached garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The access to the proposed dwelling would be by a new drive off Old Green. A short length of the drive would fall outside the appeal site as indicated by a red line on the appeal drawings. My assessment is made on the basis that this length of the driveway does not form part of the proposal as it would be outside the defined appeal site.

Main Issues

3. The main issues are (i) whether the house would provide satisfactory living conditions having regard to outlook and access to natural light, (ii) the effect of the development on trees, (iii) the effect on the setting and the significance of The Old House, a grade II listed building (the LB), and (iv) whether the development would preserve or enhance the character or appearance of the Medbourne Conservation Area (the CA) and its effect on the CA's significance.

Reasons

Living conditions

4. The appeal site is part of the garden to the appeal property. It is laid to lawn with mature trees near to the northern, western and southern boundaries.
5. The front of the proposed house would include ground floor windows serving a study and a kitchen with bedroom windows above. The west facing side elevation would also include ground floor fenestration serving the kitchen and a bedroom window at first floor level. All of these windows would be the main source of natural light and outlook from the rooms that they serve.
6. The front windows would face towards a lime and 3 yew trees on the northern part of the site. These are shown to be retained on the appeal plans. By reason

of their height and proximity to the dwelling, the trees would significantly restrict the outlook from the front windows. Also, they are close together and so they would have a darkening effect to the front of the house.

7. The windows in the west elevation would face towards a line of trees, including a yew, a western red cedar and a holm oak. These would appear imposing from the side windows due to their height and close proximity. They would also lead to overshadowing of the west facing windows, particularly during the afternoon.
8. The house would be set further away from the trees on the southern part of the site and so there would be a reasonable outlook from south facing windows. Also, the trees would not cause excessive overshadowing of the garden and rear of the house. However, acceptability in these regards does not address nor override the significant impact of the retained trees on the views from the rooms to the front of the house and associated overshadowing.
9. For these reasons, I conclude the development would not provide satisfactory living conditions having regard to issues of outlook and access to natural light. In these respects, it would not accord with policy GD8 of the Harborough Local Plan 2019 (LP). Amongst other things, this seeks a high standard of design where residents' living conditions are not adversely affected by overshadowing and overbearing impacts.

Trees

10. It is probable that the identified overbearing and overshadowing effects would increase pressure to remove or to carry out works to the retained trees to improve the living environment at the proposed house. The need to manage trees due to their proximity to the dwelling would also add to this pressure.
11. By virtue of their condition and prominence, the majority of the trees make a significant positive contribution to the visual qualities of the area. The trees are protected by a tree preservation order and so any works would need to be approved by the local planning authority. However, it would be difficult for the Council to resist such works as tree nuisance to residents would be an issue.
12. The proposal would lead to the direct loss of 4 trees and a group of ornamental planting. These are not noted as being of particular value in the appellant's aboricultural impact assessment. Measures are proposed during the construction of the house to protect the other trees to be retained. The Council accepts that such measures would provide suitable safeguards. However, acceptability in these regards fail to address or override the identified incompatibility between the proposed dwelling and the trees to be retained.
13. Therefore, I conclude the development would fail to respect the presence and on-going value of the trees on the site. As such, it would have a harmful effect on trees. In these regards it would not accord with LP policy GD8 and policy H5 of the Medbourne Neighbourhood Plan 2018 (NP). These policies seek a high standard of design that respects, protects and enhances landscape features.

Listed building

14. The LB is a dwelling constructed from stone with a slate roof. It dates from the mid 17th century with alterations and extensions from the late 19th century. The significance of the listed building derives from its age, architectural interest and overall attractive appearance. The appellant highlights the house was designed

to look out over and be seen from Old Green and suggests that these views are important elements that contribute to the LB's setting and significance. However, the other elevations of the building also contain interesting and authentic architectural features. As such, the significance lies with the whole of the building, not just the front elevation.

15. The screening effect of adjoining residences and the trees means that the LB is not clearly seen from any public vantage points. Nonetheless, the large garden, parking and turning area provides space all around the house. From the grounds, the full extent of the LB can be appreciated.
16. The development would not obstruct views of the front of The Old House and the majority of the garden would remain. However, the proposal would reduce the amount of open garden space to the west of the LB and the house would obstruct views from the garden towards the side wall. Moreover, the proposed and existing dwellings would be seen close together when standing to the front and rear parts of the appeal property. The proposed residence would be of a similar height and style to The Old House and so it would not appear incongruous. Even so, by reason of its close proximity, it would provide a visual distraction to the LB.
17. Advice in the Planning Practice Guidance states that the contribution setting makes to the significance of a heritage asset does not depend on there being public rights of way or an ability to access or experience the setting¹. The visual effects of the proposal on the LB would be localised and would not be readily appreciated from outside the appeal property's garden. Nonetheless, the development would influence the way in which The Old House is experienced and so it would affect its setting. The erosion of surrounding space and subsequent obstruction of views would undermine the existing value and status of the LB. Also, the proposed dwelling would visually compete with The Old House. Therefore, the proposal would have a detrimental effect on the significance of the LB.
18. The appellant refers to pre-application advice provided by a Council officer that indicates a new dwelling at the appeal site could be possible without adversely affecting the setting of the LB. However, the details that formed the basis of this advice are not before me and so I am uncertain whether it offers support to the appeal proposal. In any event, the advice was provided on a non-prejudicial basis to any formal Council decision. As such, this factor fails to influence my views on the matter.
19. The submissions indicate that the nearby former Horn and Trumpet Inn and its associated stables are grade II listed buildings. Also, reference is made to other listed buildings within the village including the Church of St Giles and the Old Hall. The separation distances and intervening buildings and vegetation means the proposed development would not be seen with these other listed buildings. As such, it would not affect their settings or significance.
20. However, for the above reasons, I conclude the development would harm and not preserve nor enhance the setting and significance of The Old House. Having regard to the provisions of the National Planning Policy Framework (the Framework), I find that less than substantial harm would be caused. In such

¹ Planning practice guidance, Historic environment, paragraph 013 Reference ID: 18a-013-20190723, revision date 23.07.2019.

circumstances the Framework states the harm to the significance of the designated heritage asset should be weighed against the public benefits of the proposal. I turn to this matter later on in this decision.

Conservation area

21. The CA covers a large part of the built up extent of Medbourne. It gains its significance from the interest and attractiveness of historic buildings. These are set amongst mature trees with roadside open spaces that help create an attractive rural village environment. The appeal site is not mentioned in the Council's appraisal for the CA. Nonetheless, it contributes to the locality's visual qualities by providing space and a setting from which the LB can be appreciated. Also, the prominent trees add to the natural feel of the village.
22. The style of the proposed house would be compatible with the surrounding properties. However, there is little evidence to show that the appeal site has previously accommodated a building or that the dwelling would follow a historic pattern of development off Old Green. I have already found that the proposal would cause harm to the setting and therefore the significance of the LB. The Old House adds to the interest of the village and so I also find detriment would be caused to the significance of the CA, albeit localised visual harm.
23. While I have concerns that the proposed dwelling would increase pressure to remove or prune trees of value to be retained, the 4 trees and group of planting shown to be removed on the appeal plans make no meaningful contribution to the CA's significance. The retention of the other trees would maintain the wooded appearance to the periphery of the site and would help obscure the proposed house from the road. The development would only be glimpsed from the highway through gaps in the vegetation and so it would have no obvious effect on the street scene. Consequently, I find the proposal would not adversely affect any of the important views identified under NP policy ENV7. Therefore, it would comply with this policy.
24. Even so, for the above reasons I conclude the development would have a minor detrimental effect and so it would not preserve nor enhance the character and appearance of the CA. Less than substantial harm would be caused as only a small part of the CA would be affected.

Other Matters, Heritage and Planning Balance

25. The Council is concerned that the proposed driveway would affect a defined local green space between the western boundary of the appeal property and Old Green. However, this space lies outside the appeal site and my assessment is made on the basis that this part of the access is not part of the proposal. Therefore, I find no harm in these regards and no conflict with LP policy GI4 and NP policy ENV1.
26. The proposal would be within a village where residents would have convenient access to local services. Moreover, the development would generate limited traffic movements and so it would avoid a harmful effect on highway safety. Acceptability in these regards is a neutral factor rather than a benefit to which I attribute positive weight.
27. Cobblers Cottage lies just to the north of the site and is identified in the NP as a non-designated heritage asset. From my observations, its significance lies with its attractive form and prominent position overlooking a green space. The

trees on the north part of the appeal site would screen the proposed development so that it would not be easily seen in the same views as Cobblers Cottage. As such, it would not affect the setting of the non-designated asset nor its significance. This is a neutral factor in my assessment.

28. The proposal would make use of vacant land and would add to the housing stock, although a single dwelling would be a minor addition. The Framework recognises that small housing schemes can make an important contribution towards meeting the housing requirement of an area. However, the Council contends that it can show well in excess of the minimum of 5 years housing land supply as referred to in the Framework. In such circumstances I attribute only modest weight to the benefits of the scheme.
29. In carrying out the heritage balancing exercise, I am mindful that the Framework states that great weight should be attached to an asset's conservation, even when the detrimental effects of a scheme represent less than substantial harm to its significance. As such, I find the modest benefits of the proposal would not outweigh the harm caused to the setting and significance of the LB. Similarly, I conclude the advantages would not outweigh the detriment to the character, appearance and significance of the CA. In these respects, the development would not accord with LP policies GD8 and HC1 and NP policies H4 and H5. These policies seek to conserve or enhance the significance of heritage assets.
30. Overall, the proposal would be contrary to LP and NP policies. The benefits of the scheme are limited and insufficient to justify granting planning permission contrary to the development plan policies.

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR