



Appeal Decision

Site visit made on 22 May 2023

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/T3725/W/22/3295111

Land adjacent to 1 Castle Hill, Kenilworth CV8 1NB

- 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 C Edwards against the decision of Warwick District Council.
- The application Ref W/21/0153, dated 26 January 2021, was refused by notice dated 19 September 2021.
- The development proposed is the erection of a one-bedroom single storey eco dwelling in the grounds attached to 1 Castle Hill.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues with this development are

- a) whether it would fail to preserve the special historic interest of a Grade II registered Park and Garden and harm its significance; whether it would harm the significance of the Grade II listed dwelling by reason of its impact on its setting; and whether it would fail to preserve the character or appearance of the Kenilworth Conservation Area, so harming its significance

and, if harm would be caused to the significance of any of the above designated heritage assets,

- b) whether that would be outweighed by public benefits.

Reasons

Impact on designated heritage assets

3. The Kenilworth Conservation Area comprises a range of attractive, high quality buildings of various ages and styles that were constructed over many centuries, and are arranged around a historic network of roads and open spaces. Its significance therefore lies partly in the way it demonstrates the evolution of this town through time, while the nature and arrangement of the buildings and the intervening spaces add to its character and appearance.
4. 1 Castle Hill is a large, Grade II listed dwelling that dates from 1901 and is identified in the listing details under the name of Wantage. It was designed by a notable local architect, Herbert Buckland, and built in a distinctive Arts and Crafts style. As a result, its significance is partly architectural and partly artistic, with its architect, its design and its detailing contributing to its special architectural and historic interest. Furthermore, because of its distinctive and

high quality appearance, it adds positively to the conservation area by showing a further phase in the town's development.

5. The large grounds of No 1 comprise a Grade II registered Park and Garden. When I visited, the house was undergoing extensive repairs, and this meant large areas of the garden were covered with builders' debris or had otherwise been appreciably affected by the building activities. I assume the building works to be temporary, and so also assume that when they are completed the garden will be put back to the state it was in before. However, I recognise that in such circumstances what I saw would not be a true reflection of the garden.
6. The garden was added to the register relatively recently in 2016, and so the list entry should still be a good portrayal of its state. Those details said the garden was laid out by Herbert Buckland and the owner, Ethie Dennison, between 1901 and 1905. It was their intention that the house and garden together should form an ensemble, with a dynamic relationship between the rooms in the building on the one hand, and, on the other, the 'rooms' that were created in the garden area with a judicious use of walls, terraces, planting and hedging. Part of the reason for adding it to the register was its degree of survival and its rarity as a suburban Arts and Crafts garden. To my mind these factors contribute to its special historic interest and add to its significance. Moreover, the garden clearly provides a setting that adds positively to an understanding of the listed house. Given the grounds are registered and No 1 is listed, the garden must also be deemed to be an important open space in the conservation area, and so contributes to the significance of that designated heritage asset as well. These findings are reflected in the *Kenilworth Neighbourhood Plan*, where Policy KP13J states it is important to maintain the garden as an entire garden.
7. The proposal is to erect a flat-roofed eco bungalow on the north-western portion of the garden, between No 1 and 3 Castle Hill. This part of the garden is lower than the main house, and was originally an orchard. It might never have been an ornamental area, and inter-visibility with the rest of the garden might always have been limited, giving rise to a degree of disconnection and some sense of separation. However, these factors do not diminish the contribution it makes to the garden's overall character. As it was laid out with a kitchen garden, formal beds, a rose garden, and an orchard amongst other things, uniformity does not appear to have been an intention of the designers. Rather, to my mind this orchard would have formed one of the distinct 'rooms' they sought to create.
8. I was told this area though has been overgrown for over 60 years now. When I visited, the site of the proposal was a sea of nettles, with tree and shrub cover along the southern and eastern sides to the remainder of the garden. A modern wooden fence ran along the western boundary with No 3, while the existing boundary wall, some 2m tall, was on the northern boundary to Castle Hill.
9. Siting a bungalow here, even accepting its current overgrown state, would remove an area of the Park and Garden that was intended to form a part of the wider whole, and would prevent it being re-instated at a future date. Whilst the appellant has said the scheme would restore some semblance of order to this portion of the site, that would be at the expense of a sizeable amount of it being lost to a dwelling. Furthermore, even accepting the intended roof treatment, I consider the proposal would not maintain the site's green

character as the built form would be apparent, and there is no certainty that the garden areas of the new bungalow would be managed in a way that reflected the site's role in the garden. It would therefore harm the significance of the registered Park and Garden.

10. Moreover, as the house and garden were intended as an ensemble, by developing part of the garden in this way the underlying principles behind the design and arrangement of the house would be diminished. This modern bungalow would also be a notable and striking addition to the curtilage of No 1 that would challenge the dominance of the existing house. These effects would be particularly pronounced given the proximity of the proposal to the dwelling. As such, the scheme would detract from its setting and so harm the significance of No 1.
11. In considering this impact I accept that the roof of the proposal would be below the eye-line of anyone looking from the side windows of the dwelling. I acknowledge too that the scheme would not encroach into any views towards the castle that are still possible, while there is a substantial band of trees and shrubs between the house and the appeal site. Despite these points though, I consider that there would still be an awareness of the bungalow from inside the house, thereby reducing an understanding of the underlying aims and purposes behind the site's original layout. I also do not doubt that, putting aside its context, the proposal is well-designed, but, while No 1 is also a well-designed property, it does not follow what is before me reflects the existing house, or acts as a counterpoint that maintains the appreciation of the listed building.
12. Finally, it was said the proposal would be an opportunity to better expose the garden's boundaries and restore elements of walling and steps that have become damaged. An appreciation of the boundaries of the garden though would be diminished by the introduction of a new house in the grounds, as it would not only conceal some of them, but would also be perceived as reducing the extent of the curtilage associated with No 1. With regard to the restoration, there is no particular mechanism before me to ensure that would be achieved, and, if they are covered by the listing of the site, there may be other powers to secure their maintenance.
13. Turning to the effect on the conservation area, from Castle Hill the grounds of No 1 are, at the moment, substantially concealed by a tall wall. Whilst the existing house and some of the trees and shrubs can be seen, there is little awareness of the layout or state of the garden itself. The area between No 1 and No 3 forms a gap in the built form, but to my mind this is not harmful to the overall character of the conservation area. Although, for a substantial distance, the north side of Castle Hill has a strong and near-continuous built presence along the rear of the pavement, the streetscape on the side on which No 1 stands is far less consistent. Just to the east of the appeal property, beyond a short row of cottages, is the open parkland of Abbey Fields, while to the west No 3 sits behind substantial landscaping and beyond is a collection of dwellings variously arranged in relation to the road, most of which have notable front boundary planting. As such, I consider the garden of No 1 is not discordant, but contributes positively to the significance of the conservation area by adding to its historic diversity in the layout and arrangement of buildings and spaces.

14. When the single storey flat-roofed nature of the scheme is taken with the lower level of this part of the garden and the tall boundary wall, views of the proposal from outside of the site would be limited. As such, even if the separation between No 1 and No 3 was seen as harming the conservation area, and even if it was considered this part of the grounds of No 1 had a dark and unkempt appearance, the scheme would do little to change that situation when looking from Castle Hill. From inside the site though, harm would be caused to the conservation area by reason of its adverse impacts, discussed above, on the significance of the Park and Garden and the dwelling. Whilst there is a range of built form across the conservation area, that does not support this particular proposal given the harms identified.
15. Policy HE2 in the *Warwick District Local Plan* seeks to restore or bring back into use areas that presently make a negative contribution to conservation areas. The appeal site is currently overgrown, but to my mind this policy approach does not justify the erection of a dwelling here in the light of the harm identified. Indeed, there are other less harmful ways the site can be brought back into use, such as being maintained as a garden again. Consequently, I see no inconsistency between this policy and Neighbourhood Plan Policy KP13J. In any event, the Neighbourhood Plan is the more recent and so if there is a conflict that conflict should be resolved in its favour.
16. When this site was initially ear-marked for development in the late 19th Century it was intended to be 3 separate building plots, each running back from Castle Hill. The proposal would be in the area of one of these plots, while the existing house stands in another. However, since those intentions were drawn up, the development of this part of Kenilworth has moved on, with the plots being amalgamated into one to form the single curtilage of No 1, and indeed this listed dwelling was designed on the understanding the area to its west was to be garden. I therefore see no benefit, in heritage terms, in seeking to re-establish or reflect those initial plot boundaries at this stage.
17. Accordingly, I conclude the proposal would fail to preserve the special historic interest of the registered Park and Garden, would adversely affect the listed building by reason of its impact on its setting, and would cause harm, albeit less than substantial, to the significance of both of these designated heritage assets. To my mind, this is towards the middle of the range of less than substantial harm in each case. Moreover, by harming these designated heritage assets in this way the scheme would also not preserve the character or appearance of the conservation area, so causing less than substantial harm (towards the lower end of that range) to its significance.

Public benefits

18. The *National Planning Policy Framework* (the Framework) states that great weight should be given to the conservation of heritage assets, as they are an irreplaceable resource. It adds that any harm to the significance of designated assets should require clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any such asset, that harm should be weighed against the public benefits.
19. The proposal would boost the supply of housing, and would add a further self-build dwelling, and one with high environmental credentials, to the housing stock. I accept there would therefore be social benefits from the scheme, as well as economic benefits both during the construction phase and afterwards.

However, any public benefits that may accrue from these do not outweigh the great weight I attribute to the less than substantial harm to each of the designated heritage assets.

Conclusion

20. Accordingly, I conclude the proposal would fail to preserve the special historic interest of the registered Park and Garden, would adversely affect the Grade II listed building by reason of its impact on its setting, and would not preserve the character or appearance of the Kenilworth Conservation Area, causing less than substantial harm to the significance of each of these designated heritage assets. In the absence of any public benefits to outweigh the great weight that I give to the conservation of these assets, I find the scheme would conflict with Local Plan Policy HE1, which seeks to safeguard the significance of heritage assets, Neighbourhood Plan Policy KP13J, and the Framework. I therefore conclude the appeal should be dismissed.

JP Sargent

INSPECTOR