



Appeal Decision

Site visit made on 31 May 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/R3705/W/22/3310379

Land 50m North of St Nicholas Church, Church Lane, Austrey CV9 3EF

- 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 J Smyczek against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2021/0077, dated 10 February 2021, was refused by notice dated 20 July 2022.
 - The development proposed is erection of a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon the settings and thereby the significance of the Grade II* listed St Nicholas Church (the Church); and
 - the effect of the proposal on highway safety.

Reasons

Effect on character and appearance and heritage asset

3. The appeal site is comprised of a parcel of land that is heavily vegetated and bound by established planting to much of its perimeter. It sits adjacent a small allotment garden with the Church and its well vegetated churchyard located just behind the allotment garden. The site is also positioned next to open countryside. Despite residential development opposite the site, the area has a verdant and semi-rural character and appearance.
4. The significance and special interest of the Church is derived, in part, from its age, its relevance to the historic evolution and rural history of the village, its historic building fabric and its attractive aesthetic appearance. This significance and special interest is further underpinned by the spaciousness and openness of its semi-rural setting, which is contributed to in no small part by the verdant nature of the appeal site.
5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to

- have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
6. The site is clearly separated from the existing residential buildings by an access track, which detaches the appeal site from these buildings. As such, the site is not physically joined to the existing urban development. The site's naturalised appearance, along with its tree and shrub cover, visibly distinguish it as an obvious feature of the countryside rather than an intrinsic part of the village.
 7. Whilst the site is physically separated from the church by the allotment garden, the garden itself is a small, open area that contributes to the setting of the church.
 8. The proposed two-storey dwelling would introduce a significant bulk and mass onto the site by virtue of its scale and height. The new dwelling would erode the extent of the green gap that exists between the churchyard and the neighbouring dwellings. In addition, land to the side of the dwelling would incorporate a driveway and parking spaces. This, combined with the building itself, would reduce the verdant appearance of the site. The proposal would result in an urbanising change to the setting of the heritage asset by diminishing the semi-rural qualities of the site, which would detract from the openness of the surrounding area.
 9. The appellant has produced a comparative sketch of the proposed dwelling using topographical data and 3D software. Nevertheless, due to the proposed dwelling's location, it would diminish the experience of approaching the church from the trackway and divert attention away from its presence. I accept that the approach to the front of the church is from Church Lane, but the trackway off the Green is also used as a popular route to the church by residents living nearby.
 10. Furthermore, when observed from Bishop's Field, the proposed dwelling would be visible in the same view as the Church. Its close proximity would encroach upon the church's setting, resulting in a reduced sense of openness.
 11. Whilst I accept that the proposed dwelling would be on slightly lower ground level in relation to the church and the existing boundary trees and vegetation would provide some partial screening, the overall development would result in encroachment onto land which presently has an open, undeveloped character. Moreover, planting cannot be relied upon to provide a permanent buffer to views. This is because there is no guarantee that such planting would survive or be adequately maintained in the longer term.
 12. My attention has been drawn to a hedgerow that the appellant indicates is a strong boundary to the edge of the built-up area. However, green undeveloped spaces exist between the hedgerow and the trackway, and therefore the trackway marks a clearer boundary for the reasons given above.
 13. The proposed dwelling would include sympathetic detailing and materials that could be reasonably secured through the imposition of planning conditions. However, these acceptable aspects would not outweigh the harm identified above.
 14. Consequently, the proposal would cause harm to the significance and special interest of the Church by bringing forward development within its setting. I would qualify that the degree of harm would be less than substantial. In

accordance with paragraph 202 of the National Planning Policy Framework (Framework), that harm should be weighed against any public benefits of the proposal.

15. The proposal would provide a dwelling with adequate access to local services. However, given the small scale of the proposal, the provision of one additional dwelling would attract only limited weight as a scheme benefit.
16. Accordingly, giving great weight to the conservation of the designated heritage asset, I consider that the less than substantial harm I have identified would not be outweighed by the scheme's public benefits when considered cumulatively.
17. For the above reasons, the proposal would cause unacceptable harm to the character and appearance of the area and to the significance and special interest of the Church.
18. As such, the proposal fails to accord with Policy LP15 of the North Warwickshire Local Plan (2021). This policy, amongst other things, seeks to ensure development conserves and enhances the significance of heritage assets, including their settings. In addition, the proposal would not accord with the policies of the Framework (Section 16) which seek to conserve and enhance the historic environment.

Highway safety

19. The site is accessed from a narrow trackway which connects to a cul-de-sac known as 'The Green' at its northern end and Church Lane at its southern end. The trackway is used for vehicular access to a small number of existing dwellings and as a pedestrian route. There is also a public right of way that runs along the northern boundary of the site. This leads to pedestrian and vehicle movements in and round the locality.
20. Although there is an existing access serving the appeal site, I observed during my site visit that the existing access into the site was from a pedestrian gate only. The proposal would introduce a driveway and parking areas for 2 vehicles. This increase in vehicular access onto the trackway would represent a significant change from the current access arrangement.
21. The proposal would result in vehicles entering and exiting the appeal site near a sharp bend on the trackway and close to the public right of way. As such, motorists would be more focused on their next manoeuvre when approaching the sharp bend than vehicles entering and exiting the appeal site's access.
22. There is insufficient space on the appeal site to enable turning of a vehicle to enter and exit the site in a forward gear. Reversing out of the site onto the narrow trackway would be hazardous to both pedestrians, cyclists, and other road users. The sharp bend on the trackway would restrict visibility from the driveway to approaching pedestrians, cyclists and vehicles. Consequently, there would not be adequate time to react to oncoming users of the trackway when reversing from the driveway. This would lead to an increased risk of collision.
23. As there is no turning space within the site itself or on the narrow trackway, the proposal could also lead to vehicles reversing along the trackway and out onto the highway. Again, this would increase risk of collision with other road users.

24. I note that residents have implemented an informal one-way system along the trackway. However, this is not legally enforced and therefore non-residents such as visitors and delivery drivers may not use the one-way system.
25. I agree that the appeal site is located off a trackway and near a cul-de-sac (The Green) that does not appear to exhibit high traffic volumes. However, the manoeuvring in and out of the proposed access would be dangerous to pedestrians and other road users for the reasons explained.
26. Consequently, the proposal would result in an unacceptable impact on highway and pedestrian safety. As such, the proposal would fail to accord with Policy LP29 of the Local Plan. Amongst other things, this policy seeks to ensure development provides safe and suitable access to the site for all users. In addition, the proposal would also fail to accord with paragraph 111 of the Framework, which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

27. The appellant refers to a brick building on site that was previously used as a greenhouse. I observed during my site visit the remains of a small brick structure that was in a dilapidated condition. It appears as a separate structure in the rural landscape that is physically segregated by the trackway from the prevailing pattern of development in the village. Furthermore, no evidence has been submitted to indicate that the former building was of the same footprint and height as the proposal before me.
28. My attention has been drawn to a previous appeal decision (APP/R3705/W/16/3149979) for 4 large detached dwellings, which were allowed. However, this site is in a different location to the appeal site, being situated further away from the Church with its own site-specific issues. Therefore, this other appeal is not directly comparable with the proposal before me, which I have determined on its own merit. I also note the Inspector stated, *"Given its raised position, the church is appreciated within a setting of trees and mature landscaping which are therefore of significance in defining the setting to the listed building."* In my judgement, based on the evidence submitted and my site observations, the appeal site's close proximity to the Church and the site's mature planting and verdant nature contribute significantly to the setting of the Church.

Conclusion

29. The proposal conflicts with the development plan when read as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR