



Appeal Decision

Site visit made on 18 October 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Appeal Ref: APP/W1850/W/22/3299941

Land at Dukes Walk, Leominster HR6 8AE

- 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 M Rohde against the decision of Herefordshire Council.
 - The application Ref P214329/F, dated 24 November 2021, was refused by notice dated 28 February 2022.
 - The development proposed is described as “proposed property”.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Herefordshire Council against Mr M Rohde. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted amended plans with the appeal. Briefly, and amongst other things, they comprise a reduction in overall height, introduction of exposed rafters and timber windows and doors. This is partially in response to the Council’s reasons for refusal. Whilst the changes, on their face, are not extensive, they do represent a noticeable departure from the scheme that the Council considered and that on which the views of third parties were sought. I have some concerns therefore that accepting the amended plans would result in some prejudice to parties wishing to comment.
4. Having regard to the procedure guide¹, planning appeals should not be used to amend a scheme and any plans submitted should be those that the Council considered at the time they determined the planning application. I have not taken the amended plans into account in making my decision.
5. During my site visit I noted that a building had been constructed on the appeal site and appeared to be almost complete. From reviewing the submission the appeal scheme is different from that constructed, as such the appeal is only partly retrospective.

Main Issues

6. The main issues are a) whether the proposal would preserve or enhance the character or appearance of the Leominster Conservation Area (CA); and b) whether the proposal would provide adequate surface water drainage.

¹ The Planning Inspectorate Procedural Guide – Planning Appeals – England (March 2021)

Reasons

Character and Appearance

7. The site lies to the rear of buildings that front Etnam Street and adjoins a public car park in the centre of Leominster. The site sits between Dukes Walk, a pedestrian public right of way, and a public car park accessed off Etnam Street alongside 73 Etnam Street and 2 Dukes Walk. Beyond the site to the north is Grange House, a three storey red brick building now converted to flats.
8. The Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. The appeal site is located within the Leominster CA and based on my site visit lies within its historic centre. The CA derives its significance from its architecture, historic buildings, which includes the remains of the old Priory, together with the main historic street frontages. Etnam Street, and historic development as a market town. Etnam Street is largely residential with a small number of commercial uses. Whilst there is a variety of buildings designs in the immediate area, the use of brick, render, tile and slate are a common feature.
9. Behind Etnam Street the pattern of burgage plots is readily apparent from the public car park adjoining the appeal site which offers views over the rear of Etnam Street. Plots are generally narrow with smaller outbuildings to the rear of frontage development. Consequently, the appeal site makes a positive contribution to the character and appearance of the area which adds to the significance of the CA. The appellants Heritage Statement notes the importance of the appeal site, stating that it makes a marginal contribution to the CA.
10. The proposed development would introduce a single dwelling, which would be a primary building, in the back land area between the buildings on Etnam Street and a large detached building to the rear. The proposed development would be 1.5 storeys, measuring approximately 8.2 metres in height, 14.1 metres in length and 7.1 metres in width. The proposal would almost entirely fill the width of the appeal site. This would be in stark contrast with surrounding ancillary buildings, which are smaller in scale and appear to be ancillary to the buildings fronting Etnam Street. As such, the proposed development would be in marked contrast with the existing pattern of development and introduce an uncharacteristic form of development.
11. Additionally, due to its location, adjacent to a footpath and public car park, the proposal would be located in a visually prominent location. Whilst the design has sought to somewhat emulate the coach house style construction of a previously approved scheme² on the site, the window detailing, openings and materials would create a domestic appearance in contrast to the overall design and traditional detailing of nearby properties. The incongruousness of the proposals would therefore be exacerbated by the building's prominent positioning, design detailing, height, scale and massing.
12. The harm that would arise would be localised and therefore the impact on the CA as a whole would be less than substantial within the meaning of paragraph 202 of the National Planning Policy Framework (the Framework). In weighing the public benefits of the proposal against the harm identified, the appellant

² DMN/11443/RM approved 25 July 2011

has suggested that the proposal would improve the character of the area by better defining the plot with garden walls and being subservient to frontage development. I have already found harm with regard to the design of the proposed development, and whilst the addition of garden walls could improve the CA, this benefit would not outweigh the harm identified. Additionally, whilst the proposal may be lower in height than the buildings that front on to Etnam Street and the detached building to the rear, its scale and massing combined with its location would create a prominent structure that would not appear subservient. As such, the public benefits of the scheme are of no more than limited weight. I find in relation to paragraph 202 of the Framework that whilst the harm to the significance of the CA would be less than substantial, there are no public benefits that would outweigh that harm.

13. I have had regards to the extensive planning history on the site, including the reserved matters which gained approval in 2011. I also note that this was not commenced and as such the permission has lapsed. Since the approval of this scheme the Council have adopted new development plan policies, a neighbourhood plan has been adopted along with the publication of the National Planning Policy Framework (the Framework) and National Design Guide (2016) (NDG). Additionally, the Council have produced a character assessment for the CA. I have notified above the design detailing differences between the 2011 scheme and the appeal before me. As the permission has lapsed there is no fall back. As such, I must consider the appeal proposal on its own merits.
14. I conclude that the proposed development, due to its scale, design and location, would harm the character and appearance of the building and surrounding area. Furthermore, the proposal would harm, and therefore fail to preserve the character or appearance of the CA. I find in relation to paragraph 202 of the Framework that whilst the harm to the significance of the CA would be less than substantial, there are no public benefits that would outweigh that harm.
15. The proposal would therefore conflict with Policies SD1, LD1, LD4 and SS6 of the Herefordshire Local Plan Core Strategy (2015) (CS) and Policies LANP3, LANP14 and LANP15 of the Leominster Neighbourhood Development Plan (2019) (LNDP). Together these seek to ensure that developments are of an appropriate design for their context, including taking into account burgage plots, and protects, conserves and enhances heritage assets. The proposal would also be contrary to paragraph 199 of the Framework which seeks to protect heritage assets.

Surface Water Drainage

16. As part of the appeal submission the appellant has provided a Surface Water Drainage Design produced by H+H Drainage. This document confirms that there is insufficient space within the appeal site to facilitate surface water soakaways and there are no watercourses within 100 metres from the site where water could be discharged. It is therefore proposed to discharge the water to the local sewage network or the local highway drainage system at a greenfield run off rate by utilising attenuation tanks.
17. I have had regard to the Council's Land Drainage comments which state that Dwr Cymru Welsh Water, being the local sewage network operator, have confirmed that they would reject a discharge of surface water run off into the

public sewer. Furthermore, these comments state that there is currently insufficient information available on the local highway drainage system to fully assess the impact of additional surface water drainage in this location.

18. The appellant has provided evidence and reasoning for requiring connection to a public sewer or local highway drainage system. However, in the absence of detailed information to fully assess the potential impact, I am unable to conclude that it has been demonstrated satisfactorily whether surface water generated from the proposed development would be adequately managed.
19. For the reasons outlined above I conclude that it has not been demonstrated that the proposal would adequately manage surface water. The proposal would therefore conflict with CS Policy SD3 and LNDP Policy LANP15 which seeks, amongst other things, to ensure that development provide measures for sustainable water management. The proposal would also conflict with paragraph 167 of the Framework which seeks to ensure that development includes appropriate surface water management measures.

Other Matters

20. Appellant has suggested a condition to secure mitigation in the future. In respect of the River Wye Special Area of Conservation (SAC), Habitats Regulation 63(1) states that a competent authority, before deciding to give permission, must make an appropriate assessment of the implications of the development on that site. Given my reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard and have not considered the matter further.

Conclusion

21. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR