



Appeal Decision

Site visit made on 3 August 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/N3020/W/23/3315686

34 Main Street, Calverton, NOTTINGHAM NG14 6FQ

- 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 Miss Shread, STAMP Development Ltd against the decision of Gedling Borough Council.
 - The application Ref 2019/1180, dated 20 December 2019, was refused by notice dated 1 August 2022.
 - The development proposed is Proposed demolition of existing dwelling and erection of 3 retail units at ground floor with 8 apartments over.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs has been made by the application. This is the subject of a separate decision.

Preliminary Matters

3. The Council's statement refers to an objection to the three-storey Block B only. However, the reasons for refusal cite a separate concern regarding the development's design and I am unable to conclude with certainty that the reasons for refusal are concerned only with Block B. In any case, as the decision maker I am able to consider the appeal as if it had been made to me in the first instance. As such, I have based my reasoning on all aspects of the proposals.
4. In addition, the reasons for refusal relate only to the setting of the Calverton Conservation Area (CCA) and the listed church. However, part of the development would be located within the CCA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Consequently, I have a statutory duty to include an assessment of the development's effect on the CCA in my reasoning. As the evidence before me addresses that issue, I see no reason why this approach should be prejudicial to the parties.
5. Having reviewed the evidence, I have also concluded that the effect of the development on mature trees and protected species should be included as main issues, and I invited the parties to submit further comments in this regard during the appeal.

6. There is a discrepancy in the evidence in that the site is referred to as both 34 and 36 Main Street. As No 34 is the address given on the application, I have referred to No 34 throughout my reasoning.

Main Issues

7. The main issues are:

- Whether the development would preserve or enhance the character or appearance of the Calverton Conservation Area (CCA), and the effects of the development on its setting, including with regard to mature trees;
- Whether the development would accord with national guidance and legislation with regard to protected species; and,
- The effect of the development on the setting of the Grade II* listed St Wilfrid's Church and the Grade II listed Corner Cottage.

Reasons

Appeal Site

8. The appeal site is a broadly rectangular site located alongside a pedestrianised shopping mall which comprises a cluster of single, two and three storey buildings, car parking and a line of garages. The long terraces lining the covered mall have flat accommodation above retail space, and the complex also includes a library and a doctor's surgery. The mall's built form appears to date from the second half of the 20th century, and it is a strange mix of utilitarian and somewhat brutalist design with no real focal point and little architectural merit. Nonetheless, it is a hub for local retail and service provision and at my visit there was constant flow of vehicles in and out of the car parks, as well as pedestrian traffic.
9. The site itself contains a long narrow dwelling hard against the site boundary with 30 Main Street (No 30). The evidence before me indicates that in the mid-1960's this was a red brick cottage with a long projecting outbuilding and a large cultivated garden¹. A later photograph² shows the cottage with its current window configurations and a white plaster finish. This also indicates that as recently as 2019 the gardens were reasonably well maintained. The tree survey³ notes that there is one Category B tree on the site, a large and imposing Beech tree which is prominent in views from the street scene.
10. A structural appraisal⁴ notes that the dwelling has very little structure dating from before 1900. However, No 34's footprint coincides with the footprint shown on the 1880 and 1900 maps. I also noticed dog toothed eaves on No 34's front elevation which are likely to be characteristic of the original cottage. Moreover, the 1960's photograph referred to above shows a cottage that stylistically appears to date from the late 19th century. The planning statement also notes that the cottage dates from the 19th century.

¹ Calverton Preservation and Historic Society

² 2019, Arboricultural Assessment

³ Ramm Sanderson, April 2019

⁴ GCA October 2021

11. Photographs within the condition survey⁵ show that the rear elevation hard along No 30's boundary has a very attractive red brick cottage appearance, with at least one window consistent with the cottage's frontage in the 1960's. The internal photographs show an arched timber beam, which is clearly of some age, as well as shaped plasterwork. Consequently, whilst I acknowledge that major modifications may have been undertaken over the years, leading to a loss of historic fabric, I conclude that the dwelling's overall footprint, scale and form are broadly those of the 19th century cottage and that there is historic fabric remaining.
12. The evidence before me indicates that although No 34 was potentially in need of repair work when acquired by the appellant, it has been left for empty for several years. The photographic evidence indicates that there has been a significant deterioration of the dwelling and the site's overall appearance since 2019.
13. Paragraph 196 of the National Planning Policy Framework (the Framework) states that where there is evidence of deliberate neglect or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. There is conflicting evidence before me with regard to the causes of No 34's current condition. Nonetheless, although there is Heras type fencing on the Main Street frontage and on the boundary behind the library, this is easily moved, and the northern site boundary is not secured at all. Moreover, the undergrowth now provides cover for unlawful entry and anti-social behaviour which is likely to have accelerated the building's deterioration. The site's security and maintenance is the appellant's responsibility, and should not be predicated upon any particular development application.
14. Furthermore, the condition survey gives costs for required works amounting to around £300,000, including VAT and professional fees. However, the schedule of proposed costs appears to identify only one structural defect, which is subsidence on the front elevation. The cost of underpinning is set at around £28,000 excluding VAT and fees, which does not seem particularly excessive to me in this context or sufficient to conclude that the building is beyond repair.
15. Moreover, a very large proportion of the non-structural costs are repairs that could have been avoided through better site security, and ongoing or backlog maintenance such as keeping downpipes, flashing and gutters in good order. I also note that these costs include bathroom fittings, tiling, new carpets as well as services such as a new boiler and central heating system, electrical wiring and a chimney liner which are outlays which might be expected when a dilapidated residence is purchased. The costs also include remedial and restoration works to the out-buildings, and works to the garden. Again, I conclude that general maintenance and better security could have kept the site in a better condition and thus kept these remediation costs down.
16. The local development and neighbourhood plans have allocated the site for town or village centre uses. As such, the principle of mixed retail and residential development on the site is not before me. Nonetheless, whilst I appreciate the local development plan has caused an uplift in land values, on the basis of what is before me I am unable to conclude that it would not be viable to repair the dwelling for domestic or other uses.

⁵ Node Building Consultancy, April 2020

17. Consequently, although it is difficult for me to conclude that there has been deliberate neglect, the appellant's arguments in relation to the current unmanaged state of the site and the resultant costs of remediation carry no weight in favour of the appeal.
18. The site straddles the CCA. The dwelling, outbuilding and the southern garden area sit within the CCA, providing a garden frontage to Main Street. The northern part of the site sits between the shopping mall and the CCA boundary.

Heritage Assets

Conservation Area

19. The CCA's footprint broadly accords with the village's original ribbon development, which reflects the evolution of a rural farming community along the Dover Beck valley. The village's historic core is still evident in the high proportion of former agricultural cottages, farmhouses, ancillary buildings and adjoining gardens which are arranged in informal clusters along Main Street and side lanes.
20. In the late 19th century the invention of the stocking frame led to a significant increase in population and a wave of building. This included the characteristic frame-knitters' cottages, some of which remain largely unaltered.
21. The continuous deployment of red brick and pantiles, the irregular arrangement of dwellings around gardens and cultivatable land and a strong adherence to an underlying vernacular style has led to a high degree of consistency in form, scale and materials. Consequently, there is a clear sense of historic character and appreciation of the original form and function of the built environment as Main Street winds past the clusters of historic buildings and their gardens, which is clearly distinct from the surrounding post-war development. It is notable that the village's historic core and fabric, and the associated street patterns along the valley bottom, have remained remarkably well preserved.
22. Map regression shows that the appeal site itself appears to be a combined plot that previously contained three cottages with land and outbuildings. The map regression also shows how little the underlying building pattern has altered in subsequent years, particularly to the south and east of the site, and within the CCA.
23. The significance of the CCA is therefore derived from the predominance of historic built form and intact fabric, and the underlying building pattern of vernacular buildings and garden land, some of which, including the appeal site, contain mature vegetation. This reflects Calverton's evolution, its agrarian origins and its early economy. These attributes have aesthetic, historic and social value.

Proposals and effects – Conservation Area

24. Block A would be a long two-storey block, mostly with a front facing pitched roof that would face Main Street and with period style timber shop frontages at ground floor level. Its overall form and materials would reflect the form and height of the period cottages nearby. However, there would be a small gable ended extension at the western end of the terrace which would have rather contrived roof form, and which appears unrelated to the typology of the attached terrace.

25. Moreover, the combination of an unusually long and deep footprint and the resultant massing, and the curious side addition would detract from and be incongruous with the underlying building pattern. Moreover, the green space that fronts Main Street would be replaced by a car park extending across most of the remaining site, and would represent significant urbanisation of a pocket of green space. The proposals would also require the removal of the mature Beech tree.
26. The loss of the tree and the open garden frontage, in addition to the loss of the small scale vernacular built form which reinforce the underlying informality and domestic character of the CCA, would detract from the significance of the CCA.

Proposals and effects – Setting of the Conservation Area

27. Block B would be a three-storey block at the northern end of the site with a ground floor retail unit facing the pedestrianised route to the surgery. The repeating pattern of pitched roofs and gabled facades would have an industrial factory appearance which would neither reflect the typology of the existing 20th century mall, nor the vernacular of the CCA's historic built form.
28. The drawn sections in the appeal statement indicate that Block B's ridge height would be significantly lower than the mall's tallest building. This is a three-storey terrace located furthest from the CCA's boundary on the corner of Crookdole and Mansfield Lanes. However, my observations lead me to conclude that Block B would be about the same height as that three-storey building. Moreover, the projection shows a large structure that does not exist on the corner of Crookdole and Mansfield Lanes. Shown alongside the existing heights and massing of the shopping mall in the sections and projection, Block B appears to be a proportionate and sympathetic addition to the CCA boundary. However, my observations lead me to conclude that these are not entirely accurate and that Block B would contribute considerably more height and massing to the mall than is shown in these views.
29. I observed that the existing built form in and around the mall, steps down from the Crookdole and Mansfield Lane junction, with only two-storey and single storey buildings close to the CCA boundary. I acknowledge that the surgery has roof accommodation but there is nothing before me to indicate that its ridge height is similar to what is proposed for Block B. As such I conclude that that Block B would introduce significant height on the mall's southern edge. It would also appear disproportionately large and incongruous compared to its close neighbour, the flat roofed and single storey library.
30. Block B's flat elevations would have a neat repeating pattern of identical window openings at first and second floor levels, at both front and rear. However, the rear elevation, which would abut the car park accessed from Main Street, would have a largely inactive frontage at ground floor level with doors only into a stairwell and storage area, and two small windows. As such although there would be an active retail frontage facing the mall, the rear elevation would have an unattractive and semi-blind frontage at ground level.
31. In the light of the above I conclude that Block B, as a consequence of its incongruous form, height, mass and overall design would have an adverse effect on the setting of the CCA. It would represent a step change in the underlying building pattern alongside the CCA boundary, and would also intrude into views in and out of the CCA in this area.

32. Moreover, the library sits nestled between mature trees that form a buffer strip between the CCA and the St Wilfrid's Square car park, and which contribute to the transition between the shopping centre and the site's former residential character. One of the Ash trees in this strip, is afforded Category A status, which is the highest category available when assessing trees under BS 5837:2012.
33. Given the extent to which this tree oversails the site it seems highly likely that the construction of Block A, which comes close to the site boundary, would require a significant reduction of the tree's canopy, if only to accommodate scaffolding. This would create large wounds which could allow pathogen entry and have an adverse effect on the tree's future health and longevity. The pruning of the canopy to the likely extent required would also be likely to have an adverse impact on the tree's overall appearance, which would be to the detriment of the area's visual amenity and consequently to the setting of the CCA.
34. The tree survey notes that where possible it is generally considered desirable for Category A or B trees to be retained and appropriately integrated within the layout for new development. This paraphrases the recommendations set out in BS 5837:2012⁶. It seems neither reasonable nor appropriate for works on the appeal site to have the potential to have an adverse effect on trees outwith the site boundary. I appreciate that it may be possible to limit damage to the root protection zone during the works, but this does not alter my concerns in relation to the likely effect of the development on the tree's canopy, its future health and appearance.
35. The site layout shows a narrow strip of planting along the eastern boundary and an isolated bed to the west in the car park. However, this would be insufficient to provide replacement planting of the scale likely to be lost, to reflect the site's garden origins or to soften or offset the extent of hard paving and the mass of the proposed buildings.
36. I conclude that the development could have an adverse effect on mature trees which contribute to the setting of the CCA.
37. The officer's report states that the shopping centre is inward looking and somewhat unattractive when viewed from Main Street. There appears to be a consensus amongst officers, Members and interested parties that the mall's current layout and design at least contributes to noted issues of vacant units and anti-social behaviour, and that it degrades the setting of the adjoining CCA.
38. The car park between Blocks A and B would be largely hidden from Main Street, and overlooked only by residential accommodation at and above first floor level. Consequently, there would be limited surveillance of the car park and it could not be guaranteed that antisocial behaviour in this area would be reduced.
39. Although Block A would face Main Street, it would be remote from the rest of the mall and the existing entry points into the shopping centre would remain unchanged. The development would do very little to improve the current lack of connectivity, visibility or the confused layout. Nor would the design enhance

⁶ Trees in relation to Design, Demolition and Construction, Recommendations

the CCA's setting. In fact, the development as a whole would be detrimental in these respects for its failure to respond or relate to its context.

40. The CCA appraisal accepts that the shopping mall detracts from the setting of the CCA, and also states that it is important to ensure that the CCA is not further degraded by inappropriate development in the town centre. I acknowledge that the CCA appraisal is guidance only, but it nonetheless supports the CCA designation, and I see no reason to disagree with this statement. The cumulative and combined harm identified above would have an adverse effect on the setting of the CCA.

Planning and Heritage balance

41. The harm identified above in relation to development within the CCA and its setting would amount to less than substantial harm as set out in Planning Practice Guidance and Paragraph 199 of the Framework. Paragraph 199 also states that great weight should be given to a heritage asset's conservation, irrespective of the degree of potential harm.
42. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of that proposal including securing where appropriate, its optimal viable use.
43. The development would provide three modern retail units and eight flats. Although I acknowledge that the continued housebuilding on the outskirts of the village fuels the need for a greater retail choice, there is nothing before me to indicate that there is an unmet commercial need. Nonetheless, the site is zoned for town centre uses which will increase its commercial offering and is weighted as an economic benefit in this appeal. The additional housing would also represent a modest addition to local housing supply, representing public benefits. Moreover, as noted above, the principle of development in line with the local development plan is not before me.
44. However, there is nothing before me to suggest that this is the sole design solution for this site. Consequently, I conclude that the weight of harm to designated heritage assets would not be outweighed by the public benefits whether they be economic, social or environmental.
45. As such, the development would fail to preserve or enhance the character or appearance of the CCA contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). It would also conflict with Policy LPD26 of the Local Planning Document (LPD) which is concerned with the safeguarding of heritage assets and requires development which would result in harm to the significance of a heritage asset to be outweighed by overriding public benefits.
46. The proposals would also conflict with LPD Policy LPD28 which requires development within conservation areas to be of an appropriate design and scale, retain open spaces and other elements of the area's established patterns of development, character and historic value including gardens and which also requires the protection of trees. This policy also states that permission will not be given for development that adversely affects setting, significance or views in or out of conservation areas.

47. There would also be conflict with Policy 11 of the Aligned Core Strategy (ACS) which sets out the strategic approach to the safeguarding of heritage assets, and Section 16 of the Framework which is concerned with the historic environment.
48. Finally, the development would be contrary to LPD Policy LPD50 which sets out that planning permission will be granted for development proposals within town centres provided that it is of a high standard of design and does not adversely affect the town or local centre by reason of its scale, bulk, form, layout of materials.

Protected species

49. The ecology survey⁷ carried out a bat building assessment and protected species survey to determine the potential for the presence of protected species. The survey, undertaken in spring of 2019, concluded that there was evidence of a confirmed bat roost in the former dwelling, and recommended three further nocturnal surveys in line with best practice. There is nothing before me to indicate that further surveys were undertaken.
50. Circular 06/2005⁸ states that the presence of protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that *it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision*. It further advises that additional surveys should only be required by condition in exceptional circumstances. Undertaking surveys after planning permission has been granted is unlikely to be an acceptable or appropriate course of action. There is nothing before me to indicate that exceptional circumstances apply here.
51. The officer's report notes that further surveys are needed and there is a proposed condition to this effect. However, the standing advice from Natural England is that developers should submit enough information for local planning authorities to fully consider the effect of the development on protected species and their habitats. The guidance suggests that planning permission can be refused if surveys are not up to date, or do not provide enough evidence to assess the likely negative effects on protected species. The purpose of conditions is to impose specific avoidance, mitigation and compensation measures having already established the impact of the development through the surveys.
52. In this case, the initial survey has established that the dwelling is very likely to be a hibernating bat roost. Further surveys would have given more precise information to weigh in the planning balance and inform specific conditions to minimise the development's impact on the likely bat population. As the suggested condition only requires more surveys to be undertaken, on the basis of what is before me I am unable to conclude that the development would not cause significant harm to biodiversity or could provide adequate mitigation, contrary to Paragraph 180 of the Framework. This states that if significant

⁷ RammSanderson, March 2019

⁸ ODPM, August 2005

harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for, then planning permission should be refused.

53. I acknowledge that the undated letter from Natural England (NE) states that it has no comments in relation to the development. However, the letter also states that NE has not assessed the application for its impact on protected species and refers the Council to its Standing Advice. The Standing Advice requires proposals to include adequate mitigation or compensation measures to allow planning decisions to be made. This advice, as far as I can see from what is before me and as set out above, has not been followed.

Listed Buildings

St Wilfrid's Church

54. Built of dressed stone and ashlar, with tile and slate roofs and a rather squat square tower, St Wilfrid's church (the church) sits within a large graveyard which fronts Main Street. It is separated from the appeal site by the residential plot of No 30. Although the current nave and tower were rebuilt in 1763, the church is known to date from the late 13th and 14th centuries, reflecting the importance of Calverton as a local centre in medieval times.
55. The graveyard and its mature trees wrap around the church, providing an openness and an undeveloped backdrop to fine views of the church from Main Street. The church itself appears to be the tallest and most impressive structure in the vicinity, and its attractive design and presence, together with the fine building materials and spacious surroundings make it a focal point in the street scene.
56. The significance of the church is derived from its aesthetic quality, its high quality historic fabric, and its evidential and associative value as a focal point of the community and the local economy over many centuries. There is also significance to be derived from the church's spatial relationship with Main Street which has been the village's main thoroughfare throughout the church's history, as well as the clear subservience of the retained historic building pattern within the church's visual envelope.

Corner Cottage

57. This is a brick, partly rendered cottage built in the late 17th century, with a steep pitched pantile roof and is directly opposite the appeal site. It sits gable end to Main Street on a corner beside a narrow lane leading to other period dwellings. The significance of the Corner Cottage lies its intact historic fabric form and materials, which reflects local building of the period and is broadly consistent with as well as its relationship with Main Street and other historic buildings nearby.

Proposals and effects – Listed buildings

58. HE has raised concerns that the development would intrude into the church's setting and Block B would be taller than the surgery. However, the surgery is closer to the churchyard than the site for Block B and cannot be seen. Moreover, Block B would also be separated from the churchyard by No 30's long garden plot. Consequently, on the basis of what is before me I conclude

that Block B would not intrude into the views from the graveyard which provides the primary setting for the church.

59. Each of the listed buildings sits within a building pattern which has retained its historic roots to some extent, and I appreciate HE's points with regard to the Calverton's historic grain, and the predominance of garden sites fronting Main Street. However, although the appeal site has characteristics consistent with the early development pattern, there is nothing before me to indicate that it had a functional, historic or associative relationship with the church or the Corner Cottage.
60. As such, although the development pattern contributes to the visual setting and the context of both the church and Corner Cottage, I am unable to conclude that the appeal site contributes to the settings of those buildings as defined in heritage terms. Consequently, I am satisfied that the development would not have an adverse effect on the settings of the listed buildings, and that there would be no conflict with LPD Policy LPD27 which is concerned with listed buildings or ACS Policy 11 and Section 16 of the Framework as set out above.

Other matters

61. I acknowledge that the application had the support of planning officers, who concluded that the less than substantial harm to designated heritage assets was outweighed by public benefits. However, Members reached a different conclusion with regard to the planning balance, as they are entitled to do.
62. I also appreciate that there has been pre-application consultation and a previous application. However, the appeal is determined on its own merits.
63. Concerns have been raised by interested parties, including the parish council, in relation to highways issues, particularly regarding the servicing of the retail units. The officer's report notes that Block B would be serviced from the new car park but it is unclear to me whether the car park would be sufficiently large to accommodate large vehicles and their turning requirements. Moreover, it is noted that Block A would be serviced directly from Main Street. Although not raised as a concern by the highway authority, there is a bus stop and raised kerb along No 34's frontage and nearby, zig zags for a zebra crossing. In addition, there are no commercial or domestic bin storage areas shown on the drawing and it is unclear where these would be stored within 15 metres of the highway. However, as I have found harm in relation to the main issues it is not necessary for me to consider this further.

Conclusion

64. The development would be contrary to the local development plan, national guidance and legislation. There are no material considerations or public benefits of such weight to lead me to conclude otherwise. The appeal is dismissed.

A Edgington

INSPECTOR