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# Appeal Decision

Site visit made on 4 October 2023

**by C Dillon BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 December 2023**

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**Appeal Ref: APP/G2435/W/23/3319437**

**St Andrew's Church, Churchgate, Kegworth, DE74 2ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval of details required by a condition of a planning permission.
  - The appeal is made by Kegworth Parish Council against the decision of North West Leicestershire District Council.
  - The application Ref: 22/00978/DIS, dated 22 June 2022, sought approval of details pursuant to condition No 6 of a planning permission Ref: 19/01426/FUL, granted on 11 January 2021.
  - The application was refused by notice dated 28 October 2022.
  - The development proposed is described as rebuild existing wall.
  - The details for which approval is sought are details reserved by condition No 6 (replacement tree planting scheme).
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

## Background and Main Issues

3. The appeal site comprises Grade II listed St Andrew's Church and the associated walled churchyard located within the Kegworth Conservation Area. This appeal follows the Council's refusal to approve a replacement tree planting scheme, the details of which are required by condition No 6 of planning permission Ref: 19/01426/FUL for the rebuilding of part of the retaining boundary wall containing the Church and its grounds.
4. In seeking to fulfil its statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the Council determined it necessary to attach condition No 6 to the planning permission. This sought to ensure that the proposal, including the felling of six mature Lime trees, would preserve the setting or features of special architectural or historic interest of this prominent listed building and would preserve or enhance the character and appearance of the Conservation Area.
5. Consistent with the evidence before me, I observed that new sections of wall have been erected and the permitted felling of six mature Lime trees has been undertaken. These works have not accorded with the sequence of the actions required by condition No 6. Nonetheless, the Council validated and determined the subsequent Discharge of Condition application to which this appeal relates.

From the submitted details, I am satisfied that the condition is not deemed to be discharged. I make my determination on those submitted details given the absence of any current enforcement proceedings.

6. The appellant has submitted that the wording of condition No 6 is not what was discussed and agreed with the Council prior to the decision being issued. My determination can extend only to the assessment of those refused details in the context of that condition, as worded on the decision notice. Moreover, it falls beyond the scope of this appeal to reconsider the planning permission or assess whether that condition is necessary as the appeal before me is not against the condition itself.
7. Therefore, the most significant factor in this case relates to whether or not the proposed replacement tree planting scheme would address the requirements of condition No 6, bearing in mind the setting of the Grade II St Andrew's Church and the Kegworth Conservation Area.

## **Reasons**

### *St Andrew's Church*

8. St Andrew's Church and its churchyard grounds enjoy an elevated position presiding over Kegworth's historic core. Its situation on a main route through the town heightens the visual presence and role of this culturally important historic community facility. This Grade II listed building is experienced within its associated immediate mature churchyard setting and also within a much wider historic rural townscape setting which enjoys conservation area status.
9. The Church has long served its parishioners as an important community hub. The lower part of the four stage tower of this large cruciform planned building extends back to the 13<sup>th</sup> century. The Church was subsequently further developed in a Decorated style through the 14<sup>th</sup> and 15<sup>th</sup> centuries and restored during the period 1859 to 1886. The role of its churchyard setting in appreciating this listed building is derived from its historical and functional relationship with the Church and how that important building has and continues to be used and experienced.
10. The mature planting within the Church's grounds provides a clear hierarchy of trees which respect the large scale and architectural decoration of this listed building and also the functioning of the churchyard as a peaceful setting. The taller specimens, including the felled and surviving Lime trees, were planted to line the outer boundary of the churchyard. In doing so, they have successfully provided a large scale, leafy immediate setting to the Church which is evident from a distance.
11. These trees, in terms of both the species chosen and their more peripheral positioning have provided an ongoing sense of enclosure to the Church and its grounds. From the evidence before me and my site visit, despite their strong stature, the more elevated canopies of the felled and remaining trees would have permitted upward glimpses from street level through to the fine historic architectural detailing of this purposefully elevated ecclesiastical building, including its battlement parapets, off-set buttresses and large reticulated tracery arched windows. This landscape approach, whether accidental or planned, remains evident along the boundary with Nottingham Road. Shorter, more compact tree specimens are currently utilised throughout the remainder

of the churchyard, mainly to the side and rear elevations of the Church. Importantly, this approach provides a lower level, verdant setting to create a sense of intimacy and solitude for the churchyard from the surrounding town, but without unduly inhibiting key views of the Church. This landscaped setting contributes immensely to understanding and appreciating the function and cultural value of the Church.

12. Overall in visual terms, whilst the trees were of a similar height as the Church, including its clock tower and octagonal spire, this landscaping has not disrupted or competed with this Grade II listed building or the way it has been experienced as a whole within its immediate churchyard or wider leafy rural historic townscape setting.
13. The proposed replanting scheme would secure the replacement of six mature Lime trees with two Whitebeam trees, two Winter Flowering Cherry trees and one Rowan tree. These landscaping proposals would result in a net-reduction in the number of trees within the appeal site. The replacement specimens would be ornamental in character, of a lesser height and more compact in their structure, girth and stature even when reaching maturity.
14. Care is needed to ensure that the new planting scheme does not interfere with the integrity of the boundary wall, Church and graves in the future. However, it has not been demonstrated that there is insufficient scope to accommodate a scheme of species and numbers of a closer equivalence to those which have been removed. Furthermore, it is vital that the resulting lower canopies proposed would not unduly interrupt street level views of special interest features of the Church, including parts of its battlement parapets, off-set buttresses and large reticulated tracery arched windows. This has not been sufficiently evidenced.
15. The particular landscaping details pursued through this appeal would lead to a permanent change to the presentation of St Andrew's Church within its historic churchyard setting. The appeal proposal would adversely alter the way in which this heritage asset is experienced and read within the hierarchy of trees forming its immediate setting from both nearby and more distant views.
16. Therefore, the acceptance of the particular submitted landscaping details would mean that the development permitted would not be satisfactory.
17. The Council found that there were public benefits which justified the decision to permit the rebuilding works subject to conditions, including the requirement for an agreed replanting scheme. However, the acceptance of the proposed landscaping details would be harmful to the setting of Grade II listed St Andrew's Church.
18. Furthermore, it would conflict with Policy He1 of the North West Leicestershire Local Plan which seeks to conserve or enhance the significance of heritage assets and their setting, including features and spaces which form part of their significance.

#### *Character and appearance of Kegworth Conservation Area*

19. St Andrew's Church and associated churchyard are prominently located within the historic central core of Kegworth. The Church's tower and spire convey the building's presence upon approach from a distance. Overall, the mature leafy churchyard context visually connects with further tree cover in the mature

grounds of well-established properties on the other side of Nottingham Road. Collectively, these trees contribute considerably to the verdant and more intimate and solitary mature character and appearance of this part of this conservation area.

20. I have necessarily assessed this Area's significance as being derived from its historic and architectural value which visibly extends back to at least the 13th century. In turn, these valuable attributes provide a wider important backdrop and context to the appreciation of the special interest features of St Andrew's Church itself.
21. The parent application to which condition No 6 relates was supported by a structural engineers report and that was sufficient to demonstrate to the Council that the felling works that have subsequently been carried out were justified. Nonetheless, from the submitted photographs and my site visit, I have been able to discern that the loss of the coverage of six mature Lime trees has a very noticeable negative effect upon the mature verdant character and appearance of the Kegworth Conservation Area from immediate and medium distance vantage points, particularly on approach in either direction along Derby Road. That is why condition No 6 was imposed.
22. For the reasons given earlier, the contribution that the proposed replacement tree planting scheme would make to mitigate the adverse visual effects of the felling works falls short of what is appropriate to this particular site. The submitted replacement tree planting details are insufficient.
23. Consequently, the appeal proposal would fail to fulfil the objectives of Policy He1 of the Local Plan and would adversely affect the Kegworth Conservation Area.

### **Conclusion**

24. For the reasons given, overall, I find that the particular appeal proposal would not secure suitable landscape mitigation for the permitted works pursuant to condition No 6 of planning permission Ref 19/01426/FUL. Therefore, I conclude that the appeal should be dismissed.

*C Dillon*

INSPECTOR