



Appeal Decision

Site visit made on 18 December 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/M4510/D/23/3329464

15 Brandling Park, Newcastle Upon Tyne NE2 4RR

- 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 Tony Knox against the decision of Newcastle City Council.
 - The application Ref 2023/0443/01/HOU, dated 15 March 2023, was refused by notice dated 23 August 2023.
 - The development proposed is changes to entrance gate and creation of on-site car parking space for an electric car.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. I have had regard to the revised Framework in my decision.

Main Issue

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Brandling Village Conservation Area (CA).

Reasons

4. Within the CA, terraced residential properties, large institutional buildings and traditional shop fronts display Victorian and Edwardian architecture of the era. Owing to the mature trees within the area and open spaces such as St Andrew's cemetery, these buildings are located within a verdant setting. It is part of the prevailing character of the area that the front plots of the terraced residential properties are enclosed. There is some variety to the means of enclosure but railings, stone, brick and hedgerows are common. The significance and special interest of the CA as a whole is largely derived from the representation it provides of a Victorian and Edwardian suburb development.
5. The appeal site contains a traditionally designed terraced property served by a large front garden. The traditional design, materials and built form of the host property is very reflective of the CA as a whole and for this reason contributes positively to its character and appearance and its significance.
6. Given the enclosure of so many of the front plots serving the terraced properties within the CA, cars are generally required to park on-street. In-plot parking is rare within the surroundings of the appeal site and because of this,

those instances where it does occur, including at neighbouring 14 Brandling Park, do not have a strong influence over the character and appearance of the area.

7. Although the appearance of the proposed entrance gate would be the same as that previously approved, its different opening mechanism would enable a car to park in the front garden which would not have been the case in the approved scheme. A car being parked within the front garden would be at odds with the prevailing character of the area. It would harmfully contrast with the subsisting conditions of cars generally being parked on-street and the front garden plots serving the terraced residential properties being reserved for those purposes and not as a parking space. A car parked within the front garden of the host property would be incongruous and harmful.
8. The effects of a car being parked in the garden and its divergence from the prevailing local character are not very comparable to the effects that would be wrought by the provision of extensions, outbuildings or domestic paraphernalia. Therefore, that such works could and may have already occurred in the area, does not weigh in favour of the appeal proposals to any meaningful extent. The appellant submits that a car could be hoisted in and out of the garden so that repairs could take place. I have no substantive evidence that this is likely to take place and even if it did, it would be likely to occur for more temporary periods than the dedicated parking space which would result from the proposal.
9. Although it is put to me that a landscaping scheme could be devised to screen the car, the detail of such a scheme is not before me. Moreover, in order to manoeuvre on and off the parking space the area immediately behind the entrance gate would have to be left open. The car would therefore be clearly visible in the street scene and so a landscaping scheme would not provide adequate mitigation in these circumstances.
10. Even if I were to accept that the operation of the entrance gate in this particular design would be effective and that most of the time the gate would be raised forming a continuous enclosure, the harm that I have identified which would result from the car being within the garden would nevertheless result.
11. For this reason, the proposed development would result in harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA as a whole. The harm to the designated heritage asset would be less than substantial. Even so, having regard to the statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, this harm is a matter of considerable importance and weight in my decision.
12. The appellant has drawn my attention to some examples of entrance gates with similar rising and lowering functions which have been permitted elsewhere. However, this evidence does not show me that the value of front gardens, their enclosure or the prevalence of on-street parking is part and parcel of the character of those areas as is the case in this appeal. Therefore, the cited examples do not weigh in favour of the proposal to any meaningful extent.
13. The appellant's use of an electric vehicle would make a small but valuable contribution to supporting the transition to a low carbon future. The proposed development would provide the appellant with a convenient means to park and charge the car. This would be a public benefit of the proposed development.

14. That said, it has not been shown to me that there are no alternative methods to conveniently charge the vehicle including those which would not result in the harm I have identified, or those which would not require the laying of cables in a hazardous or disruptive manner. Therefore, in dismissing the appeal and as a consequence, no in-plot electric vehicle parking space being provided, it does not follow that disruption to various highway users, including those with protected characteristics under the Equality Act 2010, would result. In turn, the effects of the appeal being dismissed upon various highway users would be proportionate.
15. Planning is principally concerned with land use in the public interest. Whether, in the absence of the development proposed being implemented, the occupiers of the host property would choose to move from the property is primarily a personal matter. Moreover, the evidence before me that benefits would be derived from the occupiers of the host property remaining, including to the housing market, through easing the pressure upon greenfield land and in respect of their social and community links, is not substantive. Given the nature and scale of the development proposed any economic benefits derived from it, including the construction phase, would be very modest.
16. Having failed to preserve or enhance the character or appearance of the CA, I find that the development conflicts with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne and Policies DM15, DM16 and DM20 of the Newcastle upon Tyne Development and Allocations Plan. In summary and amongst other matters, these policies set out that development should deliver good place-making through the delivery of high-quality design whilst heritage assets should have their significance, appearance, character and setting conserved and where appropriate, enhanced.
17. The harm to the CA has not been clearly or convincingly justified. The proposed development would fail to sustain the significance of the heritage asset whilst no public benefits have been put to me which would outweigh the less than substantial harm which would result. The development is therefore contrary to the advice to this end at paragraphs 203, 206 and 208 of the Framework. The development is also in conflict with advice at paragraphs 128, 135 and 195 of the Framework. Amongst other matters, these paragraphs state that development should secure well-designed, beautiful and attractive places which are sympathetic to local character and history. They also set out that heritage assets should be conserved in a manner appropriate to their significance.

Other Matters

18. On the road adjacent to the appeal site a controlled parking zone is in operation. As a consequence of the proposal and parking within the appeal site taking place, less space would be available for on-street parking. Therefore, I cannot accept that the proposed development would make a meaningful contribution toward relieving any parking pressures in the area.
19. The proposed development may not increase vehicular traffic or result in adverse effects upon the local highway network, harm the living conditions of neighbouring occupiers, affect landscaping or ecological assets or alter the residential use of the site. However, such matters are neutral factors in my determination and do not outweigh the harm I have identified in the main issue.

20. Although, as a consequence of the proposal, land within the appeal site would be used for the purposes of both parking and garden and thereby broaden its function, given the harm I have identified in the main issue, I cannot conclude that the proposed development constitutes appropriate and effective use of land.
21. The appellant states that the in-plot hardstanding constitutes permitted development. Even so, I have no substantive evidence that the entrance gate and boundary alterations the subject of the appeal and which would facilitate a car being parked on a hardstanding do not require planning permission. That the hardstanding may constitute permitted development is therefore of limited weight in my decision.

Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In my main issue, I have identified that the development has failed to preserve or enhance the character or appearance of the Brandling Village Conservation Area. I have identified conflict with development plan policies and with paragraphs within the Framework as a result of these effects.
23. My attention has been drawn to a number of other development plan policies and content within the Framework. Whilst the development may not conflict with all development plan policies or those within the Framework, I have nevertheless identified harm, that some policy conflict would arise and overall, I conclude that the proposed development would conflict with the development plan as a whole.
24. The appellant has referenced wording contained at paragraph 11d) of the Framework. The reasons why they consider there are no relevant development plan policies or why policies most important for determining the application are out of date is not clear to me. Even in the scenario that I accept that paragraph 11d is engaged, I have identified that no public benefits would arise from the development which would outweigh the less than substantial harm to the significance of the CA. The application of policies in the Framework therefore provides a clear reason why the development proposed should be refused.
25. Having had regard to other considerations material to the appeal including the Framework, I conclude that there are no considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. The appeal is therefore dismissed.

H Jones

INSPECTOR