



Appeal Decision

Site visit made on 20 February 2024

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th March 2024

Appeal Ref: APP/K0940/W/23/3330395

Hordley House, Main Street, Burton-in-Kendal, Cumbria LA6 1LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs J Munslow against the decision of Westmorland and Furness Council.
 - The application is Ref SL/2023/0496.
 - The development proposed is partial demolition of existing boundary wall. Removal of 4 No trees. Creation of new wall arrangement. Works to dropping kerb. Creation of new access to new off street parking area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the appeal proposal is considered. References in the decision are to the December 2023 Framework.

Main Issues

3. The main issues are the effects of the proposal on:
 - the character and appearance of the area, including the Burton-in Kendal Conservation Area; and
 - the effect of the proposal on highway safety.

Reasons

Character and Appearance

4. The appeal site lies at the southern end of the village and within the Burton-in Kendal Conservation Area (the Conservation Area). The significance of the Conservation Area lies in part from the vernacular architecture and the pattern of development, in particular along the historic north-south highway of Main Street. Main Street, on which the site lies, has a strong linear sense of enclosure. This stems from a frontage of buildings and walls, many of which have a back-of-pavement-edge location and are connected or have narrow gaps between. There is a less tightly grained built form along Main Street in the southern part of the Conservation Area. However, the boundary walls close to the street edge help to maintain the linear character and sense of enclosure along Main Street here and form a notable presence in views.

5. Consequently, notwithstanding that the 2009 Conservation Area Appraisal does not specifically identify walls as a key characteristic, in my view, the stretch of wall that is the subject of the appeal contributes positively to the character and appearance of the Conservation Area. The different character of the wall to the adjoining higher 'kitchen garden' wall does not diminish this contribution.
6. Based on the submitted evidence, approximately 13 metres of the wall would be demolished. An opening of around 3.5 metres would be created and the approximate 5 metre sections of walls either side of the newly formed opening would be rebuilt behind the visibility splay lines.
7. An access point of the size and nature proposed in the stone wall would reduce the hard frontage along Main Street in this location. Even though the stone from the wall would be reused to create the splays, there would be a loss of continuity along the road frontage which would appear incongruous. The visual break that would be created in the wall would be clearly apparent in views along Main Street especially when approaching from the south at the entrance to the village.
8. The submitted plans identify that four trees would need to be removed, although I note the appellant's comment that three of these have now blown down. Nonetheless, the creation of a lowered kerb, the hard surfacing of the site with block paving, and the parking of up to four vehicles would give the site a more domestic appearance, markedly contrasting with its current verdant character and appearance.
9. The proposal would therefore erode the sense of enclosure within the street scene and result in a discordant visual change to the wall and to the appeal site.
10. The appellant considers that more detail on screening of the site could be secured by means of a planning condition. However, this would not provide adequate mitigation for the harm that would be caused.
11. It may well be the case that Burton House is served by a larger access and visibility splay than is proposed. However, Burton House, which is one of the larger houses in the village, is set back from Main Street behind a large front garden and sweeping drive. This arrangement is not typical of the built form along the stretch of Main Street within the Conservation Area.
12. The appellant identifies that permission was granted in 2014 for a new dwelling to the north which involved the partial demolition of a traditional stone boundary wall and archway to improve vehicular access and visibility yet was not considered to have an adverse impact on the Conservation Area. However, no further details are provided on this development so I cannot be certain that it would be directly analogous to the appeal proposal, which I have in any event considered on its own planning merits.
13. For the reasons given, I conclude that the proposal would harm the character and appearance of the area, including the Conservation Area. As such, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area and would lead to less than substantial harm to the designated heritage asset.
14. Less than substantial harm does not equate to a less than substantial planning objection, especially where national policy expectations for conserving such

assets have not been met. In line with paragraph 208 of the Framework, the harm should be weighed against the public benefits of the proposal.

15. The appellant argues that the proposal would overcome the highway dangers of the existing vehicle access to Hordley House, a Grade II listed building, which in turn would increase the attraction of the property when it comes on the market and help to justify the significant investment required to improve its accommodation and secure its preservation/conservation. The appellant therefore contends that the public benefits of the proposal would be securing the optimum viable use of a heritage asset.
16. However, there is no clear evidence that the current access or parking arrangements are affecting the ability to sell the property or that this would affect its future preservation/conservation. I therefore give this matter limited weight.
17. The public benefits would not outweigh the harm identified to the character or appearance of the Conservation Area, given the great weight that paragraph 205 of the Framework states should be given to the asset's conservation and the duty set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
18. Accordingly, the proposal would conflict with the heritage objectives of Policy CS8.6 of the 2010 adopted South Lakeland Local Development Framework Core Strategy (the Core Strategy) and Policy DM3 of the 2019 Local Plan Development Management Policies (the DMP) which requires proposals to preserve or enhance the special character and appearance of Conservation Areas and demonstrate that any harm is outweighed by its public benefits. There would also be conflict with paragraphs 205 and 208 of the Framework as summarised above.
19. The proposal would also conflict with Policies CS1.1, CS8.2, and CS8.10 of the Core Strategy, and Policies DM1 and DM2 of the DMP. Amongst other matters, these policies require development to have a high-quality design that responds appropriately to local context, distinctiveness, and settlement character. There would also be conflict with the design objectives in chapter 12 of the Framework.

Highway Safety

20. In my experience, visibility distances for new accesses onto a highway are usually measured along the nearside kerb line of the major road from the centre line of the proposed access at an appropriate setback distance from the give way line.
21. The location plan submitted with the appeal indicates visibility splays of 43 metres in both directions, which is the visibility distance required by the Highway Authority. The appellant's appeal documentation includes a further plan also showing visibility splays of 43 metres in both directions.
22. The submitted plans indicate that a setback of 2.4 metres has been used and this appears to have been measured from the edge of the highway. However, based on the submitted plans, it is not possible for me to conclude that the visibility splays have been measured to the nearside kerb, in particular to the left-hand side (north).

23. There are no features preventing vehicles from crossing the centre line on the approach to the site from the north. The potential for vehicles approaching the site to be across the centre line of the road, for example to overtake a cyclist, cannot therefore be ruled out. There is no clear evidence before me that would indicate that a visibility splay measured further into the highway would be appropriate in this case.
24. It may well be that the required visibility splays would be achievable in both directions. However, given the importance of ensuring highway safety for road users and pedestrians, without the certainty that the required visibility splays could be achieved, I conclude that the proposal would result in an unacceptable impact on highway safety. Accordingly, it would conflict with the highway safety requirements of Policy CS10.2 of the Core Strategy, Policy DM1 of the DMP and paragraph 115 of the Framework.

Other Matters

25. The significance of Hordley House is derived in part from its historical associations with the village's development and the evidence it provides of the architectural style and building techniques of the time. Given the visual separation of the site and Hordley House, the proposal would not reduce the legibility of the listed building and so would not diminish the ability to understand its architectural and historical context. Consequently, the proposal would not harm the significance of the listed building.

Conclusion

26. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with the development plan. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR