



Appeal Decision

Site visit made on 12 March 2024

by S. Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th April 2024

Appeal Ref: APP/W4325/W/23/3325289

Apple Tree Cottage, 86 Thurstaston Road, Heswall, Wirral CH60 4SA

- 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 Mark Lambe against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/22/00701, dated 22 July 2022, was refused by notice dated 12 April 2023.
 - The development proposed is demolition of existing dwelling and creation of 7 No. self-contained residential apartments with associated landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. The Council has confirmed that the decision to refuse planning permission was based on amended plans received during the course of the application. I have determined the appeal on the basis of those plans.
3. The site lies within the setting of the Church of St Peter which is a grade II* listed building. Section 66 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. Although not a reason for the refusal of the planning application, the effect of the proposal on the setting of the listed building requires consideration and is a main issue in this case. I have taken into account representations made by the main and the interested parties in that respect.
4. The site lies within the Heswall Lower Village Conservation Area. Section 72 (1) of the Act requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
5. Accordingly, the main issues in this case are:
 - whether the proposal would preserve or enhance the character or appearance of the Heswall Lower Village Conservation Area (the conservation area), and

- whether the proposal would preserve the setting of St Peter's Church, a Grade II* Listed Building.

Reasons

Whether the proposal would preserve or enhance the character or appearance of the Conservation Area

6. The character and appearance, and significance, of the Conservation Area is derived from the historic development of the village which is set on a slope above the Dee estuary. Historic mapping confirms the long standing physical presence of the church, community buildings and a loose collection of houses around them. The area now contains a diversity of building styles, forms and uses but nevertheless the historic relationship between the church and other community buildings is still apparent. Residential development in the immediate vicinity typically comprises modest detached houses and bungalows dating from various periods, set out in a loose knit, informal layout.
7. The Heswall Lower Village Conservation Area Appraisal and Management Plan (the Appraisal) identifies a number of buildings within the immediate vicinity of the site which are considered either critical to or which make a positive contribution to the character of the area. They include the Black Horse Public House, the church, the single storey Children's Church which lies adjacent to the entrance to the site and Nos 1 and 4 Church Farm Court which are a 1.5 storey cottage and 2 storey farmhouse situated to the west of the site. Other than the public house and the church, these buildings are modest in terms of their proportions and detailing.
8. The appeal site itself comprises a detached dormer bungalow situated in a large garden in an elevated position relative to both Thurstaston Road and to Church Farm Court. The property has a cottage-like appearance with low eaves, dormer windows and a steeply pitched roof. The Appraisal describes the building as having a neutral effect on the character and appearance of the conservation area but nevertheless, its height and appearance and the open space around it reflects the character the buildings on Church Farm Court and the low density of development around the church.
9. The site is accessed via a drive off Thurstaston Road, close to its junction with Church Farm Court. It is bordered by a dense area of mature vegetation to the east side which, along with the presence of the road at a lower level, visually separates it from the development on the opposite side of the road. At the time of my visit, when trees were not in leaf, the building was clearly visible from the centre of the village along Village Road and from Church Farm Court as well as from the churchyard.
10. The proposal seeks to demolish the existing building and replace it with a building containing six three-bed and one two-bed residential apartments set over four floors, plus associated garden, a car parking area for 10 vehicles and a storage building for refuse, recycling and bicycles. The building would be constructed in red sandstone with black roof tiles.
11. I understand that the design of the building has evolved to incorporate detailing found on local vernacular buildings and that red sandstone is a

traditional local building material. However, the building would be of a significant height, size and bulk with substantial projecting gables and balconies, that would be wholly at odds with the modest proportions and detailing of the houses it would lie adjacent to. Furthermore, I am unconvinced that the form of the building, or the amount or detailing of the fenestration, particularly at roof level would reflect the local vernacular. A building of such proportions and detailing, set in such a prominent position would fail to respect the village like character of this part of the conservation area or the scale of important surrounding buildings.

12. I acknowledge the appellant's point that there are already tall buildings in the conservation area including the terraced and semi-detached buildings on Village Road. However, these are traditionally designed buildings, set at a lower level than the appeal site and, it seems to me, their height reflects their status as community buildings at the heart of the village. The church is the most significant building in the area and yet the proposed apartments, as a result of their bulk, detailing and elevated position, would visually compete with it and thus undermine its contribution to the significance of the conservation area.
13. Similarly, the Black Horse public house opposite the site, which dates from 1845, is a landmark building on the main route through the village. Evidence submitted with the scheme indicates that the proposed building would have an even higher ridge line than that of the public house, exacerbated by its elevated position and accordingly would detract from it. Beyond the public house, on Thurstaston Road, is a modern development of flats. These flats, which are prominent in the street scene, do not reflect the local vernacular in terms of their form and appearance and do not therefore represent a good example of development to follow.
14. Despite the presence of these buildings, the height and elevated position of the apartments would mean that the building would be dominant in the local scene particularly when viewed from Village Road, the churchyard and Church Farm Court. In addition, for the same reasons and because of its scale and detailed design, it would not contribute positively to the sense of place within the village centre. The Arboricultural Report accompanying the application recommends the removal of a number of existing trees on site although the appellant has subsequently clarified that no trees would be lost. However, even if that were the case and no trees were removed, I am unconvinced the existing vegetation would sufficiently soften the appearance of the building to enable it to satisfactorily integrate into its surroundings.
15. For the above reasons, the proposal would fail to preserve, and much less enhance, the character or appearance of the conservation area and would therefore fail to satisfy the weighty statutory requirement of The Act. It would also be contrary to Policy CH2 of the Wirral Unitary Development Plan (UDP) which seeks to preserve the distinctive characteristics of the area, the general design and layout of the area, and the character and setting of period buildings which make a positive contribution to the conservation area. It would also be contrary to Policy HS4 which amongst other things requires development to be of a scale which relates well to surrounding property with particular regard to its form.
16. The approach in the National Planning Policy Framework 2023 (the Framework) is that where a proposal would result in less than substantial

harm to the significance of a designated heritage asset, that harm should be balanced against the public benefits of the proposal including, where appropriate securing its optimum viable use.

17. In this case, as the proposal would cause harm to part of the conservation area and would not totally undermine its significance, that harm can be considered less than substantial. I will turn to the planning and heritage balance below.

Whether the proposal would preserve the setting of St Peter's Church, a Grade II Listed Building.*

18. St Peter's Church is constructed in red sandstone and dates from the 14th century with later additions. As a Grade II* listed building it has a very high level of significance and local and national importance. That significance is derived in part from its age and historic development, and its longstanding importance as a physical, spiritual and community focus for the village. The list description sets out in detail a number of features of both historic and architectural interest which further contribute to its significance.
19. The Framework explains that the setting of a heritage asset is the surroundings in which the asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the asset, may affect the ability to appreciate that significance or maybe neutral.
20. The building's immediate setting is the churchyard which is a tranquil, reflective space that is physically and functionally associated with the building. The space makes a considerable positive contribution to the significance of the asset in terms of allowing the building and what it represents to be appreciated. Beyond the churchyard the wider setting of the building has changed and evolved over time, particularly with the development of detached residential properties in close proximity to it. Nevertheless, as set out above, those properties have a modest scale and appearance. As such they do not overwhelm the heritage asset or the ability to appreciate it.
21. The appeal site cannot be seen from the south or east sides of the churchyard. Nevertheless, the existing dwelling is prominent in views from the north side where it is situated in an elevated position beyond the houses closest to the church. The proposed development would be considerably larger than the existing building in terms of its footprint, width, height and bulk and as such it would dominate the scene when viewed from the churchyard to the north of the church. In addition, as a result of its position, size and form, and detailing, the building would have an overbearing and intrusive impact upon the church and churchyard. Accordingly, the building would detract from the setting of the building and distract from the ability to appreciate the significance of the heritage asset.
22. For the reasons given above the proposal would not preserve the setting of the listed building and the proposal would not therefore satisfy the statutory duty of the Act in that respect. It would also fail to comply with Policy CH1 of the UDP which amongst other things seeks to ensure that the nature and

scale of new development is consistent with retaining an appropriate setting for the listed building.

23. Given that the proposal would affect only part of the setting of the heritage asset, the level of harm to the significance of the building would be less than substantial. However, whilst I note the appellant's contention that the harm would be at the lower end of the scale of harm, given the elevated and dominating presence the development would have on the character of the church's surroundings, I would place the level of harm somewhat higher. In any event, paragraph 205 of the Framework requires that great weight should be given to the asset's conservation, and the more important the asset, the greater the weight shall be. Given that this is a grade II* building, that harm carries very considerable weight.
24. As set out above I will consider the balance of this harm against any public benefits of the proposal, as required by the Framework, below.

Other Matters

25. My attention has been drawn to other developments of flats within the Heswall area, although I have not been provided with any detailed information about them or the context or circumstances in which they were approved. The closest of those developments to the appeal site is a newly completed development of a shop and residential flats at 20 Village Road which is also within the Heswall Village Conservation Area. This development is a tall building which nevertheless differs from the appeal proposal in that it abuts a pre-existing 3 storey building and, I understand, replaced an earlier structure which had been previously demolished. Moreover, the traditional design of the building, and its proportions reflect the character, appearance and scale of other buildings in this part of Village Road.
26. A new development of apartments on Thurstaston Road close to the school, is of a similar appearance to the appeal proposal and, to my mind, is highly prominent in the street scene when viewed from the rear where the land levels drop considerably. However, this building does not lie within the immediate environs of St Peter's Church and I understand, lies outside the conservation area boundary. Indeed, none of the developments before me are directly comparable to the appeal proposal, which I have determined on the basis of its own site specific circumstances, and therefore do not justify it.
27. Third parties have raised a number of concerns with the proposal, including the effect of the development on highway and pedestrian safety, overlooking and loss of privacy for neighbouring occupiers as well as inconsistencies in the red line site boundary. I have not been provided with the comments of the Highway Authority, but I noted on site the restricted visibility at the site access and acknowledge the increase in the number of vehicle movements that would accrue for the development. However, there is no convincing technical evidence before me that the proposal would cause a danger to highway or pedestrian safety.
28. I note that the Council considers that the proposal would be 'unneighbourly' although such consideration did not form part of the reason for refusal. It seems to me that the building, as a result of its elevated position, scale and number of windows looking towards the neighbouring properties at 1 and 4

Church Farm Court, and side on to No 5, would appear overbearing and as such would result in a degree of harm to the living conditions of neighbouring occupiers. I do not have sufficient evidence to determine whether the proposal would meet the Council's guidelines relating to overlooking but nevertheless, as I am dismissing the proposal for other reasons, I do not need to consider these issues further.

Planning Balance

29. The Council cannot currently demonstrate a 5 year housing land supply in accordance with the requirements of the Framework. On that basis the provision of a net gain of 6 residential dwellings is a moderate benefit of the scheme. Furthermore, the site lies in an accessible location, close to the amenities of the village. However, whilst the appellant considers the site to be under-utilised previously developed land, the definition of previously developed land in the Framework excludes residential garden areas in built up areas and this limits the weight given to the benefit.
30. There would be a limited economic benefit during the construction period and in terms of economic support for local facilities beyond that. There would also be some limited social benefits arising from the scheme, including to members of the community wishing to retire or downsize. All these benefits, considered cumulatively, carry moderate weight in support of the scheme.
31. On the opposite side of the balance, the proposal would cause less than substantial harm to the character and appearance of the conservation area. That harm carries great weight. In addition, there would be less than substantial harm to the setting of a Grade II* listed building, which, as set out above carries very considerable weight.
32. On that basis the benefits of the scheme do not outweigh the harm it would cause. Furthermore, given that the policies of the Framework seek to protect designated heritage assets, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

33. As set out above, the proposal would be contrary to the development plan considered as a whole, would not accord with the policies of the Framework and would fail to satisfy the statutory duties set out in the Act. There are no other considerations that would indicate that planning permission should be granted contrary to Policy. On that basis, having taken into account all other matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR