



Appeal Decision

Site visit made on 4 June 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 2 July 2024

Appeal Ref: APP/V2004/W/23/3327789

18 Newland Park, Kingston upon Hull HU5 2DW

- 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 Mr Saleem Hakim, Keg Stop NE Ltd. against the decision of Kingston-Upon-Hull City Council.
 - The application Ref is 23/00897/FULL.
 - The development proposed is change of use of annex to form separate self contained dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Clarification was sought on the appellant's company name given the one provided on the appeal form was different to that on the application form. However, the response from the appellant, provided another different company name. As the appeal should proceed in the name on the planning application, I have taken the company name above from the application form.
3. During the appeal, the Government published an updated version of the National Planning Policy Framework (the Framework). However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

4. The main issues are the effect of the proposal on the character of the area including the Newland Park Conservation Area and flood risk.

Reasons

Character

5. The appeal site contains a detached single storey red brick building with slate roof, currently described as an annexe to 18 Newland Park, a large two storey semi-detached dwelling constructed of the same materials. The frontage across both the appeal site and No 18 is open and currently appears as one space with an area of hard standing including block paving in part. An existing vehicular access leads to the appeal building from Newland Park, separate from the vehicular access that serves No 18.

6. The appeal site is located within the Newland Park Conservation Area (CA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. The significance of the CA is derived from the late Victorian layout of built form and the setting of large detached or semi-detached properties of individual design set back from the road in spacious plots. I noted that there was a nursery use near to the appeal site, but in the main the area is residential in character. The streetscene is characterised by vegetation and trees located in the front gardens of properties along with the presence of varying front boundary treatments.
8. No physical alterations to the appeal building are proposed and the parking provision is already in place meaning that the effect on the appearance of the area would be limited. I note that the appellant asserts that the hard surfacing already carried out to the front of No 18 and the appeal building was carried out under permitted development rights and that the Council accept that this may be the case.
9. However, the proposal would result in the creation of a new independent dwelling which would house a separate household to that residing in No 18. Pedestrian and vehicle movements associated with two separate households would be different to that carried out by one household utilising No 18 and an annexe.
10. Given the simple appearance of the appeal building from public views, the scale, design and siting in proximity to No 18 and the lack of any architectural features to distinguish it as a separate entity, the appeal building appears as an ancillary building rather than an independent dwelling. The single storey scale and subordinate design does not reflect the character and appearance of other nearby dwellings along Newland Park with respect to its scale, massing or design.
11. Taking these points together, the proposal would undermine the distinctive residential identity that forms the character of the area and would be harmful to it. For the same reasons the proposal would not preserve or enhance the character of the CA.
12. I note that a rear boundary fence would be installed to create a separate rear garden space and that cycle and bin storage would be provided to the rear of the appeal building. I accept that these elements of the scheme would not be perceivable in public views from Newland Park. However, this would not overcome my concerns set out above.
13. The appellant states that planning conditions could be used to restrict the sub-division of the frontage through controlling the provision of boundary treatments, the creation of further hard standing, and extensions or outbuildings. Whilst this may go some way to limit the changes to the appearance of the area, I am not satisfied that it would overcome the harm to the character of the area. In any case, maintaining the ancillary relationship

between the two buildings would not reflect the proposal to create an independent dwelling.

14. Under the terms of the Framework, I find that the harm to the CA would be less than substantial in this case. Paragraph 208 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
15. The proposal would contribute to the housing mix in the area, providing an additional single storey dwelling which would have access to local services and facilities. The works to create the annexe have already been completed so additional economic benefits gained from any physical works would be very limited. There would be some additional benefits through future occupiers supporting local services and facilities. However, given the scale of the scheme these benefits would be limited. I therefore find that there are no public benefits of sufficient weight that would outweigh the less than substantial harm to the CA.
16. I find that the proposal would be harmful to the character of the area, and it would not preserve or enhance the character of the CA. I find that there would not be any public benefits that would outweigh the less than substantial harm to the CA. It would therefore be contrary to Policies 14, 15 and 16 of the Hull Local Plan 2016 to 2032 Adopted November 2017 (LP).
17. These policies seek, amongst other things, that developments have regard to the relationship with the surrounding built form in terms of character, promote local distinctiveness with particular reference to the setting, character and appearance of Conservation Areas and that development that would cause harm to the significance of a designated heritage asset will only be approved where it has been convincingly demonstrated that the harm cannot be avoided and there would be public benefits sufficient to outweigh the harm.

Flood risk

18. There is no dispute between the parties that the appeal site is located within flood zone 3. The Council assert that due to the annexe not being occupied since the works were completed, that the proposal would not represent a change of use and therefore a sequential test needs to be completed.
19. Prior to the works to create the annexe, it appears that the building was a domestic garage serving the occupants of No 18. Whether taking the previous use as a building incidental to No 18 or the annexe use which would constitute an ancillary use, the proposal would result in a change to how the building is occupied, moving from incidental or ancillary accommodation to an independent dwelling. Paragraph 174 of the Framework states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments.
20. Policy 40 of the LP states that development of sites or uses not allocated on the Policies Map must be supported by a Sequential Test and Exception Test as required by the Council's current standing advice. The standing advice has been provided by the Council and it confirms that the sequential test must be

undertaken for all development proposed within Flood Zone 2 or 3, except minor and change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site) applications. I therefore find that a sequential test is not required in this case.

21. The appellant asserts that as part of the works to create the annexe, flood mitigation and resilience measures were completed. The Council accept that the raising of the floor level to 600mm above ground level, which formed part of the proposed works for the annexe use, was acceptable in terms of flood mitigation measures and I can see no reason to disagree.
22. However, the Council contend that detailed flood resilience measures are not set out. I note that in the Building For Life Statement Flood Risk Statement May 2023 Reference MF/21/007 refers to the raising of the floor level at paragraph 5.4 but does not set out any flood resilience measures. Additional 300mm of flood resilience measures are referred to on the submitted drawings but it does not set out what these measures include.
23. The appellant has provided a Technical Note with the appeal in respect of flood risk matters. It also refers to document reference MF/21/007 but provides an extract that is not present in the version of that document before me. The Council has had the additional Technical Note before them as part of the appeal documents.
24. The Technical Note states that an additional 0.30m of flood resilience measures above the level of flood proofing will also be included which will include water resisting airbricks, backwater valves and non-return valves (where required), and all electrical installation to be 900mm above floor level. Based on the evidence before me, I find that these flood resilience measures appear appropriate in minimising the impacts on the property and speeding the rate of recovery following a flood.
25. I therefore find that the proposal would comply with Policy 40 of the LP which seeks, amongst other things, that developments are located in the most appropriate place given their vulnerability to flood risk and that the design of development takes account of flood risk.

Other Matters

26. The third reason for refusal set out in the Council's decision refers to there being no provision for open space provided in the development, on site or via a legal agreement for off-site provision, contrary to Policy 42 of the LP. However, a Unilateral Undertaking (UU) has been submitted with the appeal which seeks to provide an off-site open space contribution. The Council has confirmed that the revised UU submitted with the appeal is acceptable. Nevertheless, given I have found harm in relation to one of the main issues it is not necessary for me to consider this matter in any further detail.
27. The appellant asserts that significant works have been carried out to the property and that the proposal would provide acceptable levels of amenity space for both the existing and proposed dwellings, which would be greater than some others in the area. They also state that there would be no impact on the privacy or living conditions of the occupiers of No 18. Even if I were to agree, a lack of harm in these respects are neutral considerations, which weigh neither for, nor against the proposal.

Conclusion

28. The proposal conflicts with the development plan as a whole and there are no material considerations that indicate that I should take a decision other than in accordance with it. The appeal is therefore dismissed.

G Dring
INSPECTOR