The Planning Inspectorate

Appeal Decision

Site visit made on 16 July 2024

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/P3040/W/23/3334815
Behind 21 Main St, Bradmore, Nottingham, Nottinghamshire NG11 6PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Dr Annabel Gear against Rushcliffe Borough Council.
- The application Ref is 23/01368/FUL.
- The development proposed is change of use to allow temporary static caravan and associated works.

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The address of the appeal site above is taken from the application form. However, for clarity, I have used the description of the proposed development from the Council's notification documents and the appeal form.

3. Certificate A has been signed on both the application and appeal forms, which states that the applicant/appellant is the owner of the land to which the application/appeal relates. However, the Council and interested parties consider that the appellant does not own the site. Extracts from the Land Registry indicate that at least part of the site is owned by 19 Main Street. It is unclear from the evidence before me who owns the rest.

4. On this basis, Certificate B should have been signed confirming that notification has been given to any other owner of the land. However, the Council has notified all adjoining neighbours and those on the opposite side of the road. A site notice has been displayed and a press notice published. Therefore, it is possible that all those who own the land have been notified. Nevertheless, land ownership is usually dealt with outside of the planning process and it has not prevented me from assessing and determining this appeal.

Main Issues

5. The main issues are:

   (a) the effect of the proposed development on the significance of Bradmore Conservation Area;

   (b) the effect of the proposed development on the living conditions of occupiers of neighbouring properties; and

   (c) whether the proposed development would be in a suitable location having regard to the development plan.

Reasons

Conservation area

6. Bradmore Conservation Area covers most of the small village of Bradmore. The two principal roads of Farmer Street and Main Street contain many historic properties, typically red brick buildings (some rendered or painted white) with red pantile roofs. Many properties have outbuildings or ranges of similar age and design to the rear, often perpendicular to the road, as well as courtyards and private garden space. These historic properties and features make a strong positive contribution to the character and appearance of the conservation area, as well as its significance.

7. The conservation area boundary runs along the south side of Main Street and includes all properties that front onto the road from Nos 1 to 31 (odd). There are some modern properties further to the rear such as Nos 19 and 27 which are outside of the boundary. The site straddles the boundary, with the access between Nos 17 and 21 and two historic outbuildings known as the haybarn and the pottery lying within the conservation area. The remainder of the site is outside and comprises a small private garden enclosed by thick hedging, part of a hardstanding area beyond that where cars are parked, space between the haybarn and No 27, plus a small part of the house at No 27.

8. The part of the site within the conservation area makes a clear positive contribution to its significance due to architectural and historic interest of the outbuildings and the access to them. The remaining part forms part of the conservation area's setting as the surroundings in which the heritage asset is experienced. Most of this part of the site contains no built development, which provides space to appreciate the outbuildings and the historic edge of the conservation area. Thus, the remainder of the site makes a minor positive contribution to the significance of the conservation area.

9. The proposed development would involve the siting of a static caravan measuring around 11m by 3.5m in the space between the haybarn and No 27. Notwithstanding that the 1:500 site plan suggests there is considerably less than 11m between the two existing buildings, the caravan would erode the open space next to the haybarn. Moreover, from the photographs submitted by the appellant, it would have the conventional appearance of a static caravan, with painted metal/plastic external walls and openings. Therefore, it would look incongruous amongst the many brick properties and outbuildings.

10. As such, the proposed development would cause harm to the significance of the conservation area and would not preserve or enhance its character or appearance as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would thus conflict with Policies 10 and 11 of the adopted Rushcliffe Local Plan Part 1 (LPP1) and Policies 1, 11 and 28 of the adopted Rushcliffe Local Plan Part 2 (LPP2). Amongst other things, these policies require development to have regard to the local context, conserve heritage assets, and utilise sympathetic layout and materials. It would also not adhere to chapters 12 and 16 of the National Planning Policy Framework (NPPF) which seek to achieve well-designed places and conserve heritage assets.

11. The harm to the significance of the conservation area would be less than substantial, but NPPF paragraph 208 requires this harm to be weighed against the public benefits of the proposal. NPPF paragraph 205 states that great

weight should be given to the conservation of designated heritage assets irrespective of the level of harm. NPPF paragraph 206 notes that any harm should require clear and convincing justification. This balancing exercise is carried out below.

Living conditions

12. The properties that face directly onto the south side of Main Street are largely screened from the site by outbuildings or hedging, and the properties on the opposite side of the road are sufficiently distant. In contrast, No 27 at the rear has an external door that opens onto the space where the static caravan is proposed to be located. The door only has a small window and potentially only serves a hallway. On that basis, the caravan would not have a significant adverse effect on outlook, light, or privacy to any habitable room. However, the caravan would be sited immediately in front of the door and would block access to this part of the property. I have little evidence to indicate that No 27 has been built or extended unlawfully and that the door should not be in that location. Therefore, the development would have a significant adverse effect on the living conditions of the occupants of No 27.

13. As noted above, it is unclear who owns parts of the site. However, it is evident from my site visit that the small private garden is used for general leisure purposes by somebody, presumably one of the adjoining properties. Furthermore, there is extant planning permission to convert the haybarn and the pottery into residential accommodation, with the existing garden comprising the outdoor space for that accommodation. If this appeal was allowed and implemented before the residential conversion, the garden would no longer be available to the converted buildings. Thus, the development would have a significant adverse effect on any future occupant of these buildings.

14. In conclusion, the proposed development would result in significant adverse effects on the living conditions of the occupiers of adjoining properties. Therefore, it would conflict with LPP1 Policy 10 and LPP2 Policies 1 and 11 which, amongst other things, seeks to avoid significant adverse effects on residential amenity. It would also not adhere to NPPF paragraph 135(f) which seeks a high standard of amenity for all existing and future users of places.

Suitability of the location

15. LPP1 Policy 3 sets out the spatial strategy for future development in Rushcliffe. The policy focuses most new development on the main built up area of Nottingham and the key settlements of Bingham, Cotgrave, East Leake, Keyworth, Radcliffe on Trent and Ruddington. In other settlements, with the exception of Newton and the redevelopment of the former RAF Newton, the policy states that development will be for local needs only. Supporting paragraph 3.3.17 clarifies that local needs will be delivered through small scale infill development or on exception sites (the latter is not applicable here).

16. LPP2 allocates land for new housing in non-key settlements, but this does not include Bradmore. LPP2 paragraph 3.10 confirms that beyond these allocations, development to meet local needs as set out in LPP1 Policy 3 will be limited to small scale infill development, defined as the development of small gaps within the existing built fabric of the village or previously developed sites whose development would not have a harmful impact on the pattern or character of the area.

17. The site is within the built-up area of Bradmore and could be regarded as previously developed (at least in part) given the existence of the two outbuildings. There is a small gap between in the built fabric between the haybarn and No 27. However, the development of this gap would have harmful effects in terms of the conservation area and the living conditions of occupiers of neighbouring properties. Therefore, the proposal would not represent small scale development as envisaged by LPP1 and LPP2.

18. In conclusion, the proposed development would not be in a suitable location having regard to the development plan. Therefore, it would conflict with the spatial strategy set out in LPP1 Policy 3.

Planning balance

19. The appellant identifies as a Romany Gypsy and states that she purchased the land and the two outbuildings around 50 years ago, spending money its repair, maintenance, and upgrade. She contends that she has used the land for a static caravan and used the pottery and the haybarn for utility space, refreshments, and kiln work. She also states that she has a smallholder's registration for the land.

20. The appellant states she was evicted from 21 Main Street and there appears to be an ongoing court case regarding land ownership. The appellant explains that she is currently living in emergency sheltered living accommodation nearby and would become homeless if this appeal was dismissed and planning permission refused. None of this is disputed by the Council or any interested party. Therefore, I attach significant weight to the appellant's personal circumstances.

21. The site now appears to be owned by more than one landowner. It includes part of the adjoining property at No 27 and its outdoor space, and the access which is owned by No 19. It is unclear who owns the remaining land within the site and I have not seen title deeds for a property named Gypsy Rose Cottage. Although land ownership is not a planning matter, there is little evidence to indicate that the current arrangement of space and buildings within and surrounding the site is unlawful, including the alleged removal of boundary walls. Therefore, I attach little weight to any argument that I should disregard what currently exists on the ground.

22. I must determine this appeal on the plans and evidence before me, including my site visit observations. They show that the proposed development would cause less than substantial harm to the significance of the conservation area, to which considerable importance and weight should be attached. It would also cause significant adverse effects on living conditions, which I afford significant weight. It would also not be in a suitable location having regard to the development plan, which carries significant weight.

23. There are no public benefits sufficient to outweigh the harm to the significance of the conservation area or provide the clear and convincing justification required by NPPF paragraphs 205, 206 and 208. The adverse effects of the proposed development on the conservation area, living conditions, and the development plan would not be outweighed by any cited benefits or material considerations. This indicates that the decision should be made in accordance with the development plan and planning permission should be refused.

24. Becoming homeless would represent an interference with the appellant's home and private life having regard to Article 8 of the European Convention on Human Rights as incorporated into UK law by the Human Rights Act 1998. However, these human rights are qualified and need to be balanced against the public interest which includes the protection of conservation areas and living conditions in this case. Thus, the dismissal of the appeal and the refusal of planning permission would be a proportionate and necessary response and there would be no violation of human rights in this instance.

25. I have also had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 which seeks to eliminate discrimination, advance equality, and foster good relations between those with protected characteristics and those without. However, dismissing this appeal would be justified as I have weighed the harm against the material considerations relating to the appellant's case.

Other Matters

26. Interested parties have concerns with several other matters. Given my findings on the main issues, it has not been necessary to consider them in any detail.

Conclusion

27. For the above reasons, I conclude that the appeal should be dismissed, and planning permission refused.

Tom Gilbert-Wooldridge

INSPECTOR