



Appeal Decision

Site visit made on 2 July 2024 by Andreea Spataru BA (Hons) MA MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal Ref: APP/W3005/W/24/3342861

19 Church Street, Kirkby in Ashfield, Nottinghamshire NG17 8LA

- 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 Robert Marriott against the decision of Ashfield District Council.
 - The application ref is V/2023/0484.
 - The development proposed is described as 'development of a single storey bungalow'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary matter

3. A revised National Planning Policy Framework (the Framework) was published in December 2023. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issues

4. The main issues are the effect of the proposal on:
 - The character and appearance of the surrounding area, the setting of No 13 Church Street (the Croft), a grade II listed building, and whether the development would preserve or enhance the character or appearance of the Kirkby Conservation Area; and
 - highway safety.

Reasons for the Recommendation

Character and appearance

5. The appeal site relates to a parcel of land located to the rear of 19 Church Street (No 19). The site is adjacent to the Croft, a grade II listed building, and is situated within Kirkby Conservation Area (KCA).
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6. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and preserving the setting of the listed building. In this respect national policy on heritage assets is set out in the Framework. At paragraph 196, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
7. The development plan includes Policy EV10 of the Ashfield Local Plan Review 2002 (LP) which reflects these statutory duties.
8. The Kirkby Cross Conservation Area Appraisal 2004 (KCCAA) identifies that the near continuous street boundaries made up of either buildings or dressed stone walls contribute to the historical character within Kirkby Cross. Where these physical features sit closely against the roadside, a sense of enclosure is evident in the streetscape. The KCCAA also outlines that over the last few decades this characteristic has been eroded slightly by the loss of buildings positioned immediately at the roadside. These properties have been replaced by buildings located further back in their plots of land lessening the sense of enclosure and widening the general streetscape. The importance of the stone wall located to the front/side of No 19 is highlighted within Appendix 4(a) of the KCCAA, as this wall was considered worthy of designation under Article 4 direction.
9. The listing description states that the Croft dates from the 16th century, was rebuilt in the 18th century and altered mid-20th century. The property is extensively rendered and has a pantile roof with two stacks, a single twisted ridge stack and an external brick gable-end stack. The significance of the building derives from its special architectural and historic interest.
10. As defined within the Framework, the setting of a heritage asset is the surroundings in which the heritage asset is experienced. In this case, the openness of the appeal site enables views towards the Croft, particularly the roof with its architectural features, from the western side of Orchard Walk. Thus, the appeal site, through its openness, makes a positive contribution to the setting of the Croft.
11. The introduction of a bungalow to the rear of No 19 would involve widening the opening along the streetscape together with some loss of the stone wall. Notwithstanding the low height of the stone wall, the boundary wall contributes to the character of the KCA, and its worthiness and protection have been identified in the KCCAA, as outlined above. Therefore, the proposal, due to the siting of the bungalow in relation to the street coupled with the loss of the stone wall, would erode the sense of enclosure along the street scene. Whilst the KCCAA identifies No 19 as having 'little architectural value', this does not negate the need for future developments to preserve or enhance the character or appearance of the KCA. Accordingly, the development would appear as a harmful addition which would be detrimental to the character of the KCA.
12. Given the single storey nature of the bungalow, and its siting in relation to the Croft, the proposal would maintain a sufficient degree of openness as to not affect the setting of the listed building. The proposed materials, as outlined within the application form, would also be appropriate. Accordingly, the bungalow would have a neutral effect on the setting of the Croft.

13. In terms of the approach set out in the Framework, due to the scale of the proposal the harm to the significance of the KCA would be less than substantial. In such cases, harm should be weighed against the public benefit of the proposal in accordance with paragraph 208 of the Framework.
14. The development would contribute to the supply of housing within the area. There will also be some economic benefits. Given the small scale of the proposal, these public benefits are limited, and do not outweigh the harm to the Conservation Area. Therefore, the proposal would conflict with the aims and objectives of the Framework which seek to sustain and enhance the significance of the heritage assets.
15. Accordingly, the proposal would be detrimental to the character and appearance area. It would also fail to preserve or enhance the character or appearance of the KCA and as such would not meet the statutory requirements of the Act. I also find the proposal to be contrary to Policies ST1 (a and b), HG5 (g), and EV10 of the LP, along with the aims of the Framework, which collectively state that, amongst other matters, developments should complement the existing built environment.

Highway safety

16. The width of the plot for No 19 would be reduced to accommodate vehicle access for the proposed bungalow. The 'Proposed part site layout with street furniture RM-2022_011 Rev 01' shows a dropped kerb edge between existing dropped kerbs that serve Orchard Walk and No 19, which is subject to a separate application. The proposed private driveway for the bungalow would run parallel to Orchard Walk, which currently serves as access road to five properties located along Orchard Walk. A footpath and cycle route run along the vehicle access, on the southern side of Orchard Walk.
17. The submitted plan 'proposed site layout with car turning RM-2022_013 Rev 01' shows that the bungalow would have a parking area to the front, which would accommodate two vehicles. The plan also shows the turning manoeuvres, which would allow for the vehicles to turn within the allocated turning area to the front and side of bungalow, so that the vehicles can leave the site in a forward gear.
18. Church Street is a busy B classified road with a speed limit of 30mph. Orchard Walk is currently wide enough next to the junction with Church Street, to accommodate two vehicles, but shortly after the entrance the access narrows to the point where it only accommodates one vehicle. The proposed driveway would widen the access point at the junction of Church Street with Orchard Walk; the two driveways would then be separated through a 1m wall followed by vegetation.
19. The proposed access arrangement could lead to conflicts and collisions at the entrance of Orchard Walk, as those who would want to access Orchard Walk from Church Street or vice versa could cut across the proposed driveway. Whilst the proposal would not worsen the existing limited visibility at the junction, the introduction of an additional dwelling along with the proposed access arrangements and limited visibility would add a further point of conflict that would be detrimental to highway safety.

20. Whilst visibility might be restricted for other driveways in the area, this does not negate the need for new developments to achieve safe access through, amongst other things, appropriate visibility.
21. Consequently, the proposal would compromise highway safety for users, which conflicts with the aims of Policies ST1 (a and c) and HG5 (e) of the LP, and those of the Framework, which collectively require developments to achieve safe and suitable access for all users.

Other matter

22. My attention has been drawn to an appeal decision¹ concerning the appeal site. Whilst I have had regard to it, the proposal is not directly comparable with that case, as significant more details have been provided for this appeal scheme. Accordingly, I have considered the proposal on its own merits.

Recommendation

23. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole, and I recommend for the appeal to be dismissed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

Ben Plenty

INSPECTOR

¹ Appeal decision ref: APP/W3005/W/20/3249602