
Appeal Decision

Site visit made on 14 November 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/R1010/W/24/3347838

Land adjacent 1 Park Street, Barlborough, S43 4ES.

- 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 M Telero against the decision of Bolsover District Council.
 - The application Ref is 22/00452/FUL.
 - The development proposed is the construction of a detached single storey dwelling (mezzanine floor over vaulted living accommodation).
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a detached single storey dwelling (mezzanine floor over vaulted living accommodation) at land adjacent 1 Park Street, Barlborough, S43 4ES in accordance with the terms of the application, Ref 22/00452/FUL, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the development on, firstly, the setting of nearby heritage assets and, secondly, the living conditions of future residents.

Reasons

Heritage assets

3. There are four heritage assets cited in the Council's Reason for Refusal, these are South Lodge (Grade II), Barlborough Hall (Grade I) the Registered Park and Garden (RPG) (Grade II) and the Barlborough Conservation Area (BCA). The duty under sections 66 and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving or enhancing listed buildings and conservation areas, their setting or any features of special architectural or historic interest which they possess.
4. The proposal is for a dormer bungalow on what the Appellant's Heritage Assessment refers to as a vacant parcel of land within the curtilage of South Lodge which is the former gatehouse to Barlborough Hall. While I have no reason to doubt the appeal site's historical association to South Lodge and Barlborough Hall, as it stands today, it is physically divorced from South Lodge by the private drive that serves two detached properties to the east. For that reason, it would not be immediately obvious to the average passer-by that the appeal site is within the curtilage of South Lodge or for that matter the RPG. The appeal site nonetheless forms part of South Lodge's setting, that is the surroundings in which it is experienced.

5. Given the extent of land fragmentation and encroachment of unsympathetic housing to the south and west of South Lodge, I do not consider it can reasonably be claimed that the site forms part of the setting of Barlborough Hall which is nearly 1km from the appeal site. Although within the historic boundary of the RPG, the site now clearly reads as part of Barlborough village and more specifically Park Street which has a varied character and appearance.
6. The proposed development would not disrupt or dilute the important transition that occurs a short distance to the north as the built-up part of the village gives way to the open parkland of the RPG. In light of the foregoing, I am not persuaded the appeal site forms part of the surroundings in which Barlborough Hall, or the RPG are experienced.
7. According to the Council's Conservation Officer, the significance of South Lodge derives mainly from its architectural quality and its location at the entrance to the RPG. I see no reason to disagree with that assessment. However, the appeal scheme does not involve any physical alteration to South Lodge so its appearance and location which are the principal components of its significance, would remain.
8. Evidently there would be a small reduction in the extent of open space to the south of the building. In that regard, the Council's Appeal Statement refers to South Lodge's once open setting. However, I am required to assess the impact of the appeal scheme on the setting of the assets as they are today rather than some undefined historical date.
9. As I saw on my site visit, the once open setting enjoyed by South Lodge has been steadily eroded by the introduction of residential development to the west, east and south, some of which is of questionable architectural quality. In particular, the introduction of the private drive and associated housing as well as the red-brick extension to South Lodge itself have caused considerable harm to the significance of the asset. I appreciate the appearance of the site has evolved over time but in its current form and given its physical severance from South Lodge, I consider it makes a very limited contribution to the significance of South Lodge or the character and appearance of the BCA more generally.
10. The siting of the dwelling away from the junction of Park Lane and the private drive as well as its modest proportions, natural facing materials and detailing, would all help to ensure it would not compete or detract from South Lodge. As demonstrated by the Appellant's Heritage Assessment¹, there would be little or no effect on views of South Lodge or vistas along Park Street from the south.
11. I have considered the Council's criticisms regarding the 'stable' like design of the dwelling. However, there are a wide range of architectural styles and building forms in the immediate area. The fact that there might be another (hitherto unspecified) design approach that the Appellant could have taken, does not make the current scheme unacceptable. In light of the varied nature of built development in the immediate vicinity, I am satisfied that the design of the proposed dwelling would not harm the character and appearance of the area.

¹ 3D Views 1-3

12. I therefore conclude that the proposed development would preserve the setting of South Lodge, Barlborough Hall, the BCA and the RPG. Accordingly, there would be no conflict with Policies SS1(h), SC2(j), SC3 (b), SC16, SC17 and SC20 of the Local Plan for Bolsover District 2020 (the LP) or the statutory duties under the 1990 Act.

Living conditions

13. While the size of the proposed garden exceeds the 50m² benchmark in the Council's SPD, the Council is concerned that future residents would be subject to unacceptable levels of overlooking if longer distance views of South Lodge are to be maintained through the use of low-level boundary treatments.
14. The plans indicate that the stone wall would be retained along the Park Street frontage with ornamental railings adjacent to the private drive. There is little doubt these boundary treatments would provide the garden with an open aspect to the north and east. The determinative question is whether this outlook would result in unacceptable living conditions for future residents.
15. This matter is finely balanced. On the one hand, it is clear to me that the lack of privacy could lead to future pressure for more urban forms of fencing. The latter matter could be addressed by the removal of permitted development rights meaning that the Council would retain ultimate control over the boundary treatments in perpetuity. On the other hand, I am mindful that there are a great number of people in this country who do not have access to any meaningful garden or outdoor amenity space who would be only too happy to have a garden of the kind proposed here despite it being sub-optimal from a privacy point of view.
16. In this case, any prospective purchaser would be aware of the garden's lack of privacy and restrictions on replacement fences and walls. That is a very different situation to where a development deprives a neighbouring occupier of privacy they had previously enjoyed. In short, if privacy is important to a prospective purchaser, it is not unreasonable to assume they will look elsewhere. I also cannot discount the possibility that it might be possible to provide a degree of screening to the patio and garden area through a sensitively designed landscaping scheme, something that could also be secured by planning condition.
17. Weighing all these matters in the balance, I consider that future residents of the development would not be subject to unacceptable levels of overlooking. Accordingly, there would be no conflict with LP Policy SC3 (n) or paragraph 135 (f) of the National Planning Policy Framework which collectively require a good standard of amenity for future occupants of new development.

Other Matters

18. The Council has referred to ongoing enforcement action against the Appellant in respect of unauthorised alterations to South Lodge. However, it is not for me as part of this s78 appeal to comment on these matters which are subject to their own separate process. My decision in relation to this scheme does not prejudice any action the Council may subsequently take in this regard.

Conditions

19. I have imposed standard time limit and plans conditions to provide certainty. A condition relating to access improvements at the junction with Park Street is necessary to ensure safe egress from the site. I have however imposed a more proportionate trigger point for the works. A condition relating to the parking areas is necessary to ensure the development does not lead to overspill parking on Park Street.
20. An ecology condition is necessary to ensure a net gain for biodiversity. Landscaping and materials conditions are necessary to ensure the satisfactory appearance of the development. I have however added a retention clause to the landscaping condition. An archaeology condition is necessary to protect any archaeological assets that may be present. Finally, I have imposed a condition removing certain permitted rights to ensure the development preserves the setting of South Lodge.
21. Given the scale of development I do not consider suggested condition 3 relating to storage areas etc, is reasonable or necessary. Should the Appellant wish to store items on Park Street, this would require a licence from the Highway Authority and is therefore covered by other legislation. As the site has already been cleared of all vegetation, suggested condition 6 and elements of the landscaping condition are unnecessary.

Conclusion

22. For the reasons given above the appeal should be allowed.

D M Young

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawing nos. dated 26/08/2022: Site Location Plan Loc 001, Elevations as proposed 102, Floor Plans as proposed 101 dated and Site Plan 100.
- 3) Prior to first occupation of the dwelling hereby approved, the existing access to Park Street shall be modified generally in accordance with the application drawings and shall have a minimum width of 4.25m for the first 5m from Park Street, all as agreed in writing with the Local Planning Authority.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garage and parking space to be provided in connection with the development shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
- 5) Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the NPPF 2021. Measures shall include (but are not limited to) the following:
 - 1x integrated Bat Box (Including details on position/specification).
 - 1x integrated Universal Bird Brick (Including details on position/specification).
 - 1x Insect/Bee Brick (Including details on position/specification).
 - Planting of native tree or shrub.

Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in-situ submitted to the Local Planning Authority.

- 6) A scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the site for storage, the details of which shall include:
 - a) Details of proposed planting including the number of each species to be planted and protection measures;
 - b) Means of enclosure;
 - c) Hard surfacing materials, and
 - d) Timetable for completion of all new hard and soft landscaping.

The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development and maintained for the lifetime of the development with the exception of new planting which shall be provided and completed in accordance with this condition prior to the end of the first planting season following completion of the development and maintained for a period of five years from the

date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted.

- 7) Samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before works commence on the facing walls or roof of the building(s). The development shall thereafter be constructed in accordance with the approved details.
- 8) Details of the materials, treatment and/or colour of the window and door frames shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The window and door frames shall then be installed in accordance with the approved details and so retained.
- 9)
 - a) No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and
 1. The programme and methodology of site investigation and recording
 2. The programme for post investigation analysis and reporting.
 3. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 4. Provision to be made for archive deposition of the analysis and records of the site investigation.
 5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
 - b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).
 - c) The development shall not be occupied until the archaeological site investigation and post investigation analysis and reporting has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting that Order with or without modification) no external alterations or additions shall be made to the dwelling hereby approved and no buildings, extensions, gates, fences or walls (other than those expressly authorised by this permission) shall be carried out within its curtilage without the prior written approval of the Local Planning Authority upon an application submitted to it.