



Appeal Decision

Site visit made on 3 March 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 March 2025

Appeal Ref: APP/A2470/W/24/3354961

Hillview, 1A Main Road, Whitwell, Oakham LE15 8BW

- 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 Philip Jones against the decision of Rutland County Council.
 - The application Ref is 2024/0798/FUL.
 - The development proposed was originally described as “take down collapsed wall and gate to remove tree roots. Fill the cavity with hardcore and ballast. Cover with pebbles similar to existing driveway”.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Whitwell Conservation Area (CA).

Reasons

3. The appeal site is situated within the CA and in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
4. The Whitwell Conservation Area Character Appraisal and Management Proposals (2013) (CA Appraisal) identifies that the special interest of the CA lies in a village being grouped within a shallow valley and has developed in a linear, low-density layout set on both sides of the road. Key features include the consistent use of limestone as a single material in the buildings and boundary walls of the village. The CA Appraisal identifies that low stone boundary walls are an important and attractive feature which provides strong definition, enclosure and visual unity to the buildings. Furthermore, grass verges, trees and greenery are situated along the frontages which helps to reinforce the rural location of the village.
5. The appeal site is situated at the entrance of the village at a higher elevation than the majority of Whitwell. The plot contains a dwelling and outbuilding, both of which are more recent additions to the village. A low stone wall runs alongside Main Road, with part of the wall fronting the plot of 1A. The CA Appraisal specifically identifies the stretch of wall which the appeal site forms part of is an example of a cock and hen dry stone wall. It is not sufficiently clear from the evidence whether the wall fronting the plot at 1A is original and whether the gap in the wall was once wider. In any case, it is an attractive example of a stone wall and provides definition and

enclosure to the plot from Main Road. As such I consider that the boundary wall at 1A is a positive contributor to the character and appearance of the CA.

6. The proposal involves the removal of a section of the wall and the entrance gate, resulting in a prominent break within the frontage. The proposed gap would be visually harmful as it would break the continuity and the sense of enclosure to the plot that the wall and gate provides. As a result, the proposal would neither preserve nor enhance the character or appearance of the CA. I assess that this harm would be less than substantial in this instance, but nevertheless of considerable importance and weight.
7. Paragraph 215 of the National Planning Policy Framework (the Framework) states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposed development.
8. The appellants case for public benefits is based on mitigating the risk of the wall falling onto pedestrians and vehicles, as the section proposed for removal has been affected by tree roots. I have not, however, been provided with sufficiently compelling evidence to demonstrate that the permanent removal of the affected section of the wall is the only solution in the interests of public safety and that it is not possible to remove the tree stump and roots, and subsequently repair or rebuild the wall and gate.
9. As such, I consider that the appeal proposal would only carry limited weight as a public benefit. This would not outweigh the great weight given to the conservation of the heritage asset as required by paragraph 212 of the Framework.
10. For the reasons that I have given, the proposed development would conflict with Policy CS22 of the Rutland Core Strategy Development Plan Document (2011) and Policy SP20 of the Rutland Site Allocations and Policies Development Plan Document (2014). These policies seek to ensure the quality and character of the built and historic environment, including conservation areas, is preserved or enhanced.

Other Matters

11. The appellant has raised examples of where, in their view, the CA Appraisal has not been followed by other applicants, however the Council has granted planning permission. I have been supplied with limited information with regard to these examples and in any case, they appear to relate to replacement windows and doors which are not directly comparable to this appeal.
12. Furthermore, the appellant has pointed to examples of gaps in the frontages along Main Road, including the adjacent neighbour. However, these gaps relate to established driveways or footpath entrances to properties. As such, they are not directly comparable to the appeal proposal which would read differently in the streetscene. In my opinion, as I have explained in my decision, the positive sense of enclosure and continuity to the plot would be lost as a result of the proposal which would be harmful to the character and appearance of the CA.
13. In any case, I have considered the appeal before me on its individual planning merits and the presence of these examples do not persuade me that the appeal proposal is acceptable or otherwise justify the harm that I have identified in respect of the scheme.

Conclusion

14. For the reasons given, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

C Housden

INSPECTOR