



Appeal Decision

Site visit made on 12 March 2025

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal Ref: APP/N4720/W/24/3355898

Gateways, Esholt Avenue, Guiseley, Leeds LS20 8AX

- 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 A Carter against the decision of Leeds City Council.
 - The application Ref is 24/04157/FU.
 - The development proposed is erection of detached annexe; new hard standing and associated landscaping; restoration works to existing gates.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development, which has been applied for, is an annexe and the householder application form was submitted. It was validated and advertised on this basis and the description in the banner heading above is taken from the Council's decision notice. As such, I have considered the proposal on this basis.
3. The appeal site lies within the Guiseley Conservation Area and the setting of listed buildings. Accordingly, I have had regard to the statutory duties under both sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in relation to these matters.

Main Issues

4. The main issues are:
 - Whether the proposal would preserve the Grade II listed buildings or their setting, known as Park Gate House and the Gate Lodge and Gate Piers to Park Gate House, and any features of special architectural or historic interest which they possess and whether it would preserve or enhance the character or appearance of the Guiseley Conservation Area including from any effects of the proposal on trees;
 - Whether the proposed development makes adequate provision for Biodiversity Net Gain;
 - Whether future occupiers of the proposed development would have acceptable living conditions with particular reference to outlook, light and external amenity space; and
 - The effects of the proposed development on the living conditions of the occupiers of the neighbouring property with particular reference to overlooking.

Reasons

Heritage Assets

Special interest/significance

5. Park Gate House is a large late eighteenth century property, which is orientated with its principal elevation facing inwards away from the road and overlooking what was originally extensive grounds. From the evidence before me, its special interest and significance, insofar as it relates to this appeal, is largely derived from its historic and architectural interests.
6. The Gate Lodge is a modest attractive late nineteenth century property. It is listed with the gate piers, which comprises of a double gateway with three principal gate piers. In so far as it relates to this appeal, the significance of this listed building is derived from its historical and architectural interests associated with the classical Italianate design of the lodge, its age, materials and the decorative form and elegance of the entranceway.
7. The gates and associated entrance way provided an access to Park Gate House. The Gate Lodge sits at this historical entrance. From the evidence before me, the western gate entrance provided access to the house, whereas the eastern gate provided access to open land that formed part of its wider estate. Despite modern developments, the historical relationship between The Gate Lodge, adjacent gates and access to Park Gate House remains legible.
8. Moreover, whilst it has been more substantively eroded, the undeveloped qualities of the land within the appeal site beyond the entrance way from Park Lane and its relationship to the fields to the south east is also legible. Accordingly, it makes a positive contribution to the setting, and thus the significance, of the Gate Lodge and Piers and Park Gate House.
9. This part of Guiseley Conservation Area (CA) incorporates an area including Park Gate House and grounds and development on Park Road. This part of the CA is intrinsically linked to Park Gate House and its historical grounds, including the Gate Lodge and Piers. It is also characterised by properties set in spacious grounds with mature trees contributing to a verdant quality. Thus, the special interest/significance of the listed buildings and the undeveloped verdant qualities of the appeal site contributes positively to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.

Appeal proposal and effects

10. Park Gate House and the proposed development would not be seen in combination due to the distance and intervening landscape features. However, the proposal would introduce built form, and hardstanding into a historically open parcel of land. It would be seen immediately adjacent to the historical driveway to Park Gate House and in close proximity to the Lodge, eroding the legibility and importance of the Lodge and its historical relationship at the entrance to the Park Gate House estate. In doing so it would also sever the surviving legibility of the historical use of the eastern access gate. In this regard, the proposed building would harm the setting of both listed buildings.
11. Due to the distance and narrow access link to the currently fenced rear garden of The Gate House, and with its own access, the building would appear to sit in its

own narrow plot when viewed from Park Road and its entrance. Removing the rear fence would not alter this. In this regard, the proposed development would appear as a modest sized independent property, tight within its plot. This would be at odds with the more spacious character of plots within this part of the CA, even though the overall density of the appeal site would be low.

12. For these reasons the proposed building would appear incongruous in this location in close views, even with additional landscaping. It is put to me that there would be heritage benefits through the restoration and subsequent maintenance of the listed gates and piers. However, there is no detailed scheme of restoration before me and given the listed status of the gates and piers, my statutory duty, and the potential need for a separate listed building consent it would not be appropriate to require such details by way of a planning condition. In this regard, in the absence of a scheme of restoration, this carries limited weight in favour of the scheme.
13. The proposed building and hardstanding would be positioned within the root protection area (RPA) of several trees. Paragraph 5.3.1 of BS 5837:2012 states that *"the default position should be that structures are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree"*. In this case, whilst the Arboricultural Impact Assessment (AIA) proposes technical solutions, no overriding justification has been put forward for development within the RPAs.
14. The location of the proposed building has already resulted in pressure to prune two of the trees in a manner that would unbalance their respective crowns. The harm visually from this pruning would be minimal, given the private views within the CA, but it would still erode their appearance and the desire to prune is a consequence of the building's proposed position.
15. A Beech tree is located to the side of the property where the Council's Recommended Minimum Distances of Built Development to Trees in its guidance document recommends a distance of 12m. The appellant's table indicates that the actual distance to the proposed building would be 5m. I am mindful that this side of the property contains all the rooflights for the first floor, and that the property and its rear patio would be dominated by trees in close proximity. As such, I consider that there would be future pressure to undertake works such as removing overhanging branches. Given that there are numerous trees very close to the proposed building and the small garden area this pressure is unlikely to be limited to the Beech tree. This would be a direct consequence of a more active use within the RPA of the trees.
16. In terms of the technical solution proposed during construction, details of a raised platform structure supported by columns and a pile system are provided. However, there are no firm details of the hard surfacing proposed, the associated 'no-dig' method, land levels and the location of utilities including drainage infrastructure that may cumulatively impact on the health of the trees.
17. It is my judgment, notwithstanding the information provided within the submissions, that there is not the appropriate level of detail before me to provide the clear and convincing justification for the proposed development within the RPA of the respective trees. Given the trees contribute to the character and appearance of the

CA, this adds to my concerns regarding the associated impact of the proposed development.

18. Drawing the above together, the proposal would fail to preserve the special interest of the Grade II listed buildings and their setting, and would fail to preserve or enhance the character of the CA. As a result, the expectations of the Act have not been met and the proposal would harm the significance of these designated heritage assets.

Public benefits

19. Paragraph 212 of the National Planning Policy Framework (the Framework) (2024) advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
20. With reference to paragraphs 214 and 215 of the Framework, in finding harm to the significance of the designated heritage assets, the magnitude of that harm should be assessed. In this instance, given the modest scale and the location of the proposed development, the harm to the designated heritage assets, individually and cumulatively would be less than substantial, but nevertheless of great weight. Under such circumstances, paragraph 215 advises that this harm should be weighed against the public benefits of the proposed development.
21. As set out, I give limited weight to the long-term maintenance and restoration of the gates and piers in the absence of firm details regarding the restoration works. Accordingly, the primary benefits from the appeal relate to the economic, social and environmental benefits from having an annexe capable of being used by carers in connection with the occupiers of the host property. This would be achieved by, amongst other things, a development in a sustainable location making an effective use of land, built to modern energy efficient standards, the construction works, and the spend from its occupiers. Given the scale of the proposed development such benefits would be small.
22. There would also be benefits in providing an active use at the site to reduce the risk of fly tipping. There is no substantive evidence that the scheme would achieve the major biodiversity benefits suggested by the appellant. Moreover, the proposal would principally be of private benefit to any occupier of the annexe and the main dwelling. Overall, the associated public benefits carry a small degree of weight in favour of the appeal.
23. Moreover, there is no firm evidence that the proposed location of the annexe before me is the only means of securing such benefits, considering the size of the garden associated with the host dwelling. In this regard, clear and convincing justification for the harm that would occur to the significance of the designated heritage assets because of the proposed development, has not been provided.
24. Overall, the public benefits in favour of the proposed development do not outweigh the great weight that I attach to the harm I have found. Accordingly, the proposal would be contrary to the requirements of both the Act and the Framework, in so far as they relate to this main issue. It follows that it would also be contrary to the requirements of Policies GP5, LD1 and N19 of the Council's Unitary Development

Plan Review (UDPR), Policies G9, P10, P11 and P12 of the Core Strategy (CS), and Policy Land 2 of the Council's Natural Resources and Waste Local Plan, when taken together and in so far as they relate to this main issue. These say, amongst other things, that all new buildings and extensions within or adjacent to conservation areas should preserve or enhance the character or appearance of the area by ensuring that the siting and scale of the building is in harmony with the adjoining buildings and the area as a whole. As Policy H2 relates to the release of new housing sites, and the proposal relates to an annexe, this policy has not been determinative in my assessment.

Biodiversity Net Gain

25. Policy G9 of the CS requires, amongst other things, that development will be required to demonstrate that there will be an overall net gain for biodiversity commensurate with the scale of the development, including a positive contribution to the habitat network through habitat protection, creation and enhancement.
26. The proposal would result in development within the RPA of several trees, result in works to two trees and future pressure for further works and it has not been demonstrated that the overall development would not lead to harm to the long term health of the trees. Moreover, the proposal would introduce development on an undeveloped unsealed parcel of land, along with activity and light spill where there was none.
27. No firm details of planting or biodiversity measures have been provided to demonstrate that there would, or could, be a net gain in biodiversity arising from the proposal that would be commensurate with the scale of the development. In this regard, even if I accepted that the proposal, as a householder scheme, was exempted from the national mandatory biodiversity net gain requirements, it has still not been demonstrated that the scheme would accord with Policy G9 of the CS in so far as it relates to this matter. Accordingly, the proposed development does not make adequate provision for Biodiversity Net Gain.

Living conditions (future occupiers)

28. The appeal site is a narrow plot of land, and the proposed building would be close to both side boundaries, which also narrows to the rear toward the access route to Gateways. These boundaries are characterised by plants and tall trees creating an enclosed and shaded plot.
29. The proposed design and layout of the building would take a rectangular form with a reliance on its side and rear elevations for natural light. I have no substantive evidence regarding the extent of sunlight or daylight that would be received in the proposed development and its private amenity space to the rear of the building. However, given the enclosed nature of the site, in my view, there would not be adequate levels of sunlight or natural light, leading to an unduly dim living environment. This would be exacerbated by the limited outlook from within the building, other than from the main living room.
30. It is put to me that as an annexe, future occupiers would have access to the main garden of the host dwelling. However, given the position of the host dwelling some distance down the track I am not convinced that utilising that garden space would be convenient and practical for future occupiers of the proposed building.

31. Taken together, the outlook, light and external amenity space associated with the proposed development leads me to conclude that its future occupiers would not have acceptable living conditions. As such, the proposal would be contrary to the requirements of Policy P10 of the CS, Policies GP5 and BD5 of the UDPR and the guidance within the Council's 'Neighbourhoods for Living' Supplementary Planning Guidance (SPG), when taken together and in so far as they relate to this main issue. These say, amongst other things, that all new buildings should be designed with consideration given to both their own amenity and that of their surroundings. This should include space, privacy and satisfactory penetration of daylight and sunlight.

Living conditions (neighbouring properties)

32. The Council's decision notice does not quantify which neighbouring property is of concern. However, the officer report confirms that the Council's concerns relate to overlooking from the bedroom windows. These face toward the access track leading to Park Gate House and at an angle toward Park Gate Lodge.
33. However, the bedroom windows are all roof lights, positioned in the roof slope and are therefore angled upwards. In this regard, even though the distance to the boundary does not accord with the setback distances within the SPG, due to the upward angle of views, position of the rooflights on the slope, distance and angle to Park Gate Lodge and its garden, there would not be an unacceptable degree of overlooking.
34. To conclude on this main issue, the proposal would not have an unacceptable effect on the living conditions of the occupiers of the neighbouring property with particular reference to overlooking. As such, the proposal would accord with the requirements of Policy P10 of the CS and Policies GP5 and BD5 of the UDPR, when taken together and in so far as they relate to this main issue. These say, amongst other things, that proposals will be supported where the development protects the visual, residential and general amenity of the area through high quality design that protects and enhances surrounding routes, useable space, privacy, air quality and satisfactory penetration of sunlight and daylight.

Other Matters

35. Concerns regarding the processing of the application, including matters relating to communication are not issues that I can assess as part of this appeal. The appellant has made changes to previous schemes with a view to finding a solution. However, I have considered the proposal before me on its own merits and the validity or not of any concerns regarding the processing of the application do not alter the effects of the scheme before me.

Conclusion

36. Although there would be benefits associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Mr R Walker

INSPECTOR