
Appeal Decision

Site visit made on 12 November 2013

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2013

Appeal Ref: APP/P1045/A/13/2197583

Land opposite 52 Greenhill, Wirksworth, Matlock, Derbyshire, DE4 4EN

- 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 C Armstrong against the decision of Derbyshire Dales District Council.
 - The application Ref 12/00656/FUL, dated 31 October 2012, was refused by notice dated 14 January 2013.
 - The development proposed is erection of detached two-bedroom dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application form indicates the site address to be land opposite 50 Greenhill. However, for the sake of accuracy and since it better describes the site, I have used the address of land opposite 52 Greenhill as indicated in the Design and Access Statement, Council's Decision Notice and Appeal Form.

Main Issue

3. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Wirksworth Conservation Area.

Reasons

4. The appeal site comprises an outbuilding, planting beds and two greenhouses. It is within the Wirksworth Conservation Area which covers the historic centre of the market town, along with surrounding areas of countryside which form its backdrop. The site lies within the area of the 'Puzzle Gardens' identified in the Wirksworth Conservation Area Appraisal (Conservation Area Appraisal).
5. This part of the town developed as a result of the lead mining industry and the small plots were originally encroachments built on manorial waste ground. It is characterised largely by former miners' cottages, some in terraces, many of which can be accessed only by the numerous footpaths which traverse the hillside. The footpaths and private gardens are enclosed by rubble limestone walls and views are afforded over the town and nearby countryside. The appeal site plays an integral role in defining the largely unchanged close knit and haphazard layout of the 'Puzzle Gardens', which contributes to the significance of the Conservation Area as a heritage asset.

6. Despite the land being within the registered title of 41 Greenhill the appellant does not consider the site to be a private garden, and argues that it is previously developed land having originally accommodated a communal washhouse. I accept that the site is privately owned, not publically accessible and appears to be currently unused. Nor is it formally defined or allocated as open space. Be that as it may, in practical terms it appears as a walled garden area. Although there is a lean-to structure which abuts the western retaining wall and two greenhouses on the site, it is essentially open. Correspondence from local residents indicates that it has historically served as the garden area to No 41 which is adjacent to the site.
7. I acknowledge that the Conservation Area Appraisal does not specifically identify the appeal site, or other garden areas, as important open spaces. Nor is there anything in principle which precludes the development of open spaces in Conservation Areas. Nevertheless, in my view the open areas and spaces between the buildings within this part of Wirksworth play an important role in the townscape. In particular gardens and open areas, some of which are detached and separated from the houses to which they belong, are a strong and unusual feature of the 'Puzzle Gardens' and an intrinsic component of the historic character and appearance of the Conservation Area. Given the closely developed built fabric these gaps provide a contrast to the surrounding buildings and relief to the tight pattern of development. The ad hoc locations of the open areas alongside the historic cottages are part of the local distinctiveness of this part of the town.
8. The appeal site is adjacent to the garden areas of Babington House, a Grade II* listed building. These adjoining gardens add to the feeling of openness in immediate vicinity, and the appeal site is viewed alongside this wider open area. It is seen primarily from the elevated footpath which runs next to the site. The footpath forms parts of the Wirksworth Heritage Trail, and although the Council raises no objections to the impact of the proposal on the trail, the site is looked down on from here and is evident in public views. This is the context in which the site is viewed. However, it is in itself a largely undeveloped area with its own sense of openness. Whilst it compliments the adjacent gardens, the appeal site is distinct from them. As such, I am not persuaded that the site borrows its sense of space from Babington House's garden or that its openness is more pronounced as a result of the elevated nature of views from the footpath.
9. The existing outbuilding and greenhouses on the site would be removed, and I note the appellant's view that the net increase in the amount of built footprint on the site as a result of the proposal would not be great (some 13 square metres). A private garden area would also be provided. Even so, the proposal would introduce two storey built development on to what is a currently substantially open area. The proposed house would be significantly larger and bulkier in form than the existing lean-to building and glass greenhouses and would cover most of the site. As a result the current sense of openness would be lost.
10. This would be to the detriment of the largely unchanged historic character of the area. The proposal would be clearly visible from public vantage points and would result in the loss of an open area which plays an important part in defining the quirky and unique character of the 'Puzzle Gardens'. The role that the site plays in allowing elevated views from the footpath over the town, and

to the countryside beyond, would also be compromised by the construction of a house. That the site is currently overgrown and the buildings somewhat dilapidated does not alter my opinion.

11. I accept that the form and design of the house would be sympathetic to the appearance of neighbouring properties, characteristic of the local vernacular, and in keeping with other houses within the 'Puzzle Gardens'. The rubble limestone walls would be retained and views of the site from the public domain would remain. I am also aware that, on balance, the Local Conservation Advisory Forum supported the principle of a small dwelling on the site, and understand that the loss of the existing historic outbuilding was not raised as a concern by the Council.
12. Although it adjoins a walled garden area of Babington House, the appeal site is separated from it by a retaining wall and is at a higher level. On this basis the Council considers that the proposal would have no significant impact upon Babington House and I see no reason to come to a different view. As such, I am satisfied that the proposal would preserve the setting of this listing building. I also understand that the proposal was subject to positive pre-application discussions, amended during the Council's consideration of the application, and recommended for approval by officers to the Planning Committee.
13. Even so, it remains that since the proposal would result in the loss of an important open area it would undermine the special interest of the traditional townscape of the 'Puzzle Gardens', which is of significance to the area's heritage. Paragraph 131 of the National Planning Policy Framework (the Framework) indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Whilst the proposal would lead to less than substantial harm to the significance of the Conservation Area, the harm caused would nevertheless be material.
14. I conclude that the proposal would fail to preserve or enhance the character and appearance of the Wirksworth Conservation Area, and would adversely affect the significance of this designated heritage asset. It would therefore be contrary to Policies SF1, and H1 of the Derbyshire Dales Local Plan (Local Plan) which are permissive of new development as long as it preserves or enhances the character and appearance of the settlement, and respects the character, appearance and setting of the settlement. The proposal would also conflict with Local Plan Policy NBE21 which is permissive of proposals within or adjacent to a Conservation Area provided that they preserve or enhance the character and appearance of the area. Additionally it would be out of step with the one of the core planning principles of the Framework of preserving the significance of designated heritage assets.

Other matters

15. I note the appellant's view that the Conservation Area Appraisal which was adopted in 2001 is out of date. Although this pre-dates the Framework, I have seen nothing to suggest that the evidence about the historic environment contained within it is out of date, or that its assessment of the special interest, character and appearance of Wirksworth is at odds with the aim of the Framework to preserve the significance of designated heritage assets.

16. The proposal would be sustainably located within the town and close to facilities and services and is considered acceptable by the Council in terms of its effect on the living conditions of nearby occupiers. I also note that despite the concerns of local residents, no objections were raised to the scheme by the Highway Authority with regard to parking or highway safety. Additionally I am aware that the occupiers of No 41 cannot use the site as a garden and have no dedicated amenity space. The Council raises no objections to the proposal on these grounds, and I acknowledge that there are examples of other houses without gardens and areas of publically accessible open space, including a playground, nearby. The absence of harm in these regards counts neither for, nor against the proposal.
17. The appellant considers the Council cannot demonstrate a five year housing supply. The Council disagrees. Since I am dismissing the appeal for other reasons it has not been necessary for me to consider this matter in detail. Nevertheless, bearing in mind paragraphs 49 and 14 of the Framework and the presumption in favour of sustainable development, I acknowledge that the proposal is considered available and deliverable by the appellant and would contribute to housing supply. Whilst this contribution would not be great, it weighs in favour of the proposal and is a public benefit of the scheme. However, in my view the adverse impacts of granting permission in this instance would significantly and demonstrably outweigh this benefit.

Conclusion

18. For these reasons, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR

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