
Appeal Decision

Site visit made on 18 June 2014

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 8 July 2014

Appeal Ref: APP/K2420/A/14/2214789

163 The Park, Market Bosworth, Nuneaton CV13 0LP

- 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 Simon Taylor against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 13/01027/FUL, dated 18 November 2013, was refused by notice dated 30 January 2014.
 - The development proposed is a new dwelling with associated new access and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are
 - a) whether the proposal would fail to preserve the setting of this listed building and cause harm to its significance as a heritage asset, and, if so, whether this harm would be outweighed by public benefits and
 - b) the development's effect on the countryside and whether it would give rise to an unacceptable increase in the reliance on the car.

Reasons

The effect on the setting of the listed building

3. This is a detached Grade II listed property that was constructed in the late 19th Century as a lodge for Bosworth Park. It is of a neo-Dutch style and while it has been subject to various alterations over time its proportions, its gables and its intricate, fine detailing and features are still apparent and show the building to be one of some status heralding an entrance to a place of significance.
4. Originally, it would, no doubt, have been an isolated building and this would have emphasised its status. However, it now stands at the end of a row of over 20 houses and bungalows of individual designs that have been built in the last 60 years or so and line the road running towards Market Bosworth. Despite this some sense of spaciousness remains around the property due to its relatively wide side garden that separates the house from 157 The Park adjacent. Moreover, the single storey nature of that neighbouring bungalow and the dwelling beyond further helps to maintain the spacious setting of No 163.

5. Therefore, given the separation that still remains between the appeal property and the other houses, noting its distinctive form and detailing, and also taking account of the ornate gate piers that are either side of the road in front, the historic origins of No 163 as a lodge building can still be appreciated. Consequently these factors contribute to its significance as a heritage asset.
6. The proposed dwelling would be built in the Appellant's side garden next to No 157, some 4.3m from the west elevation of the listed building. It would comprise 2 storeys with its upper floor in the roof, although there would be a large gable on the front elevation. The Appellant also contended that, in order to reinforce its subservience, the ridge would be lower than the ridge of No 163 and it would also be set back slightly.
7. In assessing this issue I have had regard to the onerous statutory requirement in section 66 of the *Planning (Listed Buildings and Conservation Areas) Act*, which highlights the need to have special regard to the desirability of preserving the setting of a listed building. I have also noted that this position is broadly reflected in Policy BE5 in the *Hinckley & Bosworth Local Plan (2001)*.
8. While the Appellant considered the 4.3m separation between the new dwelling and No 163 to be '*substantial*', that is not a view I share. Rather, to my mind the proposal would be close to the former lodge and would appreciably fill the Appellant's side garden, significantly diminishing any sense of separation that this garden area might now provide. Furthermore, despite the set back the works would conceal the west elevation of the listed building to a great extent, thereby restricting an appreciation of its detailing and proportions.
9. Moreover, the ridge height of the new house would be comparable to those of the side gables of the former lodge and it would be higher than the ridges on No 157, while the front elevation of the proposal would be longer than the front of the Appellant's dwelling. I also consider the proposed gable would be a dominant feature due to its width and the manner in which it would rise above the eaves of the listed building. Finally, the Appellant has sought a simple design that contrasts with No 163, but given the proximity of the buildings the appearance of the scheme would relate poorly to the existing house.
10. Taking all these factors together, I am therefore of the opinion that the development would appreciably reduce the sense of space that remains around the former lodge and would be of a scale, form, design and siting that would challenge and compete with the listed building. I also consider that, by substantially concealing the west elevation of No 163, it would result in the proportion and much of the detailing on that elevation being obscured. For these reasons the proposal would undermine the historic appreciation of this as a former lodge and dilute its status, and so would fail to preserve its setting and cause harm to its significance.
11. The Appellant has said the scheme would enhance the setting of the listed building as the garden now is untidy and overgrown, but the garden did not appear so when I visited. Indeed, even if it had, to my mind that would have been a matter of maintenance and would not have justified the permanent harm that I consider would result from the proposal. I have also noted the new house built next to 135 The Park but the historic significance of its adjacent properties is not comparable to that of No 163 and so that does not lead me to a different view.

12. In assessing the level of the harm the Council cited paragraph 133 of the *National Planning Policy Framework* (the Framework) in the decision, which concerns substantial harm. However, the works would not challenge the listed status of the building and so I consider the harm would be less than substantial. That though does not belittle my concerns, and this is still a level of harm to which considerable weight and importance should be attached.
13. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal. Paragraph 132 of the Framework says that great weight should be given to the asset's conservation, and any harm requires clear and convincing justification. In this case I am aware of no clear and convincing justification for the development and no particular public benefits that would outweigh the harm identified.
14. Accordingly I conclude the new dwelling would fail to preserve the setting of this Grade II listed building, causing less than substantial harm to its significance as a heritage asset. In the absence of any public benefits to outweigh this harm the scheme would conflict with the Framework and Policies BE1 and BE5 in the Local Plan.

Effect on the countryside and accessibility

15. The appeal site lies beyond the settlement boundary of Market Bosworth in the countryside. In such areas Local Plan Policy NE5 restricts permissible development to certain specific types, none of which are applicable to this case. Moreover, Policy RES5 accepts housing on unallocated sites only if it is within a settlement boundary.
16. I anticipate that the thrust of these policies is, among other things, to protect the countryside and to reduce reliance on the car. This proposal would be within a gap in a lengthy row of dwellings and it would broadly reflect the scale, design and character of the houses to the west. As such, putting aside the specific effect on the listed building discussed above, the dwelling would not appear discordant when seen in the context of the surrounding countryside and would not extend residential development into the rural area. Suitable building techniques could also be used to safeguard the protected tree in the garden of No 157.
17. Moreover, given these adjacent houses and the proximity to Market Bosworth, accessibility to services and reliance on the car would not be unacceptable.
18. Accordingly I conclude the development would not detract from the character and appearance of the countryside or result in an unacceptable reliance on the car, and given the material considerations stated any conflict with Local Plan Policies RES5 or NE5 would not justify resisting the scheme.

Conclusions

19. Given the harmful effect on the setting of this listed building I conclude that the appeal should be dismissed.

J P Sargent

INSPECTOR