



Appeal Decision

Site visit made on 12 March 2021

by **C Dillon BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 April 2021

Appeal Ref: APP/W0734/W/20/3265716

4, The Crescent, Linthorpe, Middlesbrough TS5 6SE

- 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 Surfraz Akbar against the decision of Middlesbrough Borough Council.
 - The application Ref 20/0563/FUL, dated 22 September 2020, was refused by notice dated 24 November 2020.
 - The development proposed is described as a proposed dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the appeal proposal on:
 - designated heritage assets, with particular regard to the character and appearance of the Linthorpe Conservation Area and the setting of Grade II listed The Avenue Methodist Church; and
 - the living conditions of occupiers of neighbouring dwellings, with particular regard to levels of outlook and privacy.

Reasons

Heritage assets

3. The appeal site forms part of the large garden area of No 4 The Crescent. Properties within this predominantly residential neighbourhood are a mix of mainly detached and semi-detached villa style dwellings of at least 2 storeys. They tend to be set within generous mature grounds. Although some of these plots have rear out-buildings, overall, the pattern of development and depth of plots here creates an important sense space between buildings.
4. The appeal site is located within the Linthorpe Conservation Area and shares a common boundary with the grounds of the Grade II listed The Avenue Methodist Church. The significance of the Conservation Area lies in its village origins which have grown into high quality suburbs with areas of planned architectural consistency. The significance of the church is found in its clear form and original use. The significance of these designated heritage assets is historically and architecturally derived. The sense of space between buildings is

- an important characteristic defining the appearance of this Conservation Area and the setting of this prominent Listed Building, articulating their significance.
5. The appeal proposal would replace an existing single storey greenhouse building. It would be set right back within the existing garden area, at the furthest point away from the road frontage. A substantial garden area would be retained for No 4, which would provide a mature planted foreground for the appeal proposal when viewed from vantage points along The Crescent.
 6. Nonetheless, by virtue of its height, mass and positioning, the presence of the appeal proposal would be evident within the setting of the listed church when viewed from The Avenue and would unduly intrude upon its backdrop. More limited glimpses of the appeal proposal and the church would be captured between dwellings along Cornfield Road. However, the appeal proposal would also unduly intrude upon the foreground setting of the listed church when viewed from the junction between The Crescent and Cornfield Road.
 7. Consequently, this particular positioning within the wider garden area would give rise to a cramped relationship. The reduction in the important sense of space that exists between existing buildings, which articulates the significance of both of these important heritage assets, would constitute harm of a level that would be less than substantial.
 8. Paragraph 194 of the National Planning Policy Framework (the Framework) states that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
 9. The site benefits from an extant planning permission and that unit contributes to the existing housing land supply. As the appeal scheme would not further add to that supply, the appeal proposal's contribution would be of limited public benefit. No other public benefits have been advanced.
 10. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
 11. Consequently, the harm to these designated heritage assets would not be out-weighed by this public benefit. Therefore, necessarily in the context of paragraph 196 of the Framework my assessment would indicate that the harm identified would not be justified in this instance. This weighs heavily against the appeal proposal.
 12. The absence of objections from interested parties does not diminish the nature and level of harm identified through my examination of this appeal proposal. Therefore, limited weight is attributed to this.
 13. Given the differential in siting, the extant scheme would have a different visual consequence on the character and appearance of the site and its wider important heritage context. Indeed, that has previously been deemed to be acceptable. However, this particular appeal proposal presents unjustified harm to important designated heritage assets. That harm is unacceptable in its own right and is of a level that is not out-weighed by the existence of that permitted scheme.

14. For the reasons given, the appeal proposal would impose unjustified harm on designated heritage assets, with particular regard to the character and appearance of the Linthorpe Conservation Area and the setting of Grade II listed The Avenue Methodist Church.
15. Policies CS4 and CS5 of the Middlesbrough Core Strategy (the Core Strategy) require that all developments contribute to achieving sustainable development through high quality design. Policy CS5 also emphasises that where sited within such areas, proposals will be required to contribute to achieving the preservation or enhancement of the character or appearance of a Conservation Area.
16. Given the identified harm, the appeal proposal would conflict with these policies. This weighs heavily against the appeal proposal.
17. In view of the identified harm, the appeal proposal would not preserve the setting of the listed church. Neither would it preserve or enhance the character or appearance of the Conservation Area. Therefore, the appeal proposal would not accord with the requirements of section 66(1) and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 respectively. This weighs heavily against the appeal proposal.

Living conditions

18. The appeal proposal would be sited close to common rear boundaries with dwellings on Cornfield Road. It would also front onto the remaining garden area associated with No 4.
19. The combination of resulting separation distances, orientation of habitable room windows of existing dwellings relative to the appeal proposal, intervening mature planting and high boundary enclosures would limit the effect of the appeal proposal on the current outlook of existing residents to a level that would not be overbearing.
20. For the same reasons, the appeal proposal would not give rise to an unacceptable level of overlooking into the interior of neighbouring properties.
21. However, the presence of the appeal proposal here would give rise to the potential for overlooking into the rear outdoor space of properties on Cornfield Road and The Avenue, or the perception of this occurring. However, this would not be overly dissimilar to the relationships between existing dwellings. Furthermore, the potential for this to arise would be limited to the proposed 2 first floor rear bedrooms.
22. The remaining garden area which would fall between the appeal site and The Crescent enjoys little in the way of privacy from the street. Existing mature planting between the appeal site and that area would provide some screening. Consequently, the fact that the appeal proposal would overlook the garden area of No 4, would not unduly diminish existing privacy levels to a degree that would be unacceptable.
23. For these reasons, the appeal proposal would not cause unacceptable harm to the living conditions of occupiers of neighbouring dwellings, with particular regard to levels of outlook and privacy.

24. Policy DC1 of the of the Core Strategy requires that the effect on the amenities of occupiers of nearby properties is minimal. In the absence of harm, there is no conflict with this policy.

Conclusion

25. The appeal proposal would cause less than substantial harm to the character and appearance of the Linthorpe Conservation Area and also to the setting of the Grade II listed The Avenue Methodist Church. Moreover, I have found that harm is not out-weighed by the public benefits advanced.

26. The identified conflict with the development plan weighs heavily against the appeal proposal. This is not out-weighed by any other matters when assessed against the development plan taken as a whole. Consequently, the appeal should be dismissed.

C Dillon

INSPECTOR