
Appeal Decision

Site visit made on 10 November 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

Appeal Ref: APP/R4408/W/20/3255913

The Old Corn Mill, Manchester Road, Thurlstone S36 9PT

- 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 Gerald Trew against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2019/1042, dated 10 August 2019, was refused by notice dated 26 March 2020.
 - The development proposed is two detached houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has not cited Policy HE6 of the Local Plan (LP), which is concerned with archaeology, in its decision. However, it is listed as a relevant policy in the officer's report and appeal statement, and archaeology is raised as a concern. As such I find it appropriate to refer to this policy in my reasoning.

Main Issues

3. The main issues are:
 - Whether the development would preserve or enhance the character or appearance of the Thurlstone Conservation Area (TCA), including protected trees, and whether the development would retain the setting of the Grade II listed Tenter Hill;
 - The effect of the development on the living conditions of future occupiers with particular regard to light;
 - Whether the development would accord with local policies with regard to flood risk; and,
 - The effect of the development on archaeological assets.

Reasons

Heritage assets

4. The original village core of Thurlstone is located to the north of Manchester Road and dates from early medieval times. However, it appears that there has been a mill on this site, near the road crossing of the river Don, since the 13th century. The mill subsequently became the focus for 18th and 19th century

- development along Manchester Road. The appeal site encompasses much of the former mill site and its ancillary structures.
5. The development would comprise two substantial stone dwellings located within the curtilage of an existing four bedroomed dwelling, Old Corn Mill. The dwellings would be located within a large garden area that contains many mature trees of varying size and condition.
 6. Although there is detailed information regarding archaeology, there is very little assessment of the development's impact on other local heritage assets, including the Grade II Tenter Hill, a late 18th century terrace of five stone dwellings opposite the site and set back from Manchester Road. I have based my reasoning on my observations and such evidence as there is.
 7. Most of the stone period buildings in the immediate area of the former mill and its pond are shown on the historic maps and have retained a high proportion of their original fabric. Despite the irregularity of the underlying building pattern, there is an architectural coherence derived from similar detailing, typology and materials. These buildings, including Tenter Hill, appear to be clustered around the former mill and pond, and river crossing, and it seems reasonable to conclude that they had a functional and spatial relationship with them. Even though the mill and its pond have disappeared, that spatial relationship remains evident today as the site of the mill pond appears to correlate with the garden of Old Corn Mill and is a significant open space alongside Manchester Road.
 8. The Heritage Impact Statement fails to consider the baseline significance of the TCA, the setting of the listed building, or the impact of the development on that significance. However, I conclude that the significance of the TCA is its spatial layout and intact historic fabric. This provides a historic setting for Tenter Hill and also reflects the village's social and commercial evolution, as well as the importance of proximity to the river Don.
 9. The dwellings would be located parallel to the river, in the rear half of the site. Their overall design and simple typology would sit well with the rather functional design of the nearby period buildings. Their placement would also enable the retention of some of the open space that abuts Manchester Road, thus retaining the relationship between the original village structures, and in particular, the setting of Tenter Hill. In principle, I am satisfied that sympathetic development on this site would not necessarily harm the significance of the TCA or the setting of Tenter Hill.
 10. However, as the decision maker I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the TCA. In this regard, I have concerns in relation to scale and the dwellings' proximity to Manchester Road and their impact on the street scene.
 11. The appeal site slopes down from the road to the river. There is limited topographic survey information before me and no finished floor levels (FFL). Dwelling 1 would project further into rising ground than dwelling 2 and according to such ground levels as there are, it appears that the dwellings would not necessarily have the same FFLs. Consequently, I am unclear how much regrading would be required to accommodate the dwellings and hardstanding areas, or how high the dwellings would be relative to the road. This is of particular concern in relation to dwelling 1 which has a significant

three storey element, and which would in any case be significantly higher than Old Corn Mill. The development's size and scale could appear overly dominant and regimented in this context, particularly given the modest scale of the buildings opposing the appeal site. They could also represent substantial encroachment into the open space abutting the road which has significance in relation to the TCA and the setting of Tenter Hill.

12. On the basis of what is before me I conclude that the dwellings would be prominent in the street scene and their combined bulk and scale would appear disproportionately large and dominant in this context. Moreover, I am not satisfied that they would be adequately screened by retained trees, discussed further below. As such, I am unable to conclude that the development would not be detrimental to the TCA or the setting of Tenter Hill.
13. The site contains a high number of mature trees which are prominent in the street scene and which, along with other clusters of trees scattered between nearby dwellings and along the Don Valley, give the TCA a pleasing and verdant character.
14. The site trees fall broadly into three categories, mature deciduous trees lining the river bank and at various locations within the body of the garden, including one protected by a TPO, smaller apple and pear trees which appear to have formed a small orchard, and two significant lines of conifers or evergreens planted across the middle of the site. The trees on the river bank are part of a significant belt of trees that follows the Don valley for some distance through the village. The deciduous trees within the site generally have a reasonably symmetrical form, and make a collective and positive contribution to the character and appearance of the TCA, despite many being categorised as 'C' in the survey.
15. In any case, being category C does not necessarily justify any trees' removal, whether in a conservation area or not. Although minor issues are identified in the survey, some of the category C trees have a projected lifespan of up to 40 years with no outstanding management issues identified.
16. One line of conifers would be retained and would provide some screening from the east, but they would be located close to the parking area and as such likely to come under pressure for removal, as outlined below.
17. The fruit trees are of limited height and impact and given the depth of the planting on the site these could be removed without having a significant detrimental effect on visual amenity.
18. However, the development would require the establishment of a level platform on which to build. I have concerns that the retained trees would be affected by changes in ground level, particularly those along the river bank where some Root Protection Zones extend beyond the dwellings' footprint and into the area of raised ground.
19. Moreover, as most of the retained trees would be close to or oversail the dwellings it is highly likely that they would come under pressure for removal or significant pruning. This is a particular concern for dwelling 2 which has windows only on its northern and southern elevations, both of which would be close to tree canopies. In my experience there is little tolerance of the shade and debris cast by mature trees in proximity to dwellings. Light entry would be

limited anyway to the dwellings' southern elevations as they face a steep wooded embankment on the other side of the narrow river valley. Concerns are also frequently raised in relation to safety where canopies oversail amenity areas or dwellings.

20. Although trees can be managed to contain growth, this can be detrimental to their overall form and consequently to the visual amenity of the TCA. Pruning can also lead to pathogen entry through pruning wounds which is detrimental to trees' future health and longevity. This would also have an adverse effect on the visual amenity of the TCA. To advance the argument that trees can be contained by pruning reinforces my reasoning that both dwellings would be sited inappropriately close to those trees.
21. Moreover, the riverbank trees in particular appeared to have grown together and pruning works could lead to windthrow for other specimens nearby. For these reasons, I conclude that the retained trees would not necessarily survive the development in the medium term. My concerns in this regard are reinforced by the SPD – Trees and Hedgerows. This would diminish the tree cover in the TCA and the Don valley.
22. LP Policy H9 limits development in the curtilages of larger dwellings. Much of the remaining area of the Old Corn Mill's garden would be hardstanding, or left-over spaces heavily shaded by the protected and other trees. I appreciate that not everyone wishes to have a large garden. However, where gardens are limited in size, usability becomes a priority. In this case the degree of shading over such garden area as remained might lead to increased pressure for works to the remaining trees.
23. In the light of the above, I conclude that the development would harm the significance of the TCA and this would lead to less than less than substantial harm. In such circumstances Paragraph 196 of the Framework states that the harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimal viable use. There is nothing before me to suggest that the Council has insufficient housing supply land and two dwellings would in any case make a minor contribution. I conclude that the benefits would be largely private.
24. The development would fail to preserve or enhance the TCA and would therefore be contrary to Policy D1 of the Local Plan (LP) which requires development to complement and enhance conservation areas, amongst other considerations. It would also be contrary to the general development design aims of LP Policy GD1, and in particular the requirement to avoid overshadowing from existing trees. The development would also be detrimental to the setting of Old Corn Mill, and contrary to LP Policy H9, for the reasons set out above.
25. The less than substantial harm to the significance of the TCA would also be contrary to the provisions of Section 72 of Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), and Section 16 of the Framework which is concerned with heritage assets. It would also be contrary to Section 66 of the Act which requires the decision maker to have special regard to the preserving the setting of listed building.

Living conditions

26. I have outlined my concerns in relation to the proximity of the retained trees to the dwellings and likely loss of light and overshadowing. The development would have an adverse impact on the living conditions of future occupiers which would be contrary to the first limb of LP Policy GD1. This requires development not to have an adverse effect on the living conditions and residential amenities of existing and future residents.

Flood Risk

27. The Flood Risk Assessment (FRA) appears to be printed information from the Environment Agency's (EA's) website, rather than a site-specific FRA. It states that the site is in Flood Zone 1 but the location marker is on the road, not within the site. Moreover, in my experience the EA's mapping information and site-specific FRAs will differentiate between flood risk from the sea and rivers, and surface water or flash flooding. This information states it refers only to river and sea flooding. Consequently, the flood risk information is incomplete.
28. In any case, the flood risk map submitted shows that part of the footprint of both proposed dwellings would be in Flood Zone 2. Although I appreciate that site levels could be altered to raise the dwellings, the FRA does not give water levels in the event of flooding. The EA maps are small scale and can only provide guidance. Without information regarding potential flood levels, related to site datum, I am unable to conclude that raising the dwellings as proposed, would lift them above flood water. Moreover, groundworks required to raise levels could be detrimental to the future health of the riverbank trees.
29. The fact that the Old Corn Mill has not been inundated in the past is no guarantee that there will not be flooding in the future.
30. The EA refers the Council to its standing advice, which requires more vulnerable development to undertake the sequential test. The fact that there are no other available housing sites in the village is not particularly determinative. Even if I gave weight to the lack of available sites in the area there is nothing before me to suggest that there is an imperative to find windfall sites, or to build in this particular location. Even if I accepted that no alternative sites exist for residential development, the exception test also requires a site specific FRA, which has not been provided.
31. Although I appreciate that this would be a sustainable location for new dwellings, the benefits would be relatively minor. In any case, even if I concluded that the benefits arising from the development would outweigh the harm associated with sea and river flood risk, it remains that there is no information with regard to potential flood levels or the likely extent, depth and velocity of surface water or flash flooding.
32. I conclude that the development would not accord with local policies or national guidance with regard to flood risk and in this regard would be contrary to LP Policy CC3 which requires developers to provide site specific flood risk assessments, and Section 14 of the Framework.

Archaeology

33. The archaeological assessment indicates that the remains of the former mill dam and other early structures would be destroyed by groundworks associated

with the development. However, the Council's consultant is satisfied that a pre-construction investigative programme could identify and record such remains, and that these works could be required by condition. I see no reason to disagree with the consultant's conclusion. As such the development would not be contrary to the provisions of LP Policy HE6 which is concerned with the identification and recording of archaeological assets.

Other matters

34. It is argued that the Council has requested unnecessary reports. However, there is a lack of detailed information and this has fettered my reasoning. Even where reports have been submitted, they have lacked key information that would have provided the evidence necessary to fully assess the proposals.
35. I appreciate that the garden is large and requires maintenance but this is insufficient reason to warrant residential development.
36. Other concerns have been raised but as I have found harm in relation to the main issues it is not necessary for me to consider them further. Procedural concerns are outwith the scope of this appeal.

Conclusion

37. I conclude that the development would be contrary to the local plan, national guidance and the Act, and that therefore the appeal should be dismissed.

A Blicq

INSPECTOR