



Appeal Decision

Site visit made on 14 November 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/P1045/W/23/3318079

Tollgate House, Derby Road, Ashbourne DE6 1BE

- 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 J Cliff against the decision of Derbyshire Dales District Council.
 - The application Ref 22/01390/FUL, dated 19 December 2022, was refused by notice dated 8 February 2023.
 - The development proposed is erection of a single dwelling and improvements to site access.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling and improvements to site access at Tollgate House, Derby Road, Ashbourne DE6 1BE in accordance with the terms of the application, Ref 22/01390/FUL, dated 19 December 2022, subject to the conditions set out in the attached Schedule.

Preliminary Matter

2. The appeal property has been referred to the Old Tollhouse, the Old Toll House and Tollgate House in various appeal documents. In the interests of consistency and clarity I have referred to the appeal property as Tollgate House throughout my decision letter.

Main Issue

3. The main issue is whether the development would preserve the setting of the Grade II listed building, Tollgate House.

Reasons

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires decision makers, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural interest which it possesses. The National Planning Policy Framework (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.
5. The statutory list description identifies Tollgate House as a tollhouse on the later part of the Derby Turnpike Road. It is a T shaped, Victorian Tudor building constructed of red brick, and slate roof with bands of fish scale tiles. It is

gabled with fretted bargeboards and finials, Tudor style windows, and a former signboard, now blank, at the upper floor level of a forward projecting gable facing Derby Road.

6. The special interest and significance of the listed building is derived from its evidential and historic value as a surviving remnant of the Turnpike system. It is also derived from the aesthetic value of the surviving Victorian façade which ensures that the strong historical relationship to the road remains intact.
7. As illustrated by the historic maps provided, Tollgate House was originally set on a narrow parcel of land within a rural location. The setting of the listed building has, however, changed over time, through the enlargement of its curtilage in 1969 by the addition of land to the rear. The extensive development that has been carried out within the immediate surroundings has also significantly changed the wider context of the listed building.
8. Whilst the additional land serves to separate the listed building from the new development constructed at the rear, any semblance of the isolation and former rural setting of the listed building has been lost. Considering this, and notwithstanding that the appeal site formed part of the curtilage when the building was listed in 1974, I find that the appeal site does not contribute to the understanding and interpretation of the past use of the heritage asset as a tollhouse. Thus, it makes a neutral contribution to its significance.
9. The proposed single storey dwelling would be positioned partially behind the listed building. At 1.5 storeys and at a lower ground level, its overall height would be lower than the tallest part of Tollgate House. Whilst the proposed dwelling would be seen within views of Tollgate House from Derby Road, its appearance would be softened by the boundary hedge, existing trees and proposed additional tree planting. Such landscaping features and the position of the proposed dwelling, together with its modest scale, simple design and appropriate external facing materials, would ensure that the listed building would remain visually dominant within the plot from Derby Road. Consequently, the proposed dwelling would not compete with the listed building and would not materially affect how it is understood or its historical relationship with Derby Road.
10. The proposed dwelling would face towards Old Derby Road and would be accessed from it using a driveway to the rear of, and away from, the listed building. It would adjoin and be seen as part of the modern estate located close to the rear boundary of the appeal site. In this context the proposed building would not appear as an anomalous or alien addition to the setting of Tollgate House.
11. Overall, I find that the proposed development will not harm the understanding and experience of the listed building. Accordingly, the effect of the development on the setting of Tollgate House, and to its significance would be negligible.
12. In view of the above, I find that the proposal would preserve the setting of Tollgate House, a Grade II listed building. Therefore, the proposal accords with Policies S1, S4, PD1 and PD2 of the Derbyshire Dales Local Plan and Policy AH1 of the Ashbourne Neighbourhood Plan. Such policies, amongst other things, seek to protect the historic environment and ensure that development responds positively to the area's history. In addition, it would satisfy the requirements of

Section 66(1) of the Act and the 'conserving and enhancing the historic environment' section of the Framework.

Conditions

13. The Council and appellant have suggested several conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have made some minor amendments to wording in the interests of clarity and consistency.
14. In addition to the standard time limit condition, limiting the lifespan of the planning permission, I have also, in the interests of certainty and best practice, attached conditions specifying that the development is carried out in accordance with approved plans.
15. For highway safety reasons, I have imposed a condition relating to construction operations on site, to ensure the provision of suitable space within the site for storage, deliveries and parking.
16. Conditions requiring agreement to the hard and soft landscaping and external materials are necessary to preserve the setting of the listed building. For the same reason, I have also included a condition requiring that the development is carried out in accordance with the Arboricultural Impact Assessment to ensure tree protection measures are implemented.
17. A condition which ensures climate change measures are incorporated into the development is required in line with development plan policy and the government's objective of mitigating and adapting to climate change. Also, in the interests of nature conservation, a condition securing biodiversity enhancement measures is required. For the same reason it is necessary to include a condition to control vegetation clearance during the nesting season.
18. The removal of permitted development rights should only be used in exceptional circumstances. In this instance, however, the justification to protect the setting of the listed building comprises an exceptional circumstance which supports the removal of certain permitted development rights regarding external alterations, extensions and development within the curtilage of the dwelling.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following plans: 3124 – 101A Revision A Site Location Plan; 3124 – 103B Revision B Site Plan As Proposed; 3124 – 104 site sections as existing and proposed; 3124 – 105B Revision B Floor plans and elevations as proposed; 3124 – 107 Visuals of the proposal; and 3124 – 108 Visuals of the proposal in Context.
- 3) Before any other operations are commenced (excluding demolition/site clearance), space shall be laid out and constructed within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, in accordance with detailed designs to be submitted in advance to the local planning authority for written approval, and thereafter maintained throughout the contract period in accordance with the approved designs, free from any impediment to its designated use.
- 4) Notwithstanding the details on the approved plans, prior to the commencement of any building works above foundation level, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority, the details of which shall include:
 - a) all plant species, planting sizes, planting densities, the number of each species to be planted, and plant protection measures;
 - b) grass seed mixes and sowing rates;
 - c) finished site levels and contours;
 - d) gates, walls, fences and other means of enclosure; and
 - e) hard surfacing materials.
- 5) All soft landscaping comprised in the approved landscaping details shall be carried out in the first planting and seeding season following the first occupation of the dwelling or the completion of the development, whichever is sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the first occupation of any part of the development or in accordance with a programme first agreed in writing with the local planning authority.
- 6) Samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the local planning authority before the commencement of building works above foundation level. The development shall thereafter be constructed in accordance with the approved materials.

- 7) Prior to the commencement of building works above foundation level, details of measures to mitigate the effects of and adapt to climate change at the site and an associated timetable for delivery of the measures shall be submitted to and approved in writing by the local planning authority. The measures shall thereafter be carried out in accordance with the approved details.
- 8) Prior to the commencement of building works above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the local planning authority. The Plan shall show positions, specifications and the numbers of the features, which shall include (but not limited to) the following:
- 2x integrated universal nest bricks.
 - 1x integrated bat box or 2x tree-mounted bat boxes.
 - 1x bee brick.
 - Fencing gaps 130mm by 130mm to maintain connectivity for hedgehogs.
 - A summary of ecologically beneficial landscaping, including replacement tree planting.

The development shall not be carried out other than in accordance with the approved Biodiversity Enhancement Plan and the approved features shall be maintained throughout the lifetime of the development.

- 9) No vegetation clearance shall take place between 1 March and 31 August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. Nest boxes shall also be removed outside of this period or be checked for use before moving. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken with the exclusion zones whilst nesting birds are present.
- 10) The development hereby permitted shall not be carried out other than in complete accordance with section 5 and section 6 of the submitted Arboricultural Impact Assessment ref JC/307/221207 dated 7 December 2022.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no external alterations or additions shall be made to the dwelling hereby approved and no buildings, extensions, hardstanding, gates, fences or walls (other than those expressly authorised by this permission) shall be erected on the site without an application for planning permission having first been made and approved in writing by the local planning authority.