

Clerk's report Planning meeting 22nd November 2021

Recent applications

Application Number	Description	Location	Deadline for comments
P/2021/01095	Erection of a single storey rear extension to existing flat	8 Bridge Street Tutbury Staffordshire DE13 9LZ	29-11-2021
P/2021/01388	Overall crown reduction by up to 30% of 2 Common Beech trees, removal of ivy of 1 Common Ash tree, crown reduction in height by up to 30% of 1 Sycamore tree, crown lift by up to 3 metres of 1 Whitebeam tree, removal of 1 Conifer tree and 1 Elder tree, reduce overhanging branches of 1 Common Cherry tree, 1 Robinia Pseudoacici tree and 1 Common Oak tree	10 Church Street Tutbury DE13 9JE	28-11-2021
P/2021/01384	Erection of a first floor rear extension tree	6 Cornmill Lane Tutbury DE13 9HA	02-12-2021
P/2021/01390	Conversion and alterations of existing garage to form an annexe ancillary to the main dwellinghouse	11 Duke Street Tutbury Staffordshire DE13 9NE	10-12-2021
P/2021/01391	Listed consent Conversion and alterations of existing garage to form an annexe ancillary to the main dwellinghouse	11 Duke Street Tutbury Staffordshire DE13 9NE	10-12-2021
P/2021/01345	Installation of dropped kerb and creation of parking area	Rosemary Cottage 2 Park Lane Tutbury Staffordshire DE13 9JQ	12-12-2021

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12 November 2021

Clerk to Parish Councils of
Abbots Bromley, Tutbury, Rocester and Rolleston

Dear all

Conservation Areas

For some time, Barton Parish Council's Planning Committee has been concerned about decisions made by the Borough Council in determining planning applications in the Conservation Area. We recently took up the invitation from Cllr Allen who is the Borough Council's Deputy Leader for Regeneration and Planning Policy to talk to him about various issues. We raised these conservation area issues with him. Whilst he listened, we did not feel that we either received a helpful response or indeed any desire to investigate further. As a result of that rather less than enthusiastic response, we decided that we had better set out our concerns more formally in writing to ESBC.

The thought occurred to us that if we are having concerns about issues in the conservation area, then other Parishes may also be experiencing something similar. Before we write to ESBC, we thought it would be useful to contact your Parish Council to ascertain your views and experiences. If there is some form of consensus of opinions, then we would hope that a collaborative approach to ESBC might carry greater weight. We are concerned about both the fabric and the quality of the conservation area as well as questioning how planning decisions are derived. Some context for our concerns is perhaps required.

Background – Conservation Area Quality and Appraisals

In 2009 English Heritage (now Historic England), undertook the first major survey of

Conservation Areas in the country. It found that the main threats to conservation areas were :-

- *plastic windows and doors;*
- *poorly maintained roads and pavements;*
- *street clutter;*
- *loss of front garden walls, fences and hedges;*
- *unsightly satellite dishes;*
- *effects of traffic calming and management;*
- *alterations to the fronts, roofs and chimneys of buildings;*
- *unsympathetic extensions; - impact of advertisements; and - neglected green spaces.*

English Heritage put forward three main recommendations to tackling this gradual deterioration of the fabric of conservation areas. They wanted:-

- (1) councils to make use of Article 4 Directions to protect small but important details such as windows and doors and front gardens. English Heritage felt that if you lose these then you lose the character and history that made the area special. (For those who are unfamiliar with this term, we explain what Article 4 Directions are in more detail below);***
- (2) council departments to work together to take better care of public areas. Counties and Districts needed to work together to save public areas from further decay;***
- (3) local people to get involved. The survey showed that conservation areas with community support are more than twice as likely to have improved than those without. The survey also showed that people felt that original features added value to a property and that a well-kept conservation area enhanced house prices.***

With ten years or so of austerity and cutbacks to local authority funding, we can only have sympathy for local authorities but, as a consequence, we can only believe that the quality of conservation areas has deteriorated further. ESBC has also been hit by cutbacks in resources in terms of staffing levels in the planning department. We understand, for example, that they have the services of a Conservation Officer for only a day or so a week. This probably provides enough time to respond to appropriate planning applications and but no time for proactive work.

As you may be aware, local authorities have a duty, from time to time, to undertake an appraisal of their conservation areas. Barton's Appraisal was completed in February 2009, but we notice others were undertaken in 2015. Looking on ESBC's website we note that

Rolleston's dates back to 2007, so that time might be coming around to review some if not all of these Appraisals. An appraisal provides an assessment of the quality of the area and identifies local styles and details and, if you like identifies, the good, the bad and the ugly. But it only tells you half the story because the next follow-up stage should be a Management

Plan setting out what you can do to address the problems and issues identified in the Appraisal. The preparation of such proposals for the preservation and enhancement of the conservation area is also a duty on the local authority. As far as we are aware, there have been no Management Plans prepared in East Staffordshire.

For those who are not familiar with the term, an Article 4(1) Direction of the General Development Order can be applied to non-listed buildings to restrict their permitted development rights. A similar Article 4(2) Direction can be applied to dwelling houses.

The Government has moved the goalposts for designating Article 4 Directions in the National Planning Policy Framework July 2021. Para. 53 states that, "**..... they should be limited to situations where..... it is necessary to protect local amenity or the well-being of the area. In all cases, it must be based on robust evidence and apply to the smallest geographical area possible**". This makes making an Article 4 Direction more difficult but, we would suggest, not impossible provided there is good justification. We find it quite strange that more than 10 years ago, English Heritage, the body tasked with promoting the well-being of historic England, was positively endorsing and encouraging the use of Article 4 Directions as a means of addressing the decline in the fabric of conservation areas and yet the present Government is making designation more difficult. We have to ponder, therefore, how conservation areas are to be improved if there is no funding and a recommended means of protecting the fabric and preventing decline is being made difficult to implement.

Planning Decisions

What has really prompted this letter is our lack of comprehension at some of the decisions which ESBC has made and how they relate to the need to preserve and enhance the conservation area.

Case Studies - Plastic vs Wooden windows and doors

A pub in the village had replaced ground floor frontage elevation wooden windows with plastic ones. It submitted a retrospective application. This application also included the replacement of five other wooden windows with

plastic including the first floor. The pub is in a prominent location at a mini roundabout in the village. We objected on the grounds that approval would be contrary to other decisions made nearby where wooden frames had been required. We also felt that the replacement plastic frames were not in keeping with the appearance of the building.

The Conservation Officer's comments stated that. *"The replacement of the first-floor windows in addition to the ground floor windows would result in a more holistic replacement and secures consistency, removing the easy opportunity to compare new and old directly and alongside each other"*. As a result of these comments the Case Officer's report stated, *"This application seeks to retain the replacement windows and replace the other windows to provide some consistency in design on the front and side elevations of the building which is visible from public vantage points within the conservation area and from nearby listed buildings. The proposal is therefore considered to preserve the character of the conservation area and the setting of nearby listed buildings"*.

We remain at a loss to understand the logic of this decision. We had always assumed that, in conservation areas, wooden windows and doors would always be preferred to plastic and that this preference would be supported by Conservation Officers. But here we have a case where the desire for consistency overrules the quality of the conservation area. If consistency was the main criterion then why could not all windows be wood, when as in this case the opportunity was available to achieve this?

In another case, consistency did not appear to be of concern. Planning approval was given for the conversion of a ground floor shop to residential use. This involved the installation of a substantial plastic window in the front elevation which was more or less a straight replacement for the shop window. Subsequently the applicants replaced the front doors with upvc versions. From the information supplied by the applicants it seems that ESBC requested that a retrospective planning application be made but with wooden rather than plastic doors and this was approved.

Why was a wooden door required when a very prominent plastic frontage window was deemed acceptable? Ironically, the applicant's Heritage Statement noted that new hardwood doors will respond to the sensitive design requirements of the Conservation Area and that, *"..... traditional materials such as wood would create a great addition to the street scene"*. ESBC's decision to allow a plastic window doesn't make sense to us. It clearly goes against the English Heritage survey which viewed the installation of plastic rather than wood as a reflection of the deterioration of conservation area quality.

Historic England's guide, 'Traditional Windows, their care, repair and upgrading, 2017', stated that, *"Replacement plastic windows pose one of the greatest threats to the heritage value of historic areas, particularly in towns and villages.....The*

different appearance in character of PVC-u windows compared to historic windows is highly likely to make them unsuitable for older buildings, particularly listed buildings or in conservation areas". This exhortation would seem to indicate that there is, at least, an obligation to try and maintain, repair and replace wooden windows. Against this guidance, we are still at a loss to understand why the desire for consistency should overrule quality.

As we understand it the planning position is that you do not need planning permission to change your windows in a conservation area if you live in a single dwelling house, as this is part of your permitted development rights. If you live in a flat or above a shop, or other commercial premise then you do need permission. Permission for replacement windows in a listed building is always required. The effect of an Article 4 Direction takes away permitted development rights meaning that if you want to replace wood with plastic you would be required to apply for permission.

Case Study – rear extensions in conservation areas

We recently commented on a planning application for a rear extension for a property in Main Street in the heart of the conservation area. The property, although not listed, made a major contribution to the character of this part of Main Street. The existing rear elevation has the feel of a cottage with a pitched roof extension and a stable door. The rear windows are small and confirmed this cottage feel. What was proposed and now approved was a full width single storey flat roof extension in a contemporary style with black aluminium framed windows and patio doors. In its favour the materials to be used were reclaimed bricks. We objected to the proposal as we felt that a flat roof extension, using contemporary aluminium rather than wood, was out of character and as a consequence contrary to Policies SP 24, SP 25 and DP 6. The applicants also made no reference to the ESBC Design Guide. We also asked that the proposal be referred to the Design Review Panel as permitted under Policy SP 24, but this request was ignored.

The applicants, in their Heritage Statement, made the argument that as the rear extension was not visible from the public realm then the proposals will preserve the character and appearance of the conservation area. The Planning Officer's report endorsed this approach,

"The ESBC Conservation Officer has raised no objections to the proposal conclude that the proposal would have no perceivable impact upon the special character and appearance of the conservation area due to it not being visible within the public realm. Additionally the proposal is considered to preserve the special significant of nearby buildings. The proposals are therefore considered to have no impact on the significance of heritage assets (sic)"

There are a number of issues here. We have read a several of these case officer reports where the implication is that if you cannot see an extension then it doesn't really matter. We find this approach both worrying and difficult to understand. As far as we are aware, the conservation area relates to an area. Whilst in most cases the boundary is drawn fairly tightly, it does include property curtilages and not just frontages. We further understand that Local Plan Policies SP 25 Historic Environment and DP 6 Protecting the Historic Environment refer to the need to protect, conserve and enhance heritage assets which surely means the conservation area as a whole. We can find no reference in these policies that the frontage of the buildings, only, should be protected and that rear extensions are of no consequence in protecting, conserving and enhancing the conservation area. Similarly, there is no reference in the planning policies about proposals being acceptable if they cannot be seen from the public realm. There is certainly no reference to this criterion in the National Planning Policy Framework July 2021. We are, therefore, at a loss to understand where this use of the public realm comes from.

In an earlier discussion with a Planning Manager we were informed that case law had established that 'preserving' meant doing no harm. In this instance we felt that harm had been done because of the inappropriate design. But be that as it may, the local plan policies seek to do more than just preserve. They also aim to 'protect' and 'enhance'. Enhancing to our minds means making something better. In this case we could not see how demolishing a pitch roof and replacing it with a flat roof extension could improve and enhance. It just seems that ESBC places greater emphasis on the negative aspect of doing no harm rather than a proposal having to make a positive contribution.

Case Study – Demolition

A part of the comprehensive redevelopment of the rear of a property fronting Main Street involved the demolition of what was an old former small cottage, which was admittedly in a sorry state. Policy DP 5 allows for demolition in conservation areas but only where it can be demonstrated that it would protect and enhance the character and appearance and setting of the conservation area. The proposal consisted of a more contemporary design with an abundance of glass. What worried the Parish Council in this case was that ESBC made no attempt to assess whether the building could have been saved, regenerated and incorporated as part of the proposal. Instead the officer's report stated that, "***It is not considered that this building is an important heritage asset and indeed its dilapidated nature detracts somewhat from the overall character of the conservation area.....***". Of course, the dilapidated nature affected the character, but no one seemed to be putting forward the case for protecting and enhancing. We felt that, again, this just demonstrated a lack of concern for the quality and fabric of the conservation area.

We apologise for the length of this letter but felt that it was necessary if we were to explain not just the context of our concerns but also the detail in terms of the case studies we referred to.

We would very much appreciate your thoughts and comments and, perhaps, you would be kind enough to inform us about your experience.

Do you feel there has been a noticeable decline in the quality of your conservation area?

If so, then what would you attribute that to?

Do you, for example, recognise the issues raised in the EH Survey of 2009?

Do you feel that applicants take account of the Appraisal?

Would the preparation of a Management Plan be helpful?

Do think that there is a role for Article 4 Directions?

Do you, generally, favour wood rather than plastic doors and windows?

Have you had similar concerns to ours regarding the attitude of ESBC to extensions that can't be seen?

In order to provide evidence to support this letter it would be very helpful if you could provide us with your own case studies

or any concerns or indeed similar examples.

Please let us know the planning application references and the reasons behind your objections accordingly so that we can read the details and the Case Officer Reports.

We would then aim to include them in a collaborative letter to ESBC with your endorsement.

It is our intention to write to ESBC along the lines we have set out in this letter. Please **let us know if you would be happy to support this approach** and we can then decide, from a practical point of view, on how we can best make a submission to ESBC.

If you do not really have any concerns about the conservation area, then thank your time in reading thus far. Perhaps you could let us know your reasoning?

We are sending this letter to the four main villages in the Borough, rather than to all parishes with a conservation area. This is purely from a pragmatic point of view as we would wish to make a submission in a timely manner. We would,

therefore, be very grateful for your early consideration and response to this letter. You may also recall that these parishes undertook some collaborative work during the preparation of the Local Plan. It might also be helpful, for future reference, to exchange contact details of Chairs of Planning Committees.

Yours faithfully

I Gilbey

Cllr Ian Gilbey Chairman Planning Committee Barton Under Needwood Parish Council