
Appeal Decision

Site visit made on 6 September 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 23 September 2016

Appeal Ref: APP/W0340/16/3151538

The Rectory, 17 Church Gate, Thatcham, West Berkshire RG19 3PN

- 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 David Mason, Oxford Diocesan Board of Finance against the decision of West Berkshire Council.
 - The application Ref 15/02052/FULD, dated 27 July 2015, was refused by notice dated 2 December 2015.
 - The development proposed is demolition of existing house and garages. Erection of 2 No dwellings and garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the appeal property was previously the Rectory for the nearby church, it is no longer the residence of the incumbent. Notwithstanding the nomenclature on the drawings it is not proposed that the more northerly of the two proposed dwellings would be occupied by the incumbent if permission were granted.
3. Amended plans were submitted during the consideration of the application by the Council that amended the access, parking and garage location of the proposed northern dwelling to address concerns raised by the Highway Authority. These were the drawings upon which the Council made its decision and I too will use them.
4. At the appeal stage a local resident pointed out that one of the notes on the proposed Site Plan, which indicated that there were no windows on the side elevation of an adjoining property, shown as Church Gate House¹, facing the appeal site, was incorrect. I saw these windows at the site visit. The appellant submitted a revised plan deleting this note. However as this drawing does not affect the proposed development and consultation on the plan was limited I am not going to base my decision on this revised drawing.

¹ This has been divided into two properties: Old Vicarage East and Old Vicarage West

Main Issues

5. The main issues are:

- whether the proposal would preserve or enhance the character or appearance of the Thatcham Conservation Area;
- the effect on the living conditions of the occupiers of adjoining properties, in particular 4 Rectory Gardens, in terms of light, outlook, privacy and noise and disturbance.

Reasons

Thatcham Conservation Area

6. The appeal site lies on the south side of Church Gate a short distance to the southwest of the main town centre. The northern approximately three-quarters of the appeal site lies within the Thatcham Conservation Area (TCA), which includes the town centre, and within an outlier of more historic development. The appeal site lies in the centre of this outlier along Church Gate.
7. The National Planning Policy Framework (the Framework) defines "significance" as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
8. The Council published in 2006 a 'Quality Design' Supplementary Planning Document (the SPD) which sets out various Character Areas. The appeal site lies in a character area which includes land to the south of the church both within and outside the TCA. I note that parts of this area outside the TCA, that is the Church Close, Steeple View, Rectory Gardens and Church Gate developments², have been redeveloped since the base plans in the SPD were surveyed.
9. Within the TCA on the south side of Church Gate there are a number of substantial properties which are set back from the road, although further to the west of the appeal site there is development close to the highway. Both The Grange³ and Church Gate House, on either side of the appeal site, are listed buildings. Within the TCA the low density of development continues and I would agree with the appellant that this part of the TCA retains a general feeling of loose knit development set in a vegetated environment with mature trees in Lower Way/Church Gate, particularly on the south side of the road⁴.
10. The appellant argues that the pattern of development in the area consists of two rows development, one fronting the highway and a second behind. However, it seems to me that this is not the case. Historically, as can be seen in the map in the SPD, the main buildings were set back from the road, with little closer to Church Gate.

² As described by the Appellant in their Appendix 7

³ Noted as "The Garage" on the site plan

⁴ Paragraph 5.7 of the Planning, Heritage, Design & Access Statement

11. The existing property on site is therefore out of keeping with the historic form of development in the area. However, it fits within the street scene, albeit that it extends across almost the whole width of the appeal site and lacks the sense of space at the front of the site adjacent to the road which is characteristic of this part the TCA. However, it is within a well vegetated environment, principally formed by trees outside the appeal site.
12. The proposal would locate two dwellings behind one another, with both buildings being of similar size. Due to the need to create an access to the property to the rear the sense of space around the front property would increase thus enhancing the appearance of the TCA. The vegetated environment adjacent to the appeal site would remain. However, by bringing the main front elevation closer to the road would increase the effect of development on the street scene and thereby harm the appearance of the TCA. I consider this enhancement and harm balance out each other.
13. Creating two properties of similar size would not be in character with the TCA. As set out above, within this part of the TCA the prevailing character is of single, larger, properties within the depth of the site; other development is of a smaller and ancillary scale to that main development. I appreciate that there are larger buildings close to the highway to the west, but they display their previous agricultural character rather than the domestic character of dwellings. I therefore conclude that the proposal would result in harm to the character and appearance of the TCA.
14. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Listed Buildings Act) indicates that special attention shall be paid to the desirability of preserving the character or appearance of the Conservation Area. However, in terms of the Framework this would represent less than substantial harm to the TCA.
15. Under paragraph 134 of the Framework, where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, such as the TCA, this harm should be weighed against the public benefits of the proposal. I will come back to this in the Planning Balance part of this decision.
16. The Council has referred to a number of policies in its decision notice which it considers the proposal contravenes. Policy ADPP1 of the West Berkshire Core Strategy 2006-2026 (the WBCS) sets out the spatial strategy. This indicates that development will take place within settlements, such as Thatcham, and will be the focus of development. In that strategic context the provision of an additional dwelling in this location would be in scale and density appropriate to the current accessibility, character and surroundings of the site. The proposal would therefore comply with this policy. There would also be general compliance with Policy ADPP3 of the WBCS which allows for development within the town. However, the proposal would be contrary to that part of Policy ADPP3 in that it would not respect the historic environment of the town.
17. Overall the proposal would be out of keeping with the character and appearance of the TCA. It would therefore be contrary to Policies ADPP3, CS14 and CS19 of the WBCS in that it would not respect the historic environment of the town nor conserve or enhance the historic asset of West Berkshire, and would not be appropriate in terms of location in the context of the existing settlement form, pattern and character. It would also be contrary to

Policy HSG1 of the West Berkshire Local Plan Saved Policies 2007 (the WBLP) in that it would not have regard to the special amenity features which give character to the site and surrounding area. It would also be contrary to paragraph 131 of the Framework in that it would not make a positive contribution to local character and significance.

Living conditions

18. The Council and local residents concerns relate predominantly to the effect of the proposed property within the centre of the appeal site (the rear property) and I will therefore concentrate my consideration on what would be the effects of that property.
19. To the rear of the appeal site, at a lower level by approximately 1m, lies 4 Rectory Gardens. The proposed rear property and No 4 would be at an angle one to another. There are also properties to the west, The Grange, and east, Old Vicarage West. The rear garden of No 4 is triangular and due to the change of level within the garden seems enclosed. Currently, there is some vegetation within the appeal site, although the southern end of the appeal site has recently been cleared. This southern end of the appeal site lies outside the TCA which means that the trees within this area do not have the protection that they would have had if they had been in the TCA.
20. Because the proposed property is to the north of No 4 there would be no loss of sunlight and there would be sufficient separation between the buildings to ensure that there was no material loss of daylight and that the development would not give rise to an overbearing effect. Although noise levels from those living in the proposed rear property may be increased from current levels the proposal is for a normal dwelling and I am satisfied that this would not give rise to such levels that the living conditions of adjoining properties would be harmed. I am also satisfied that the use of the access to the rear property would not give rise to unacceptable noise and disturbance of the occupiers of the properties to the east of the appeal site or the proposed front dwelling.
21. Within an urban area such as this there will always be a degree of overlooking between properties but in order to protect the living conditions of occupiers this overlooking should not be direct at close distance, and if there is a change of level the separation distance should increase as it is possible to look over intervening fences more easily. The SPD indicates a 'back to back' distance of 21m is required to ensure a reasonable level of privacy in most cases.
22. The intervening fencing along the southern boundary with No 4 is approximately 1.8m high when viewed from within the rear garden of No 4. This would ensure that there would be no unacceptable overlooking from ground floor windows. The proposed rear property would have three bedroom windows and a window to the staircase in the rear elevation. The windows to one bedroom and the staircase would be further from the rear boundary due to the design of the proposed property.
23. Although landscaping could be introduced into the rear garden of the proposed rear property this would fall outside the TCA and it would be inappropriate to require a resident to maintain landscaping in their private rear garden. Due to the change of levels, the enclosed and small size of the rear garden of No 4 and the general greater separation of properties in this area my view is that

the 'back to back' distance should be increased above the 21m set out in the SPD. However, having looked at the appeal site from within the first floor room of No 4, and noting the angle between the two properties, there would be, on balance, sufficient separation not to result in an unacceptable loss of privacy.

24. The windows in the front elevation of the rear property would be located away from Old Vicarage West and approximately level with centre of the western elevation of that property. Consequently any overlooking would be at an oblique angle and I am satisfied that the proposal would not lead to an unacceptable loss of privacy.
25. In relation to The Grange, while there would be some overlooking from the window to the master bedroom of the rear proposed property, the separation distance is such that this would not give rise to an unacceptable level of overlooking.
26. Again the Council have referred to a number of policies which it considers the proposal contravenes. In looking carefully at Policies ADPP1, ADPP3, CS14 and CS19 of the WBCS these do not appear to have any relevance in respect of the effect of development on the living conditions of occupiers of property.
27. However, the proposed development would not have an unacceptable effect on the living conditions of the occupiers of adjoining properties. As such the proposal would comply with Policy HSG1 of the WBLP in that it ensures that infill development does not materially damage the amenity of an established residential area. It would also comply with paragraph 17 of the Framework which seeks a good standard of amenity for all existing and future occupiers of land and buildings.

Other matters

28. As noted above there are Listed Buildings adjoining the appeal site. As such, in line with Section 66(1) of the Listed Buildings Act, special regard shall be given to the desirability of preserving the setting of a listed building. In my view there is sufficient separation to those properties, each within their own discrete curtilages, so that there would be no effect on the setting of those properties as listed buildings. Therefore their settings would be preserved.
29. A local resident has referred to the Human Rights Act which ensures that every person is entitled to the peaceful enjoyment of his home, family life and possessions. However, these rights are qualified in that interference may be justified in the public interest. In this case I have found that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 4 Rectory Gardens. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under the Act.

Planning Balance

30. Paragraphs 6, 7 and 8 of the Framework indicate that the purpose of the planning system is to contribute to the achievement of sustainable development which has three roles, economic, social and environmental, which are mutually interdependent.
31. In this case the erection of an additional dwelling in an accessible location close to Thatcham town centre would have economic and social benefits, including

financial benefits to the area. However, while the proposed development would have elements of environmental benefit through the inclusion of renewable technologies for energy, these are internal benefits to the scheme. Set against this is the environmental harm to the TCA to which special attention should be given, and in my view this harm would outweigh the other benefits. Consequently the proposal would not represent sustainable development.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR