
Appeal Decision

Site visit made on 4 January 2017

by J J Evans BA Hons MA MRTPI

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

Decision date: 27 January 2017

Appeal Ref: APP/P1615/W/16/3160189

Land adjoining The Knapp, Knapp Lane, Alvington, Lydney, Glos GL15 6BJ

- 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 Mitchell & Son Homes Ltd against the decision of Forest of Dean District Council.
 - The application Ref P0242/16/FUL, dated 22 February 2016, was refused by notice dated 5 August 2016.
 - The development proposed is described as "the erection of two detached dwellings, car ports and ancillary works (resubmission with amended details)".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The northern boundary of the appeal site is the boundary of the Alvington Conservation Area and The Old Parsonage is a grade II listed building. As required by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.

Main Issues

3. The main issues are *firstly*, the effect of the proposal on the living conditions of the occupiers of nearby properties and that of future residents having particular regard to overlooking and external amenity space; and *secondly*, the effect of the proposal on the character and appearance of the area, having particular regard to the setting of The Old Parsonage and whether the development would preserve or enhance the character or appearance of the conservation area.

Reasons

Living Conditions

4. The appeal site is a long rectangular shaped plot of land that rises up from Knapp Lane. There is an existing steep access from the lane that is shared by the occupiers of The Knapp. This house is positioned within a generous garden and is one of the row of detached properties to the south of the appeal property.
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5. The proposed dwellings would be accessed from a long drive that would be positioned close to the southern boundary of the site. Although the dwellings would be single storey, they would have rooms in the roof, lit by rooflights. Future occupiers of House 01 would have a view into the side garden of The Knapp.
6. The separation between the two dwellings would be well over the minimum opposing distance of 21m cited as a guide in the Council's Residential Design Guide (1998) (RDG). The RDG is of some age, but it has been adopted by the Council and provides guidance with regard to living conditions. There would be some loss of privacy to part of the garden of The Knapp, but the houses would be sufficiently distant from each other so that existing and future occupiers would not experience unacceptable overlooking.
7. As regards the impact of the proposal on other nearby properties along Knapp Lane, the distance between the existing and proposed dwellings would be sufficient to prevent harmful overlooking, even from the rooflights. The mature landscaping to the northern boundary cannot be relied on to permanently protect living conditions, and there would be some overlooking of part of the garden of The Old Parsonage. However, the separation of the proposed houses, combined with The Old Parsonage being at a lower level, would prevent harmful overlooking between the dwellings.
8. Thus there would be some overlooking of part of the neighbouring gardens, but this would not significantly harm the living conditions of existing residents. Policies CSP.1 and CSP.4 of the Forest of Dean District Council Core Strategy (2012) (CS) have been referred to by the Council, but these do not directly deal with residential amenity. Nevertheless, for the reasons given the proposal would be the good standard of amenity for all existing and future occupants of land and buildings required by the National Planning Policy Framework (the Framework).
9. The Council are also concerned that the future occupiers of House 01 would not have sufficient private amenity space. The appellant has pointed out that the proposed dwelling would have a garden area much bigger than the requirements of the RDG. Future occupiers of House 01 would not have a deep rear garden, but the side gardens would be more generous and capable of serving day-to-day requirements. I accept the proposed hedge planting would take some time to mature, but the elevated nature of the eastern garden would be more secluded, and thus the proposal would provide adequate private amenity space, thereby according with the Framework.

Character and Appearance

10. The boundary of the Alvington Conservation Area is the northern edge of the appeal site, and a key feature of the character and appearance of this designated heritage asset is the large areas of open space within it. Several of the properties in the village have deep rear gardens, and I note from the Alvington Character Appraisal (2007) that these gardens were possibly long home closes. These not only reflect the historic nature and development of the village, but the high proportion of open space gives a verdant rural atmosphere to the area that is a distinctive element of its significance. The Old Parsonage and the appeal site make a positive contribution to this character.

11. The tandem layout of the proposed houses would be very different to the historic pattern of development of the village. Even though the proposed houses have been reduced in height and one orientated to flank the access road to address the matters raised in a recent appeal decision (ref: APP/P1615/W/16/3144171), their cul-de-sac layout and absence of active frontage with the public road network would be at harmful odds with the nearby pattern of development. The associated residential paraphernalia, including boundary fences, and the dominance of the long straight access would exaggerate this harm, and erode the suburban nature of the area. The siting of the dwellings would be contrary to the much repeated positioning of dwellings facing the main road or lanes with deep rear gardens.
12. Part of the special interest of The Old Parsonage is not only its former function and its decorative form, but its relationship with the village, and the consequential contribution that it makes to the character and appearance of the conservation area. Whilst intervisibility between the appeal site and this property is partly obscured by a mature hedge and trees, landscaping cannot be relied upon to provide permanent screening mitigation. Moreover, the requirements of the Act apply in all instances and not just where publically visible or prominent. The proposal would unacceptably erode the suburban setting of The Old Parsonage and the significance of the conservation area.
13. I share the concerns of the Council as regards the level of information provided to protect trees and hedges that may be affected by the proposal, particularly those within the conservation area, as these contribute towards its verdant nature. A revised Arboricultural Constraints Report was provided for the appeal, and also an updated Heritage Impact Assessment. The appeal process should not be used to evolve a scheme. It is important that the facts before me are essentially those considered by the Council and other parties. Whilst the Council have had an opportunity to comment on the provision of the additional and revised information, others have not. In the interests of openness and fairness the proper course of action would be to make a further application to ensure all interested parties were aware of all the relevant information.
14. The appellant has drawn my attention to the nearby Duncastle Farm development, but this is a very different scheme and does not form a direct comparison. Notwithstanding this, each application and appeal must be treated on its individual merits, in accordance with the requirements of the current development plan and all other material considerations, as I have undertaken in this instance.
15. The appellant has questioned both the boundary of the conservation area and the validity of the listing of The Old Parsonage. Be that as it may, as made clear by the previous Inspector, the function of an appeal decision is not to assess the merits of the listing. Nor is it to challenge the boundaries of a conservation area.
16. The Framework requires that where a proposal would be less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal. In this case the impact of the proposal relative to that of the designated heritage assets would be less than substantial harm. The Council cannot demonstrate a five year housing land supply, and as such policies for the supply of housing cannot be considered up-

to-date with regard to paragraph 49 of the Framework. Even having regard to the presumption in favour of sustainable development I have found adverse environmental impacts that would significantly and demonstrably outweigh the modest public benefits of an additional two dwellings.

17. Thus the proposed dwellings would unacceptably harm the character and appearance of the area, the significance of the conservation area and the setting of a listed building. It would fail to accord with CS Policy CSP.1 that requires new development amongst other things to take into account important characteristics of the environment and conserve, preserve or respect them, thereby reflecting the Framework.

Other Matters

18. The Council have referred to policies within an emerging development plan, the Allocations Plan (2016). However, I note the plan has not yet been adopted, and this therefore limits the weight I can afford these policies.
19. Local residents have raised concern as regards the inaccuracies of the application proposal, particularly boundaries. Concerns of land ownership and associated rights, including access and the removal of hedges, would be a matter for the relevant parties to address and have had no bearing on my decision.
20. I have also had regard to the concerns of local residents concerning drainage and flooding problems, that the proposed access would be inadequate, and that future occupiers of the scheme would increase traffic levels on an already busy road. However, there is an existing access to the site and in the absence of any technical substantiation to support the concerns of the residents, and noting the lack of objection from the Council and the water and drainage consultees, I have no evidence before me that there would be an unacceptable impact on highway safety within the area or that flooding and drainage problems would be significantly exacerbated.
21. When taken either together or separately, none of these other matters would outweigh the harm I have found with respect to the impact of the proposal on the character and appearance of the area.

Conclusion

22. The effect of the proposal on the living conditions of the occupiers of nearby residents and that of future occupiers would not be unduly detrimental. However, the proposal would significantly harm the character and appearance of the area, the setting of a listed building and the significance of a conservation area. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR