The Planning Inspectorate

Appeal Decision

Site visit made on 23 February 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/Y3940/W/16/3164330
Besants Garage, Main Road, Christian Malford SN15 4AZ

- 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 N Besant against the decision of Wiltshire Council.
- The application Ref 16/06342/FUL, dated 23 June 2016, was refused by notice dated 16 November 2016.
- The development proposed is erection of workshop building and stables (revised proposal).

Decision

1. The appeal is allowed and planning permission is granted for erection of workshop building and stables (revised proposal) at Besants Garage, Main Road, Christian Malford SN15 4AZ in accordance with the terms of the application, Ref 16/06342/FUL, dated 23 June 2016, subject to the conditions in the attached annex.

Application for costs

2. An application for costs was made by Mr N Besant against Wiltshire Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposed development on:

   i) the character and setting of the adjacent undesignated heritage asset, No 40 Main Road;

   ii) the living conditions of the occupiers of the neighbouring property, No 40 Main Road, in respect of outlook.

Reasons

Background

4. The development has been significantly implemented but part of the west wing nearest to No 40 remains uncompleted as does the proposed timber cladding. The existing building that it would partially replace, immediately adjacent to No 40, and which is proposed to be demolished, remains in place. The proposed stables have also not been implemented

5. Planning permission, Ref N/10/01423/FUL, was previously granted for the erection of a new workshop following the demolition of existing buildings. The

existing building, the subject of this appeal, was then built but not in accordance with the approved plans. The appeal scheme also differs from that previous proposal with the inclusion of the proposed separate detached stables building. Notwithstanding that previous approval, I have determined the appeal scheme on its merits based on all of the evidence submitted and my site visit observations.

Character and setting of the adjacent undesignated heritage asset

6. The late nineteenth century cottage at No 40 has a traditional pitched roof form and design, of modest two storey height built in stone with slate roof. It is set on one side of a large plot, partly abutting the appeal site boundary, and set side on but close to the road. From the appeal site side it is partially seen in the context of the remaining poor quality workshop on the appeal site, abutting the boundary with No 40.

7. The appeal building is noticeably more bulky than No 40, and the west wing once completed would be in fairly close proximity to that adjacent dwelling. The gable end of that element would also have a greater width than that of No 40. However, it would be set well back from the road elevation of No 40 and so back beyond a large part of that dwelling, more so than the building that would be demolished. It would also be set away from the site boundary to some extent and the main, higher and larger, part of the building, as built, is set yet further away. Together with the gable design to the western wing, albeit wider than No 40, the similar height of that element to the adjacent dwelling, and the proposed use of timber cladding, which would be likely to have some degree of softening effect, the development does not, and would not when completed, have a jarring or dominating effect in respect of No 40.

8. The two fairly wide and prominent front vehicle entrances to the building would reflect its commercial nature. The extent of fenestration, whilst giving the building a degree of domesticity in appearance, including the dormers serving the first floor space, is not unreasonable in terms of enabling natural daylight and sunlight into the building for those working in it.

9. The replacement of the existing poor quality, albeit modest sized, workshop building would also in itself be a benefit to the appearance of the site and the setting of the adjacent cottage.

10. For the above reasons, I conclude on this issue that the development as existing and once completed, does and would not cause unacceptable harm to the character and setting of the adjacent undesignated heritage asset, No 40 Main Road. As such, in respect of this issue, it does and would accord with Core Policies 57 and 58 of the Wiltshire Core Strategy (the Core Strategy) which together, amongst other things, require development to have a high standard of design, enhancing local distinctiveness by responding to the value of the historic environment, and to conserve and where possible enhance non-designated heritage assets. It would also accord with paragraph 135 of the National Planning Policy Framework (the Framework) which sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

Living conditions in respect of outlook

11. The wing of the appeal scheme nearest to No 40, once completed would comprise a fairly significant gable end to the building in close proximity to that adjacent property. However, it would be set off the boundary and there are no main habitable room windows of No 40 directly facing that wing. There are rooflight windows in the roof on that side of No 40, however the degree of separation of the proposed wing and its similar height to No 40 would be likely to avoid any dominating sight of the proposal through those windows. Furthermore, habitable room windows on that side towards the road end of No 40 would only afford significantly oblique angle sight of the nearest wing, less so in respect of the main building but still not direct and from a greater distance. Most habitable windows of that dwelling face to the west, away from the site, maintaining existing unaltered outlook in that direction.

12. The proposal is visible from some of the private garden areas of No 40, including part of the large main garden and the small space on the appeal side of that property close to the road. However, again it is, and would be when completed, set off the boundary, more so in respect of the main part of the building. This together with the fairly modest height of the nearest wing would prevent it from being a dominating feature when seen from those spaces. The high degree of openness of No 40's main garden due to its size and otherwise limited surrounding development would further prevent the development from having a harmfully oppressive, overbearing or enclosing effect on residents using that space.

13. For the above reasons, I conclude on this issue that the development, as existing and once completed, does and would not cause unacceptable harm to the living conditions of the occupiers of No 40 in respect of outlook. As such, in respect of this issue, it would accord with Core Policy 57 of the Core Strategy which, amongst other things, requires development to have regard to the impact on the amenities of existing occupants. It would also accord with the Framework which in paragraph 17 states that planning should, amongst other things, always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

14. The proposal would be unlikely to cause any material increase in noise disturbance to neighbouring residents than may have come from the previous lawful workshop and associated land. If anything, the more substantial nature of the appeal building would be likely to reduce noise transmission to a degree. The location next to a busy road would also be likely to lessen the effects of any specific noise transmission from the site. Furthermore, potentially intrusive noise disturbance in the late evening, night and early morning could be controlled by a condition securing appropriate hours of operation. There would also be unlikely to be a significant additional level of light emanating from the site when compared with the previous lawful operation.

15. I have had regard to concerns raised over highway safety, particularly in respect of the access onto the adjacent busy road. In this respect I have also had regard to the previous lawful use of the site as a workshop. I have received no substantive evidence to demonstrate that the appeal development does or would in the future materially increase the comings and goings of vehicular traffic to and from the site. This is also taking account of the

proposed stables building which would only be a small scale development relating to just two private stables and a tack room, unlikely therefore to generate a material increase in traffic to and from the site. Furthermore, I note that there is adequate space on the site for vehicles to be parked as well as to be turned to enable egress in a forward gear and therefore maximising visibility in either direction along the road. Adequate parking for the stables can be secured by condition. The proposal is therefore unlikely to pose any additional risk to highway safety.

Conditions

16. The Council has suggested eleven conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance (PPG) and amended some of the wording and omitted one.

17. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be required.

18. In the interests of the character and appearance of the surrounding area, conditions would be necessary to secure the demolition of the old workshop building to the west of the new building, and to prevent materials and other specified items being stored outside at a greater height than 2 metres. In respect of the first of these, the Council suggests that the demolition should occur prior to three months elapsing from the decision date. I have had regard to the appellant's concern that this would be insufficient time, taking account of the need to first complete the proposed development. In the absence of any clear justification for the particular timescale suggested by the Council, I consider that the six months suggested by the appellant would instead be a reasonable period of time in the circumstances, without excessively prolonging the impact of the old workshop on the character and appearance of the area.

19. A condition is suggested to restrict the use of the workshop to that proposed and for no other purpose. I acknowledge that there has to be clear justification for removing permitted development rights, including in respect of changes of use, and that the PPG advises that such conditions should only be used in exceptional circumstances. I have found the use as set out in the suggested condition to be acceptable in respect of noise and disturbance, especially in light of the previously established lawfulness of such a use at the site. That latter material circumstance would not apply to other potential general industrial uses on the site. Such other uses could have the potential for greater levels of noise transmission. The suggested condition would therefore be necessary and reasonable in the interests of protecting the living conditions of the adjacent residential occupiers.

20. Also in the interests of the living conditions of those neighbouring residents the following conditions would be necessary: a restriction on the hours of operation; prevention/control of any portable buildings, van bodies, trailers, vehicles or other structures on the site for the use of storage, shelter, rest or refreshment, which would also be in the interests of the character and appearance of the surrounding area; and to ensure that any external lighting is installed in accordance with details first submitted for the approval of the Council.

21. In the interests of highway safety the following conditions would be necessary: the provision for a parking space and access for the stables in accordance with details to be submitted for approval; to prevent the stables from being used for anything other than for private use, and not for commercial purposes, also in the interests of the living conditions of neighbouring residents in respect of noise and disturbance.

22. Also in respect of highway safety, the Council has suggested a condition to ensure a consolidated surface to the first ten metres of the field access associated with the proposed stable, to prevent stones from being transmitted to the highway. This relates to suggested condition 6. However, I note that the field boundary and access would be separated from the road access by the existing forecourt relating to the workshop, which would be likely to provide some degree of buffer. It is unclear as to whether the distance from the road access to the field boundary access would be as much as would be required to prevent any migration of stones. Nevertheless, this matter could be dealt with under the condition relating to the submission of parking and access details for the stables. I have therefore omitted the suggested condition 6.

23. For reasons of public health and safety, to protect the natural environment and prevent pollution, it would be necessary to control how and where manure and soiled bedding associated with the stables would be stored.

Conclusion

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

Andrew Dawe

INSPECTOR

ANNEX – Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Plan Dwg No.2/A, Plan View (Revised 11/8/2016), First Floor (revised 11/8/16), North Elevation, East Elevation, South Elevation, West Elevation, Suggested Stable Layout.

2. Prior to the date six months from this decision, the earlier workshop building situated immediately west of the building hereby permitted shall be permanently demolished and all of the demolition materials and debris resulting there from shall have been removed from the site.

3. The premises shall be used for motor vehicle repairs, restoration and maintenance and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

4. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored above a height of 2 metres above the existing ground level outside any building on the site.

5. The use hereby permitted shall only take place between the hours of 0900 and 1900 from Mondays to Saturdays and between 1000 and 1800 on Sundays. The use shall not take place at any time on Bank or Public Holidays.

6. The equestrian development hereby permitted shall not be first brought into use until sufficient space for the parking of one vehicle together with a vehicular access thereto has been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The said space shall not be used other than for the parking of vehicles or for the purpose of access to the stables.

7. The equestrian element of the development hereby permitted shall not be brought into use until details of the storage of manure and soiled bedding (including the location of such storage) and its disposal from site (including frequency) have been submitted to and approved in writing by the Local Planning Authority, and the works for such storage and disposal have been completed in accordance with the approved details. The storage area shall subsequently be maintained in accordance with the approved details. No storage of manure and soiled bedding shall take place outside of the storage area approved under this condition.

8. The equestrian development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

9. No portable buildings, van bodies, trailers, vehicles or other structures used for storage, shelter, rest or refreshment, shall be stationed on the site without the prior approval in writing of the Local Planning Authority.

10. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed and maintained in accordance with the approved details.