

Appeal Decision

Site visit made on 14 February 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 21st March 2017

Appeal Ref: APP/P1615/W/16/3161431

Land at Graces Pitch, Newent GL18 1SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Westdean Homes Ltd against Forest of Dean District Council.
 - The application Ref P1180/16/FUL is dated 23 May 2016.
 - The application sought planning permission for the erection of a 3 bedroom dwelling associated car parking and landscaping without complying with a condition attached to planning permission Ref P0701/16/FUL, dated 25 May 2016.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the approved plans listed in the table below
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning
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Decision

1. The appeal is allowed and planning permission is granted for erection of a 3 bedroom dwelling associated car parking and landscaping at Land at Graces Pitch, Newent GL18 1SU in accordance with the application Ref P1180/16/FUL dated 23 May 2016 without compliance with condition number 2 previously imposed on planning permission Ref P0701/16/FUL dated 25 May 2016 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:

The development shall be carried out in accordance with drawing Ref LTR13.01-11-D.

Preliminary matters

2. In formulating its reasons for refusal, the Council has referred to Policies AP4 & AP5 of its emerging Allocations Plan. Paragraph 216 of the National Planning Policy Framework ("the Framework") advises that weight should be given to relevant policies in emerging plans according to the stage of preparation of the existing plans, the extent to which there are unresolved objections and their degree of consistency with the Framework. The AP is at a reasonably advanced stage, with the Inspector having reported his interim findings. However, I am mindful it is still subject to final examination and there is some potential for further amendment. Furthermore, there is little information on the number of
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outstanding objections to these policies. As such, I afford them limited weight in the determination of this appeal.

3. Planning Permission Ref P0701/16/FUL dated 25 May 2016 describes the proposed development as the "variation of condition (02) approved plans of planning permission P0408/14/FUL to increase the driveway area and addition of a velux roof light". However, notwithstanding its description, the effect of that permission was to grant a second permission subject to the conditions set out in the schedule thereto. This appeal relates to that second permission, Planning Permission Ref P0701/16/FUL and the conditions set out in the schedule attached to it.

Background and Main Issues

4. The appeal follows a failure of the Council to determine the application. As part of its written submissions, the Council has indicated that, had it been in a position to determine the application, it would have refused planning permission for reasons relating to the effect of the proposal on the character and appearance of the surrounding area, the Newent Conservation Area (CA) and on the setting of the listed heritage assets known as Nos 33 & 35 Church Street.
5. I therefore consider the main issue is the effect that altering the condition would have on the character and appearance of the surrounding area, the Newent CA and Nos 33 & 35 Church Street.

Reasons

6. The appeal site is situated within the Newent CA and consists of a residential housing plot located within a modern, red brick housing development characterised by generally open frontages. I understand that the site is located in what were historically the gardens of Nos 33 & 35 Church Street, Grade II listed buildings which are located to the north west of the site.
7. Policy CSP1 of the Forest of Dean Core Strategy¹ (CS) requires the design and construction of new development to take account of the important characteristics of the environment and conserve, preserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment, including their wider context. In assessing applications, consideration will be given to, amongst other things, the impact on any protected sites, including designated heritage assets.
8. The approved plans for planning permission Ref P0701/16/FUL indicate a 1.8m high brick wall at the south western boundary of the site, along its frontage with the road. The application seeks to alter this to provide a 1.8m high close boarded fence. In terms of the character and appearance of this part of the estate, while the properties are constructed in brick, most of the properties nearby have generally open frontages. There are few examples of walls with the boundary treatments that do exist being mostly close boarded fencing. While I acknowledge that a brick wall would integrate well with the surrounding brick based development, in view of the numerous examples of close boarded fencing nearby, I do not consider the replacement of this wall with fencing would have any significant impact on the overall appearance of this section of Graces Pitch.

¹ Forest of Dean District Council Core Strategy (adopted 23 February 2012)

9. Similarly, in terms of the effect on the Newent CA, the site is contained within the Graces Pitch development, a modern housing development where there are many other examples of close boarded fencing. While I note the Council's reference to the Newent Conservation Area Appraisal, paragraph 5.5 of which recognises the important contribution that boundary or retaining walls make to the character of the conservation area, there are no examples of such walls within the present street scene and the replacement of a modern brick wall with close boarded fencing in this context would not result in any material harm to the CA. As such, I consider its impact on the character and appearance of the CA would be neutral.
10. The appellant has also sought to amend the scheme by introducing a new fence to the rear of the proposed parking area. This new fencing would sit on top of the existing retaining wall and would be visible from the rear gardens of the neighbouring listed buildings, Nos 33 & 35 Church Street. However, although I note the Council's concern that the introduction of close boarded fences along the boundary with these listed heritage assets will not preserve its setting or the character of the conservation area, I observed on site that the existing boundary treatment already consists of a close boarded fence. While I note that the proposed fence would be higher, it would nevertheless be seen in the context of this existing fence and the more modern development of Graces Pitch. It appears to me that while there may not be any enhancement of the setting, similarly there would be no harm. Overall, the impact would again be neutral and the setting of the heritage assets would be preserved.
11. On balance, I do not consider the proposed alterations would have any material impact on the character and appearance of the surrounding area. Likewise, I have found that their impact on the character and appearance of the conservation area and the setting of No 33 & 35 Church Street would be neutral. I do not therefore consider the proposal would be contrary to CS Policy CSP1.

Other matters

12. In reaching my conclusion, I have had regard the concerns of local residents. However, those which relate to the appellant's future intentions are not valid planning considerations. Furthermore, in view of the fact that neither proposed alterations would reduce the height of any boundary structure, there are unlikely to be any material impacts on privacy.

Conclusion

13. For the reasons set out above, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR