
Appeal Decisions

Site visit made on 3 April 2017

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

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

Decision date: 20 April 2017

Appeal A: Ref: APP/G1630/W/16/3161703

The Old Mill House, Oxenton, Cheltenham GL52 9SE

- 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.
 - The appeal is made by Mr R Thomson against Tewkesbury Borough Council.
 - The application Ref 16/00757/FUL, is dated 14 July 2016.
 - The development proposed is demolish derelict structure and replace with ancillary building.
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Appeal B: Ref: APP/G1630/Y/16/3161699

The Old Mill House, Oxenton, Cheltenham GL52 9SE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr R Thomson against Tewkesbury Borough Council.
 - The application Ref 16/00758/LBC is dated 14 July 2016.
 - The works proposed are demolish derelict structure and replace with ancillary building.
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Decision

1. Appeal A is dismissed and planning permission refused.
2. Appeal B: No further action. The appeal is not determined as listed building consent is not required.

Preliminary Matters

3. Applications for planning permission and listed building consent were submitted using a single, combined application form. Both applications were registered by the Council and the appellant lodged appeals in respect of the non-determination of both applications.
 4. The Council's appeal questionnaire states that the proposal does not require listed building consent as it is not physically attached to the listed building and therefore the listed building consent application was submitted in error. The Council's statement relates only to the appeal against the non-determination of the application for planning permission. The evidence from the Council and the appellant's Design and Access Statement refer to the appeal site being outside the residential curtilage of The Old Mill House.
 5. It is for the Council to determine in the first instance whether or not listed building consent is required for a proposal. Taking the above into account, and in the absence of any comments on this matter from the appellant, I rely on
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the Council's statement in the appeal questionnaire that listed building consent is not required and I therefore take no further action in relation to the appeal for listed building consent.

Application for costs

6. An application for costs was made by Mr R Thomson against Tewkesbury Borough Council. This application is the subject of a separate Decision.

Background and Main Issues

7. Whilst the Council did not determine the application for planning permission, they have set out within their written statement the basis for their objections to the proposal. I am referred to planning history related to alterations and extensions to the dwelling and, more particularly, to proposals to erect a triple garage with storage above. However, it is not suggested that the permissions granted required removal of the existing building on the paddock.
8. The Council objects to the siting of the proposed building outside the residential curtilage and I am referred by the Council to conflict with Policy HOU10 of the Tewkesbury Borough Local Plan which addresses the change of use of agricultural land to residential curtilage. The Council takes the view that the proposed building would be ancillary to the dwelling. However, I do not have sufficient evidence to confirm that the appellant is seeking a change of use from agricultural land to residential curtilage or that the proposed building is intended as ancillary to the residential use rather than the paddock. Accordingly, my decision does not address these matters further.
9. I therefore consider the **main issues** in this case to be:
 - the effect of the proposal on the character and appearance of the area with particular regard to the site's location within the Cotswold Area of Outstanding Natural Beauty (AONB); and
 - whether the proposal would preserve the setting of The Old Mill House which is a Grade II listed building.

Reasons

Character and appearance

10. The appeal site lies within a paddock or field adjacent to The Old Mill House. Although in the same ownership, the paddock is separated from the garden of the house by post and rail fencing. There is a clear distinction between the garden of the house which is domestic in character and appearance and the paddock which is rough grassland. The parties agree that the paddock is outside the residential curtilage. The paddock and existing building are visible from the entrance into the paddock from the public highway which borders the east side of the site.
11. The existing building in the paddock is made up of two separate but adjoining elements. One is a pre-fabricated structure with concrete panel walls and corrugated metal roof. The other is an apparently older timber framed structure with brick infill and also with a corrugated metal roof.

12. The description of development refers to the building as a derelict structure which is to be replaced with an "ancillary building". I note that in the Design and Access Statement the proposed building is referred to as a barn.
13. The proposed building would occupy the same footprint as the building to be demolished. It would be internally divided into two sections and the larger of these two sections would include an upper floor. No windows are proposed in the larger section of the building. The floor plans are annotated to show the internal space as storage.
14. Although the existing building is referred to as being derelict, it is clearly capable of some use as various items were stored within it at the time of my site visit. The pre-fabricated building appears to be in better condition than the timber framed building. The appellant advises that the building is currently being used for the storage of items belonging to him. The proposed building would be faced in natural stone and timber boarding with a slate roof. The roof pitch would be steep and the overall design and appearance would be more traditional than the existing prefabricated building. Nonetheless, the whole of the proposed building would have a considerably greater presence within the rural landscape than the existing building, primarily due to its greater height and mass.
15. The site lies within the Cotswold Area of Outstanding Natural Beauty (AONB). The statutory purpose of including land within an AONB is to conserve and enhance the natural beauty of the area. Paragraph 115 of the Framework confirms that AONBs have the highest status of protection in relation to landscape and scenic beauty and great weight is to be afforded to conserving their landscape and scenic beauty.
16. The proposal does not include any justification for a building of increased size set within this relatively small paddock. Whilst the building has been designed to a high standard, it would have a greater impact on the landscape of the AONB than the existing building. This impact would be harmful.
17. I have considered that the existing building could be retained and repaired. However, this 'fall back' position is not sufficient to overcome the harm I have identified.
18. I am not referred to any policies within the adopted development plan. The Joint Core Strategy has been submitted but has yet to be 'found sound' and therefore carries limited weight.

Setting of The Old Mill House

19. The Old Mill House is a Grade II listed building with 16C origins. The listing description refers to former uses as a pub and a mill house. There is a duty to consider whether the proposed development would preserve the listed building and its setting. Based on the available evidence, I find that the existing building on the site does not contribute to the significance of the listed building.
20. The proposed building would be visible from the dwelling and its garden. Although the Council question the design approach taken by the appellant, it is clear that the proposed building is not intended as a conjectural reconstruction of an earlier building. There are sufficient references within the design, including the form of the windows in the single storey element, to avoid the lack of integrity which the Council refers to. Taking into account the distance

of the proposed building from the dwelling and the overall design and quality of materials proposed, I am satisfied that the building would not dilute the authenticity of the setting of the listed building. It would not harm, and therefore would preserve, the setting of the listed building.

Other matters

21. Although the correspondence refers to the possibility of reducing the size or altering the materials of the proposed building, I am only able to consider the proposal which is before me.

Conclusions

22. The proposed building would fail to conserve or enhance the natural beauty of the AONB. The proposal would not accord with the National Planning Policy Framework which requires that great weight is given to conserving landscape and scenic beauty in the AONB.
23. For the above reasons, I conclude the appeal should be dismissed.

J E Tempest

INSPECTOR