
Appeal Decision

Site visit made on 22 March 2017

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 28th April 2017

Appeal Ref: APP/Q3115/W/16/3164379

Lashbrook Chapel, Mill Road, Lower Shiplake, Oxfordshire RG9 3LW

- 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 Richard Hester against the decision of South Oxfordshire District Council.
 - The application Ref P15/S4337/FUL, dated 22 December 2015, was refused by notice dated 8 July 2016.
 - The development proposed is change of use from an ancillary domestic building to a 1-bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from an ancillary domestic building to a 1-bedroom dwelling at Lashbrook Chapel, Mill Road, Lower Shiplake, Oxfordshire RG9 3LW in accordance with the terms of the application, Ref P15/S4337/FUL, dated 22 December 2015, subject to the conditions in the Schedule below.

Main Issue

2. The main issue is the likely effect of the change of the building's use to a dwelling on the adjacent protected Horse Chestnut tree balanced against finding a viable use for the former chapel, a non-designated heritage asset.

Reasons

3. The building the subject of the appeal is a two storey weather boarded structure with multi-pane casement windows and a plain tiled roof near the eastern edge of the village. It is accessed from a private unpaved track off Mill Road, the main road through the village that also doubles up as part of a public footpath, Shiplake Footpath 38, which continues over the Lash Brook, under the railway and into the open countryside on the Oxfordshire side of the Thames.
4. The building has been identified as a non-designated heritage asset by the Council, which is keen to retain it thereby preserving its significance. It was apparently originally used for storage by the adjacent Lashbrook paper mill until the latter's closure in 1908. It was converted into a chapel in 1914 and religious services continued until 2002 when it was sold and its fittings dispersed.¹ Its significance lies in these historical associations. In 2003 it

¹ As set out in letter from English Heritage dated 4 February 2011, attached to appellant's appeal statement

was purchased by the owner of Brookfield, the neighbouring house to the northeast, and used for ancillary domestic storage for over ten years.

5. The tree in question is a large multi-stemmed aged Horse Chestnut located only 3m away from the building's southern elevation, on the boundary of Thames Cottage. It is agreed between the main parties that it is approaching veteran age being approximately 175 years old, given that a Horse Chestnut's normal life expectancy is typically 150 years. It forms a significant feature of the local landscape and has a high local amenity value and is consequently protected by a tree preservation order.²
6. The tree is 23m tall, some 16m taller than the ridge height of the building. It has a 20m wide canopy, which extends over the majority of the building's roof. On 7 April 2016 the Council gave permission for the tree to be crown-reduced to lessen the canopy mass and lower the load on the tree's individual stems. In conjunction with the work, which was carried out soon after, a lateral restraint was designed and installed into the canopy. These facts are undisputed.
7. The Council's reason for refusal is that the closeness of the tree's canopy to the building, particularly the fact that it overhangs most of the property's roof, would mean that there would be pressure from the dwelling's occupants to so drastically prune it that the tree would die.
8. I agree with the Council that future occupants of the proposed dwelling would be likely to find the swaying of the tree's northerly canopy in adverse weather a cause for anxiety. The tree would also cause seasonal nuisances, especially in the autumn, such as extensive leaf litter, conkers and debris filling gutters and covering paths, all causing the need for more than normal property maintenance. The Council also states that the tree would cause shading. It would obviously shade the garden to some extent and the bedroom window but the other windows in the building face north and west and as such the tree's canopy would not significantly shade them.
9. Nonetheless, the above impacts of the tree's substantial canopy would undoubtedly give rise to pressure from the dwelling's occupants to drastically prune it. However, balanced against such pressure is the Council's acknowledged desire to retain the building as a non-designated heritage asset, a desire I accord with.
10. The Council accepts in its appeal statement that on the balance of probabilities an office use of the building would not be viable. The appellant has provided further evidence in his final comments that convinces me a light industrial or storage use would also be unviable. The poorly surfaced narrow access lane to the building and the lack of turning and paucity of parking space would, I determine, also be unsatisfactory for such uses.
11. Consequently the residential conversion of the former chapel building would be the most likely and probably the only viable use for it. Its conversion into the proposed dwelling is the most realistic way of preserving the building as a heritage asset. The Council has no objection to the way in which the building would be converted; there is no need for any new openings or extensions,

² TPO 23/2002 dated 11 December 2002

and most of the open span of its interior would be preserved retaining its historical character as a chapel.

12. It is also the case that the appellant, if he was to occupy the new dwelling, and any subsequent occupier he decided to sell to, would be fully aware of the importance of retaining the nearly veteran Horse Chestnut tree because it is protected by a TPO and this decision makes clear that it should be retained for its amenity value. Any prospective purchaser or occupier could not help but notice the tree and they would purchase the dwelling knowing that any substantial pruning beyond that of the scale and nature which occurred last year would be unlikely to be granted given the tree's amenity and landscape importance to the character and appearance of the local area. In other words, any occupier must accept the presence of the Horse Chestnut as a constraint on their occupation of the building as a dwelling.
13. I conclude that, although there may well be pressure to substantially prune the Horse Chestnut tree as a result of its canopy overhanging the building's roof, the need to preserve this non-designated heritage asset outweighs such concerns given that the proposal is the most likely viable use of the former chapel. Future occupiers will be aware of the constraints that the tree will create on the building's use as a dwelling.
14. The Council has drawn my attention to four dismissed appeals in the District where it was found that the effect of new dwellings would potentially harm important trees and consequently the character of the area. But those schemes are not comparable with this proposal for the conversion of an existing building that the Council want to retain as a heritage asset because all of them were for new build dwellings and so the above balancing consideration did not arise.
15. Policy CSEN1 of the South Oxfordshire Core Strategy and 'saved' Policy C9 of the South Oxfordshire Local Plan 2011 together require the protection of key landscape features including important trees. Paragraph 118 of the National Planning Policy Framework states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats including the loss of aged or veteran trees. I accept that there is a risk of damage to or loss of the Horse Chestnut tree and to this extent there is conflict with these Policies. But I consider that future occupiers must take the amenity value of the tree into consideration and that the value of preserving the building as a non-designated heritage asset outweighs such a risk.

Conditions

The Council has suggested 10 conditions, all of which I consider to be necessary for the following reasons: the condition numbers are those in the Schedule below; 2 – for reasons of precision; 3 – in order to preserve the appearance of the building as a heritage asset; 4 – PD restrictions are necessary to protect harm to the TPO tree and to retain the significance of the building as a heritage asset; 5 – on-site parking provision to ensure occupants of the dwelling do not park in the access lane; 6 – that there is satisfactory landscaping to match the character and appearance of the area; 7 – that the TPO tree and any other trees to be retained are adequately protected during construction/conversion works; 8 – that mitigation is carried out to protect any bats as per the submitted Bat Survey Report; and 10 –

details of surface water drainage prior to commencement to ensure the proposal would not give rise to flooding.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed, subject to the conditions below.

Nick Fagan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P-91-010, P-89-010, P-30-010, & P-30-020, all Issue A.
- 3) A schedule of the external finishes of the development shall be submitted to and approved in writing prior to the commencement of development and thereafter development carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country (General Permitted Development Order) 2015 (or any Order revoking or re-enacting that Order), no development as specified in Schedule 2, Part 1, Class A – Extensions; Class B – Roof Extensions; Class D – Porch; Class E – Outbuildings; Class F – Hardstandings shall be erected or installed other than a hardstanding for the car parking space authorised by this permission.
- 5) Prior to the first occupation of the development hereby approved, the parking and turning area shall be provided in accordance with the submitted plan P-89-010 and shall be constructed, laid out, surfaced, drained and completed to be SUDS compliant, and shall be retained unobstructed except for the parking of vehicles associated with the development at all times.
- 6) Prior to the commencement of the development hereby permitted a scheme for the landscaping of the site, including the planting of live trees and shrubs, the treatment of the hardstandings, and the provision of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation or use of development and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

7) Prior to the commencement of any site works or operations relating to the development hereby permitted, an arboricultural method statement to ensure the satisfactory protection of retained trees including the TPO Horse Chestnut during the construction period shall be submitted to and approved in writing by the Local Planning Authority.

Written approval must be obtained prior to commencement of any site works including demolition. The matters to be encompassed within the arboricultural method statement shall include the following:-

- (i) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities;
- (ii) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection;
- (iii) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
- (iv) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby;
- (v) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees;
- (vi) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels;
- (vii) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area of any tree to be retained, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage;
- (viii) Provision for the supervision of ANY works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure therefrom to the Local Planning Authority.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

8) The development hereby permitted shall be implemented in accordance with the scheme of mitigation and enhancement, as stated in section 5.2 of the supporting Bat Survey Report (Windrush Ecology, August 2014, Ref: W1277_rep_The Old Chapel_22-08-14), submitted with the application in all respects. Any variation shall be agreed in writing by the Local Planning Authority before such change is made.

9) The development hereby permitted shall be implemented in accordance with the scheme of Japanese Knotweed management, as stated in the "Recommendations" section of the Japanese Knotweed Assessment (Tree Surveys, 22/04/2015, Ref: SPH/LC-01/22.04), submitted with the application in

all respects. Any variation shall be agreed in writing by the Local Planning Authority before such change is made.

10) Surface water drainage details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

End of Conditions