
Appeal Decision

Site visit made on 25 April 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 8 May 2017

Appeal Ref: APP/F1610/W/17/3168132

Nothill, Cowley, Cheltenham, Gloucestershire, GL53 9NJ.

- 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 Ms J Ward against the decision of Cotswold District Council.
 - The application Ref.16/02434/FUL, dated 14 June 2016, was refused by notice dated 1 August 2016.
 - The development proposed is the conversion of an agricultural building to residential use.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposal has been described by the Council as a retrospective change of use but the fact that the development has already been undertaken does not affect its description. I will use the description of the work specified in the application forms.

Main Issues

3. The main issues are: the accord of the proposal with the development plan; whether the proposal is sustainable development; the effect on the character and appearance of the local area which forms part of an Area of Outstanding Natural Beauty; and the effect of the alterations on the character and appearance of the host building.

Reasons

Background

4. The appeal site is located close to a small hamlet of houses situated in a remote position in a valley in open countryside forming part of the landscape of the Cotswold Area of Outstanding Natural Beauty (CAONB). The site contains a detached single storey building of linear form where the north and east elevations are of natural stone whereas the south and part of the west facing elevations are clad in dark stained timber. Adjacent to the appeal scheme building are a stone building converted to a dwelling and a timber stable building. The site is accessed by a narrow track from the highway which is also a narrow rural lane. The proposal is to convert the building to a residential use.
 5. Some of the planning history of the site is relevant to the case. Planning permission was granted in 1998 to clad the existing stables and barn with
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natural stone and associated alterations. The appellant also refers to enforcement action taken in 2003 which alleged a change of use within the Studio from agriculture to a dwellinghouse but the appeals were dismissed and the enforcement notice was upheld. The appellant says that from about 2004 to 2008 and the Studio was used as an office and workshop, but was subsequently used by the appellant as a dwelling, when she was not serving away for extended periods. Nevertheless, as the enforcement notice is still in force the use as a dwellinghouse is not lawful. The appellant says that the appellant moved out permanently in January 2017. At the time of my visit, while the building had a stove for heating and cooking, and personal items were stored there, it did not appear to be used for sleeping accommodation.

Policy context

6. The development plan includes the Cotswold District Local Plan (2006) and the relevant saved policies are 28 and 42. Saved policy 28 deals with the conversion of rural buildings and sets out 8 criteria for acceptable schemes. These are more restricted than the provisions of the more recent National Planning Policy Framework (the Framework) which in paragraph 55 states that isolated new homes in the countryside should be avoided, unless there are special circumstances such as where the residential use would reuse redundant or disused buildings and lead to an enhancement of the immediate setting of the site. Therefore, there is a material difference between the saved policy and the Framework and this reduces the weight that can be given to the policy.
7. In terms of saved policy 42, this refers to the Cotswold District Design Code and reinforces the need to ensure that the distinctiveness of the Cotswolds is respected. This broadly accords with the provisions of paragraphs 59 and 115 of the Framework and so the policy should be afforded full weight.
8. The Council are also preparing a new Local Plan but as this is at an early stage in the process, has not been examined, and may change, I have not placed much weight on its provisions.

Whether an unsustainable location

9. It is clear that the site lies away from any settlement and in open countryside which contains occasional farmsteads and scattered hamlets. The Council says that it is remote from public transport facilities and other day to day services and is in a location where the new dwelling would be likely to be served by the car. However, saved policy 28 does not put forward a restriction on development on this basis. The Framework supports a sustainable pattern of development but recognises that different measures will be required in different areas. Further, as mentioned above, paragraph 55 states that an isolated new dwelling in the countryside may be acceptable in special circumstances. Overall, on this issue, I find that the location of the site would not render the proposal to be unacceptable as a re-use of a redundant or disused building if there was an enhancement of the immediate setting of the site.

Effect on the character and appearance of the area including the CAONB

10. In considering this issue I have had regard to the comments made by the previous inspector in 2004 who consider the appeal against the enforcement

notice and related planning application as reported in the Council's delegated report.

11. At the site visit I considered the setting of the site in its elevated position on the valley side and away from other existing dwellings. From the appeal site there were wide views up over fields to woodland and these views are likely to be reciprocated. The host building sits alongside a simple stable building in timber and next to a gravelled access and parking area which is probably shared with the main dwellinghouse at Nothill. However, aside from the parking of vehicles the lawful use of the building and surrounding land would have a simple undeveloped rural character.
12. I agree with the previous inspector and the Council's assessment that the character of the land would change materially with the introduction of a residential use. There is already some trappings of a domestic use with shrubs in pots at the front of the building and a privacy screen and a raised decking patio area to the rear of the building. Further, although the area of garden to the south is relatively narrow it is exposed in the landscape and its use as a domesticated area would be prominent and it would not be practical to screen the activity here with additional planting. Moreover, part of the visual impact of the site from the east is screened by overgrown vegetation and a normal full time use of the building as a dwelling is likely to see this vegetation tended and its screening effect reduced.
13. Turning to the building itself, the Council refers to the alternations already carried out for fenestration to add to the domestication of the building. The windows in the south elevation are small and inconspicuous; however, the two on the north elevation have a domestic form. They are sliding sash windows which are appropriate on many forms of traditional houses, but these stand out against the form of simple rural building with an agricultural past. The details also compared unfavourably with the scheme approved for the partial stone cladding of the building in 1998. The appellant's agent says these windows may have been added to the building before 2003 but they still appear to be a change from the approved plans and alter the appearance of the building.
14. Overall, I find that the conversion of the building and surrounding land to residential use would result in a form of domestic development which would have a significantly harmful effect on the rural character and appearance of the host building and its setting in the special landscape of the CAONB contrary to saved policy 28 of the Local Plan to which modest weight should be attached. The visual harm caused would mean that the conversion would not result in the enhancement of the immediate setting of the site and so the proposal would also not accord with the terms of the third bullet point of paragraph 55 of the Framework. Further, I find that the details of the conversion now proposed would conflict with saved Policy 42 and would not help to sustain the distinctive character of the area. The Framework advises in paragraph 115 that great weight should be given to conserving the landscape and scenic beauty of an AONB (amongst other sensitive areas) which have the highest status of protection for such aspects.

Other Considerations

15. The appellant's agent makes reference to the provisions of the Town and Country Planning General Permitted Development (England) Order 2015 about the scope for the conversion of an existing building to residential use. However,

given the enforcement notice in force, it would not be lawful to exercise those rights for the change of use of the building to a dwelling house and I have considered the proposal on its individual planning merits in relation to the development plan and other considerations including national policy.

16. The agent also says that other permitted development, such as a flexible use including a use as a hotel (Class C1), should be taken into account in assessing the merits of a use of a dwellinghouse. However, from the evidence submitted it is not clear to me that such a 'fallback' of other alternative development is likely to be a serious prospect, given the isolated nature of the site and the severe limitations of its access. Therefore I am not able to place much weight on this consideration.
17. I also note that the appellant's mother lives in a property close-by the appeal site building, and that the appellant is frequently away from the area while in the Forces. However, a case on special personal or family circumstances has not been made and I have considered the proposal as a change of use to a normal dwelling house.

Planning balance

18. Bringing together my conclusions on the main issues, while I have found that the location of the site does not in itself render the scheme unsustainable, the further domestication of the building and the land around it would intrude into the open rural character of the side of the valley away from the existing hamlet of houses and would cause significant harm to the character and appearance of the special landscape which forms part of the CAONB.
19. The visual harm that would be caused means that the proposal does not accord with the relevant policies in the development plan and notional guidance that I have identified. Further, the physical harm means that the proposal would not accord with the environmental dimension of sustainable development as set out in the Framework when this is read as a whole.
20. This conflict with the development plan and the significant adverse effects are not outweighed by any other consideration.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR