



Appeal Decision

Site visit made on 13 June 2017

by J Ayres BA Hons, Solicitor

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

Decision date: 28th June 2017

Appeal Ref: APP/Q3115/W/17/3171547

Goats Gambol, Beech Lane, Woodcote, Oxfordshire RG8 0PY

- 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 Philip Sparks against the decision of South Oxfordshire District Council.
 - The application Ref P16/S2714/FUL, dated 18 July 2016, was refused by notice dated 30 November 2016.
 - The development proposed is described as demolish and replace the existing dwelling with new dwelling. Demolish and replace existing stables with new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted to demolish and replace the existing dwelling with new dwelling. Demolish and replace existing stables with new dwelling at Goats Gambol, Beech Lane, Woodcote, Oxfordshire RG8 0PY in accordance with the terms of the application, Ref P16/S2714/FUL, dated 18 July 2016, subject to the ten conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Philip Sparks against South Oxfordshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on;
 - (i) the character and appearance of the area, specifically with regard to the Chilterns Area of Outstanding Natural Beauty, and
 - (ii) the living conditions of the occupiers of the Hawthorn Cottage in relation to daylight and sunlight, and privacy.

Reasons

Character and Appearance

4. Views of the appeal site are limited when standing on Beech Lane, this is due to the appeal site and the neighbouring property being set significantly back from the road frontage. Beech Lane provides a mixture of residential dwellings, a number of the properties are bungalows, however there are also

chalet style dwellings and more substantial two storey dwellings. Accordingly, the two storey design of the replacement dwelling, and the bungalow design of the second property (which would replace the stables), would be in keeping with the general mix of architectural design in the surrounding area with regards to their scale and detailing.

5. I have been referred to a previous appeal for the erection of ten dwellings on the site¹, a scheme to erect ten dwellings. In order to facilitate the previous appeal scheme the development would encroach onto the open land to the east of the property. The Inspector when considering that appeal came to the conclusion that this expansion would have a detrimental impact on the Chilterns Area of Outstanding Natural Beauty (AONB). The proposal before me is materially different, in that it is one additional dwelling and a replacement dwelling, and the proposal would be erected within the currently developed area of the site. It would not encroach into the open countryside of the AONB, and would not extend the village settlement boundary. Accordingly, I have limited the weight that I attach to the previous appeal in this regard, and I have assessed this appeal on its individual merits.
6. The proposal would be seen in the context of the immediately adjacent open land, with the large mature trees to the south and east of the site. Beyond the tree line is a public footpath. It is extremely difficult to see into the appeal site from this footpath due to the extensive vegetation and topography of the area. Accordingly the proposal would not result in a development that would be visible to users of the footpath, and I do not consider that the proposal would cause harm in respect of this view of the AONB.
7. As such, I find that the proposal complies with Policies CSEN1 and CSQ3 of the South Oxfordshire Core Strategy 2012 in responding to the character of the area and conserving the AONB. The proposal would comply with Policies H4/D1/G2/G4 and C4 of the South Oxfordshire Local Plan 2011 with regards to respecting the existing settlement pattern, the landscape of the area and the countryside. The proposal would comply with Policy H10 of the Woodcote Neighbourhood Plan in ensuring the delivery of suitably located development within the village.

Living conditions of the occupiers of Hawthorn Cottage in relation to daylight and sunlight, and privacy

8. The proposed detached house would be higher than the single storey bungalow currently on the site. It has been positioned, following discussions with the Council, set back further from the boundary than the existing dwelling. Based on the evidence before me I find that the windows in the south elevation of Hawthorn Cottage would retain in excess of 80% of the daylight and sunlight value over both the whole year and in the winter months. I appreciate the concerns raised by the occupiers of Hawthorn in respect of this issue. However, having assessed all of the evidence I consider that the effects of the proposal on sunlight and daylight to the windows of the neighbouring property are within the BRE guidelines. The proposed bungalow, due to its scale and positioning within the site, would not materially affect the level of sunlight/daylight with regards to the neighbouring property.

¹ Ref APP/Q3115/A/14/22233300

9. The positioning of the proposal within the site is constrained to the current developed area. All habitable rooms within the detached house would be more than 12 metres from the windows of Hawthorn Cottage that would face the appeal site. The plans have been amended to address the concerns of the occupiers of Hawthorn cottage, and subsequently the window in bedroom four has been moved to avoid a loss of privacy to the neighbouring occupiers.
10. There is a first floor dormer window proposed for bedroom one. This would have a severely oblique view of Hawthorn Cottage, and is in excess of 12 metres from the boundary with Hawthorn Cottage which in my view is an adequate separation distance. I note the concerns relating to occupiers of the proposal looking over the roof of Hawthorn cottage, into the large garden to the west of the dwelling. However, due to the proposed distances, and the positioning of the windows, I consider any views over any part of the neighbouring property would be extremely limited.
11. The garage serving the detached house would have side windows at ground floor level. The proposed bungalow is set within the context of a mature boundary and windows to the rear are at ground floor only. It is my view that due to the design, and layout of development within the appeal site, these elements of the proposal would not have an impact on the living conditions of the neighbouring occupiers.
12. Having assessed the evidence I am satisfied that the proposal would not result in an unacceptable loss of daylight or sunlight to the occupiers of the neighbouring property. Furthermore it is my view that the limited degree of overlooking that may result from the proposal would not have a materially harmful impact on the living conditions of the occupiers of Hawthorn Cottage in respect of their privacy. Accordingly, I find that the proposal would comply with Policy CSQ3 of the South Oxfordshire Core Strategy 2012 in respect of its design. The proposal would comply with Policies H4, D1 and D4 of the South Oxfordshire Local Plan 2011 in responding to local distinctiveness, and respecting the amenity of neighbouring occupiers.

Other Matters

13. Concerns have been made about the party wall, however this matter is dealt with through the Party Wall legislation, and it does not affect my decision in respect of the proposal.
14. I have considered all other matters raised, including concerns regarding access to mains electricity, water supply, and gas and sewer services, but none persuade me away from my earlier findings.

Conditions

15. I have considered the imposition of conditions in accordance with advice in the Framework and Planning Practice Guidance.
16. A condition specifying the approved plans is necessary as this provides certainty. I have imposed a condition requiring the submission of materials as this is necessary to safeguard the character and appearance of the area. I have included conditions relating to ground levels, landscaping, and tree retention as these are necessary to protect the character and appearance of the area, with specific regard to the AONB. I have included a condition restricting the use of the garage; I consider this to be necessary to ensure that

the site is not developed for additional residential use which may result in harm to the AONB.

17. A condition relating to parking and the associated drainage is necessary to ensure an adequate level of drainage, and in the interest of the amenity of occupiers.
18. A condition requiring a Bat Roost Assessment is necessary to safeguard any protected species on the site.
19. I consider a condition limiting permitted development rights with particular regard to first floor windows is necessary to protect the privacy of the occupiers of the neighbouring property.
20. Conditions 7 and 9 are pre-commencement conditions which are justified in this case as they cover matters that are essential to be agreed before the development starts.
21. I have not included a condition requiring a Contaminated Land Statement as I have not seen any evidence to suggest that such a condition would meet the test of necessity. I have not included a condition relating to the reinstatement of the party wall as this is covered by separate legislation.

Conclusion

22. For the reasons given above, and having taken into account all other matters, I conclude that the appeal should be allowed.

J Ayres

INSPECTOR

SCHEDULE OF TEN CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan;
Existing Layout Plan;
Layout and Landscaping AAN.16.590.4 Rev B;
Proposed detached house and garage AAN.6.590.1 Rev B;
Proposed detached bungalow AAN.16.590.2.
- 3) No development shall commence other than demolition works until sample panels of all materials to be used in the external construction and finishes of the development have been provided to and approved in writing by the local planning authority. The development thereafter shall be carried out in accordance with the approved details.
- 4) The building shall not be occupied until the parking and turning areas have been provided in accordance with the approved plans and shall be constructed, laid out, surfaced, drained and completed to be compliant with sustainable drainage principles, and shall thereafter be kept available at all times for the parking of vehicles.
- 5) The garage hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors.
- 6) Except in the case of the development hereby permitted, no change in the levels of the land shall take place unless in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Local Planning Authority prior to commencement of such works. Any scheme submitted shall include details of existing and proposed ground levels.
- 7) Prior to the commencement of the development hereby approved, including any site clearance or demolition, a report containing the findings of an updated Preliminary Bat Roost Assessment, recommended mitigation and Natural England Licence requirements shall be submitted to and approved in writing by the Local Planning Authority. If required, further bat activity survey findings shall be submitted along with this report. Thereafter, the development shall be implemented in accordance with the approved details as contained within the approved report.
- 8) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. Thereafter, the development shall be implemented in accordance with the approved details as contained within the approved scheme of landscaping.

- 9) Prior to the commencement of any site works or operations relating to the development hereby permitted, an arboriculture method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the arboriculture method statement.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows above ground floor level, other than those expressly authorised by this permission, shall be constructed on the north west elevation of the dwelling facing Hawthorn Cottage.

END OF SCHEDULE