



Appeal Decision

Site visit made on 5 January 2018

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 15 January 2018

Appeal Ref: APP/H1840/W/17/3181128

**Land adjoining No 21 New Street, Childswickham, Broadway,
Worcestershire, WR12 7HQ**

- 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 Ludlow and Miss Dent against the decision of Wychavon District Council.
 - The application Ref: 17/00582/FUL dated 16 March 2017, was refused by notice dated 19 June 2017.
 - The development proposed is erection of 1 No detached cottage and garage.
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Decision

1. The appeal is allowed and planning permission is granted for 1 No detached cottage and garage at land adjoining No 21 New Street, Childswickham, Broadway, Worcestershire, WR12 7HQ in accordance with the terms of the application, Ref: 17/00582/FUL dated 16 March 2017, subject to the conditions set out in the attached Schedule.

Main Issue

2. The site is located within the defined development boundary for the village, and notwithstanding all other considerations the Council has no objections to the principle of infill residential development in this location which would be in accordance with Policy SWDP 2 of the *South Worcestershire Development Plan* (SWDP), adopted 2016. I therefore consider the one main issue in this appeal is the effect of the proposal on the setting of the adjacent listed buildings, and on the character and appearance of Childswickham Conservation Area.

Reasons

3. The appeal site is located in the north-west corner of the Conservation Area. A pair of listed buildings is located to the east of the application site fronting New Street. No 21 is a Grade II listed limestone building dating to approximately 1800, and 23 is a Grade II* listed partly timber-framed building thought to date to the 15th century. Modern dwellings of various sizes and designs are located further west on New Street and opposite the site.
4. The site is currently unkempt and somewhat overgrown. Although it was previously part of the garden of No 21 it is now fenced off and under separate ownership. I understand that enforcement action was taken against the previous owners of the site in 2015, and the site was cleared of most of the trees and undergrowth.

5. It is proposed to erect a two-storey dwelling of traditional design and materials, approximately aligned with the building line of the adjacent dwelling to the west. A garage is proposed towards the rear of the site and a new access adjacent to the boundary with No 21 New Street.
6. At the statutory level, Sections 16 (2) & 66 (1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* require the decision maker to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. As the site lies within a conservation area, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the area, in accordance with Section 72 (1) of The Act.
7. SWDP Policy 24 reflects the statutory duty in the Act and national policy for the historic environment in Section 12 of the *National Planning Policy Framework* (the Framework). It states that proposals likely to affect the significance of a heritage asset, including the contribution made by its setting. SWDP Policy 6 says proposals will be supported where they conserve and enhance the significance of heritage assets, including their settings.
8. Paragraph 132 of the Framework says when considering the impact of new development on the significance of a designated heritage asset (including listed buildings and conservation areas), great weight should be given to its conservation, and adds that significance can be harmed or lost through alteration or destruction of the heritage asset, or by development within its setting. As heritage assets are irreplaceable, any harm should require clear and convincing justification.

Setting of listed buildings

9. A large part of the significance of the adjacent listed buildings derives from their origins as modest village dwellings redolent of the local vernacular style in spacious and open orchard setting. However, their setting has been altered radically in recent years as a consequence of the development of modern housing directly facing the cottages on the opposite side of the road, and other suburban style development along New Street. Although the appeal site still remains undeveloped, this pattern of development is now irrevocably part of the current setting of the listed buildings and to my mind has considerably diluted their former historical relationship to the original rural setting, which is recognised by the Framework and the Government's *Planning Practice Guidance* (PPG).
10. The separation distance of approximately 7m between the proposed dwelling and No 21 New Street is adequate in my view to ensure that Nos 21 and 23 can still be appreciated in eastward views along New Street, I consider the proposed dwelling would not materially detract from their setting when seen in westward views from the junction of New Street and Atkinson Street. I do not agree with the Council that the proposed dwelling would be a dominant and obtrusive feature, particularly as its ridge height and general proportions would respect those of Nos 21 and 23. Indeed, I note that the Council has no objections to the overall design and materials of the dwelling *per se*.
11. In this context I am satisfied that the proposed development would preserve the setting of these listed buildings. In my view it would have no materially

harmful impact on their significance, or lessen the ability to identify their historic origins.

Conservation Area

12. The Conservation Area (CA) covers the historic core of the village, which comprises loosely laid out lanes with traditional brick, stone and timber framed traditional buildings. There is however a very significant amount of modern residential development within the CA including linear and infill development. Trees, hedges and undeveloped land make a significant contribution to its character and appearance, and I agree with the Council that this contributes to an impression of openness reinforcing the area's strong rural character.
13. The *Childswickham Conservation Area Appraisal* (CCAA) was published in July 2015 and identifies the site as a 'Prominent Open Space'. It says preservation of the CA will be achieved by refusing permission for (among other things) 'development which would adversely affect or result in the loss of important views, open spaces, tree cover or boundary features within the Conservation Area'. However this is not reflected in any corresponding development plan policy or supplementary planning document, as the CCAA's purpose is to identify the special interest of the CA and provide guidance on how the preservation or enhancement of its character or appearance can be achieved.
14. The Council considers the proposal would result in the loss of this open space, eroding what remains of the rural character of this part of the CA. However, the other areas of 'Prominent Open Space' identified in the CCAA are considerably larger in extent, including open fields, orchards, and the extensive churchyard. These are the main contributors to the open, spacious character and appearance of the CA, particularly around the brook, mill and church.
15. By contrast, the character of the CA in the vicinity of the appeal site is far less open and to a large extent is dominated by suburban type development. I accept that this does not devalue the importance of this particular open space, but I am not convinced that its development with a traditionally designed and appropriately scaled dwelling would significantly diminish the rural village character in this part of the CA. From what I observed at my site visit, the site's value as a 'buffer' between modern development to the west and the older part of the village, has been somewhat overemphasised, and in my view is insufficient grounds to resist the proposal. Furthermore, the proposed dwelling would only occupy part of the site, leaving a large rear garden which the appellant proposes to replant with fruit trees. The proposal to repair and reinstate the characteristic iron railings would also be of visual benefit.
16. I agree that little weight can be given to the neglected and unmaintained appearance of the site which has led to its present unkempt appearance.
17. Overall however, for the reasons given above, I am satisfied that the proposal would have a neutral effect and the character and appearance of the Conservation Area would be preserved.

Other Matters

18. I have been referred to a recently built dwelling on land adjoining No 2 Atkinson Street (though fronting Twichams Lane) which is broadly similar in design to the appeal proposal, albeit with dormers instead of a full second

storey. That dwelling was allowed on appeal in 2004¹, prior to the publication of the CCAA, although it also occupies part of an area now identified as a 'Prominent Open Space' in the CCAA. Although there was no issue in relation to the setting of listed buildings, the Inspector on that occasion considered that the proposed dwelling would not harm the character or appearance of the CA. I accept that this decision does not create a precedent, as each application and appeal falls to be considered on its own merits. Nonetheless, this dwelling now contributes to, and is part of, the current character and appearance of this part of the CA.

19. I have reached a different view from the Inspector who considered a previous appeal on the site, which was dismissed in May 2002², when the site was said to be in a similarly neglected state. However, this decision does not create a precedent, and is not binding on other Inspectors who must make their decision based on the evidence placed before them. The Inspector on that occasion found that the proposal would fail to preserve or enhance the character and appearance of the CA, and would have an adverse impact on the setting of the listed buildings. However, there are significant differences, namely the fully detailed nature of the proposal now before me, and these have influenced my reasoning. Furthermore that decision is now 15 years old and predates the Framework and current development plan policies. Since that time more development has taken place in the village, and its character has altered to some extent. I have therefore determined the appeal having regard to changed circumstances and up-to-date local and national policy position.
20. The site is within an area at low risk of surface water flooding, and it is noted that the adjacent highway turns into a flood flow route during extreme rainfall events. However the appellants have submitted a storm water management report which indicates measures that would be taken to reduce surface water run-off and the Council is satisfied that these measures satisfactorily address the flood issue concerns, and could be dealt with by planning conditions.
21. I have noted the representation from the occupiers of the neighbouring property stating that the rear-facing bedroom window on the west side of the proposed dwelling would impinge on their privacy. However, the Council has raised no objections in this regard, and I find no reason to disagree.

Conclusion

22. Overall, I conclude that the proposal would preserve the character and appearance of the Childswickham Conservation Area and the setting of adjacent listed buildings, causing no material harm to the significance of these heritage assets. As such, I find no conflict with SWDP Policies 6 & 24 and National policy in the Framework.

Conditions

23. The Council has put forward a list of suggested conditions, and I have considered these in the light of the advice in the Framework and PPG.
24. In addition to the standard condition for the commencement of development a condition is needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning.

¹ APP/H1840/A/04/1146997

² APP/H1840/A/02/1082387

25. The various conditions requiring approval of all stonework (including sample panels), roof tiles, and joinery are all necessary in the interests of the character and appearance of the Conservation Area. For the same reason full landscaping details are required. For the avoidance of doubt I have added a further condition to ensure that the existing metal frontage fence is repaired and reinstated as shown on the submitted drawings. Details showing the construction and laying out of the driveway are needed in the interests of highway safety.
26. A condition to address the implementation of the measures indicated in the Ecological Appraisal and Reptile Survey is necessary in the interest of the site's ecology. A construction method statement is necessary to protect the living conditions of nearby occupiers during building work.
27. A condition requiring details of renewable and/or low carbon energy generation measures to be used in the development is needed to ensure that the development supports the delivery of low carbon/renewable energy in accordance with SWDP Policy 27. However the condition requiring a programme of archaeological investigation to be submitted and approved has not been fully justified and I shall not impose it.

Conclusion

28. Therefore, for the reasons given above, and having regard to all other matters raised, I consider the appeal should be allowed.

Nigel Harrison

INSPECTOR

Schedule of 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: Location Plan; Block Plan; Street Scene; Existing Location and Block Plan; Proposed Elevations; Proposed Floor Plans; and Proposed Garage Elevations (dated February and March 2017).
- 3) Construction work shall take place only between 0800 and 1800 on Monday to Friday; 0800 to 1300 on Saturdays, and shall not take place at any time on Sundays or Bank or Public Holidays.
- 4) No development shall commence until full details of proposed landscaping works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the site; identify those to be retained; and set out measures for their protection throughout the course of development. The scheme shall also include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting numbers and species, where appropriate.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall take place until a precise specification of the stone to be used in the construction of the external surfaces, together with a specification of the proposed bond, mortar, jointing, and pointing shall be submitted to and approved in writing by the Local Planning Authority. A sample panel of the stonework, including the above specifications, shall be provided to and approved in writing by the Local Planning Authority. Details of the methods of spanning structural openings, band, string and dentil courses shall be submitted and approved in the same manner. The development shall be constructed in accordance with the approved details and sample panel, which shall not be removed from the site until completion of the development.
- 7) No development shall take place until a precise specification of the proposed tiles to be used in the construction of the external surfaces of the roof, together with a sample of at least 4 tiles to provide a representative range of the colour and texture of the tiles, together with any ridge details and details of lead flashings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

- 8) No development shall take place until detailed drawings of the proposed windows, showing the design; sections through glazing bars and/or mullions, the method of opening, finish and depth of external reveal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 9) The dwelling hereby approved shall not be occupied until the vehicular access, set-back gated entrance, and driveway have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and these areas shall thereafter be retained and kept available for the occupiers of the dwelling at all times.
- 10) The dwelling hereby approved shall not be occupied until the existing metal fence along the site frontage has been repaired and retained where possible, and erected on the frontage and visibility splays as shown on the approved drawings.
- 11) The development shall be carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal dated April 2017 and the Reptile Survey/Report dated June 2017, both by Focus Ecology. In particular: Precautionary vegetation clearance to minimise impact on reptiles and other wildlife; ensuring that nesting birds are not disturbed during clearance works; enhancement for bats and birds, and control of external lighting.
- 12) No development shall take place until a scheme (including a timetable for its implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained in operation.
- 13) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) Parking of vehicles of site operatives and visitors;
 - ii) Loading and unloading of plant and materials;
 - iii) Storage of plant and materials used in constructing the development;
 - iv) Measures to ensure that vehicles leaving the site do not deposit mud or other detritus onto the highway.
 - v) Measures to protect the amenities of nearby properties from noise, vibration and dust during construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

(End of conditions)