The Planning Inspectorate

Appeal Decision

Site visit made on 17 December 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2019

Appeal Ref: APP/J1860/W/18/3207345
Boundary Cottage, Gloucester Road, Welland WR13 6LD

- 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 Miss Phoebe Lloyd against the decision of Malvern Hills District Council.
- The application Ref 17/01724/FUL, dated 2 November 2017, was refused by notice dated 23 March 2018.
- The development is proposed dwelling.

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 7 January 2019

Decision

1. The appeal is allowed and planning permission is granted for proposed dwelling at Boundary Cottage, Gloucester Road, Welland WR13 6LD in accordance with the terms of the application, Ref 17/01724/FUL, dated 2 November 2017, subject to the conditions set out in the Schedule to this decision.

Main Issues

2. The main issues are: (i) the effects of the proposal on the character and appearance of the area having particular regard to whether it would conserve or enhance the special qualities of the Malvern Hills Area of Outstanding Natural Beauty (AONB); and (ii) its effects on the living conditions of the occupiers of Boundary Cottage with regard to privacy.

Reasons

Character and appearance and AONB

3. The appeal site comprises a rectangular parcel of land at the end of a loose line of dwellings along the north-western side of the B4208 Gloucester Road and next to the open expanse of Castlemorton Common. There is also a dwelling opposite the site on the other side of the road. Although there are gaps in the line of dwellings, they appear as an extension of the built-up area of Welland and the site lies within the defined settlement boundary. The Council does not object to the principle of a residential development on the site.

4. Nevertheless, the site lies within the Malvern Hills AONB. Policy SWDP 23 of the South Worcestershire Development Plan (2016) (SWDP) says development that would have a detrimental impact on the natural beauty of the AONB will not be

permitted. The policy also reflects the statutory duty to conserve and enhance the AONB's special qualities and requires development to have regard to the AONB Management Plan.

5. The entrance to the village on the approach from the south-west is marked by the white painted brick dwelling next to the site and the brown rendered one opposite. Moreover, there is significant variation in the style, size and colour finishes of other neighbouring dwellings and indeed, of those elsewhere within the AONB. Accordingly, and particularly around the appeal site, there is no dominant building colour.

6. The proposed dwelling's flat roofed form would not reflect the tile pitched roofs of those neighbouring it. However, there would be similarities in its overall height and mass to those surrounding dwellings. Thus, it would not appear unduly incongruous in term of its overall scale.

7. I consider the proposed building to be of elegant design in its form and it strikes an appropriate balance between the use of stone, timber and glazing. The vertical timber cladding would represent an acceptable modern take on the use of this traditional building material and once weathered, would assist in satisfactorily assimilating the dwelling into its surroundings.

8. The proposed dwelling would be oriented on the site such that in views from the south-west, it would appear broadly similar in size and mass to the dwelling on the opposite side of the road. Rather than appear out of balance as suggested, this would create a pleasing symmetry in building form on either side of the road and at the edge of development on the approach to Welland. It would also be similar in width to the existing next door dwelling and those further along Gloucester Road. The distances between the flanks of the dwelling and the site boundaries would be sufficient to prevent it from appearing cramped on its plot.

9. The Council refers to the modest simple red brick wayside dwellings in the unenclosed common landscape character type. However, whilst the appeal site lies next to this landscape, it is nonetheless within the defined settlement boundary and occupies a very different context from the one the Council has described. I do not consider the proposed dwelling to be at odds with its surroundings notwithstanding that I did not see any clear evidence of wayside dwellings near to the appeal site along Gloucester Road to the south-west.

10. For these reasons, the proposal would not appear disharmonious in its context or harm the special qualities of the AONB and to which I have given great weight as prescribed in the National Planning Policy Framework (the Framework). Thus it would not conflict with policy SWDP 21 which expects all development to be of a high design quality and integrate with its surroundings including by responding to the landscape quality of the area. Neither do I find conflict with policy SWDP 23 or the Framework.

Living conditions

11. The proposed design of the dwelling includes a rectilinear covered balcony at first floor level which leads off the lounge and kitchen/dining area. The balcony would have a blank end which would allow only oblique views into the rear garden of Boundary Cottage. Furthermore, the proposed dwelling would be set further back on its plot than Boundary Cottage and it would not be possible to

look into the area of the neighbouring rear garden situated closest to the cottage.

12. Moreover, some overlooking of neighbouring gardens is not unusual where dwellings sit next to one another. Thus I do not consider that the privacy of the occupiers of Boundary Cottage would be unduly harmed. Notwithstanding this, a screen is proposed along the edge of the balcony that would minimise the likelihood of the neighbouring garden being overlooked.

13. The occupier of Boundary Cottage has drawn my attention to what the South Worcestershire Design Guide Supplementary Planning Document (2018) (SPD) says about privacy and balconies on page 59. However, that part of the SPD is concerned with rear extensions and is not therefore relevant to this appeal. I do however note that the SPD says that all new build dwellings must have access to at least one area of usable private space and this can include front or back gardens, roof gardens, decks or balconies. The proposal would therefore accord with the SPD principles in 5I by providing a combination of more than one type of private amenity space.

14. To conclude on this second main issue, the proposal accords with policy SWDP 21 that, amongst other things, also includes a requirement for development to provide an adequate level of privacy.

Other matter

15. The occupier of Boundary Cottage has also raised a concern about the effect of the proposed development on the amount of light reaching the bedroom served by a window in the southern elevation of the property. A further concern is raised in relation to the outlook from that window. I take each of these matters in turn.

16. In relation to light, there is nothing in the relevant sections of the SPD that requires a set distance between the flanks of existing and new build dwellings. The distance between the flank of Boundary Cottage and the proposed dwelling combined with the set-back of the latter, would not in my view, result in any unacceptable effects on the amount of light reaching next door's bedroom.

17. Whilst the outlook from the bedroom window would change, such change does not necessarily equate to harm. The proposed dwelling would be sufficient distance away from Boundary Cottage to prevent a harmful overbearing effect on the outlook from the bedroom. In any case, a bedroom is not generally frequently used for daytime living purposes.

18. I am satisfied that the living conditions of the occupier of Boundary Cottage would not be harmed in terms of either light or outlook.

Conditions

19. The Council has suggested the imposition of a number of conditions in the event of planning permission being granted. I have considered these in light of the Framework and Planning Practice Guidance. Where necessary, I have amended some of the suggested wordings for clarity and/or to ensure compliance with national policy and guidance.

20. I have imposed a condition specifying the relevant drawings as this provides certainty. Conditions related materials are necessary in order to ensure the

appearance of the development is satisfactory. However, it is not necessary for these to be pre-commencement conditions. Moreover, a separate condition is not necessary in relation to openings, eaves, verges etc as this will be adequately covered by the aforementioned condition and the details on the approved plans. In any case, it is unclear what such a condition is intended to achieve. The suggested archaeology condition is too onerous for a development of a single dwelling on a modest site and I have therefore imposed a less onerous version. A condition restricting the times for demolition, clearance or construction work is necessary in the interests of neighbouring amenity.

21. I have imposed a condition related to biodiversity enhancements but not in pre-commencement form as this is unnecessary. A condition relating to sustainability measures is necessary in order to ensure the development's sustainability credentials. A condition related to water efficiency is necessary in order to ensure good water management. However, a pre-commencement condition is not necessary.

22. A boundary treatment condition is unnecessary as adequate details are shown on approved drawing No. 7 Rev C. In order to ensure the development is satisfactorily provided with broadband, a condition is necessary to require it. In the interests of highway safety, I have imposed conditions related to the provision of the access, visibility splays, parking and turning area and a Construction Management Plan (CMP). The suggested use of the term "shall include but not be limited to" is imprecise and unenforceable. The requirement for any reinstatement of the highway following the completion of the development needs to be a stand-alone condition and I have imposed one accordingly. It is not necessary to repeat the requirements related to the access (condition 11) in condition 12. I have imposed a condition requiring a percolation test in order to determine the drainage requirements of the development. In order to encourage the use of sustainable transport modes, a condition is necessary relating to cycle storage. In the interests of the area's character and appearance and to ensure successful plant establishment a condition is necessary in relation to the green roof planting.

23. I have noted the suggested lighting condition but have not been made aware that such restrictions apply to other properties in this part of Welland. I do not consider the condition to be necessary and have not imposed it.

24. The council has suggested a condition that would remove certain permitted development rights. The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) restricts certain permitted developments on article 2(3) land which includes AONBs. It would still allow for small single storey extensions under Class A but the conditions within the GPDO would ensure consistency in the use of materials. Under Class B, the GPDO does not allow for roof additions or alterations on article 2(3) land and also restricts the size and positioning (relative to the dwellinghouse) of development under Class E. It is therefore clear that the Government does not seek to restrict all permitted development rights in AONBs. Accordingly, and given that I have not been made aware of similar restrictions applying to other nearby properties, the proposed condition would not be necessary or reasonable.

Conclusion

25. For the above reasons, the appeal succeeds.

Hayden Baugh-Jones

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 and Block Plan Drawing No 1; Block Plan as Proposed Drawing No 2A; Proposed Floor Plans Drawing No 3 Revision C; Proposed Elevations Drawing No 4 Revision D; Highways Information Drawing No 6 Revision B; Hard Landscaping Information Drawing No 7 Rev C; Height and Levels Information Drawing No 8; Drainage Information Drawing No 9 Rev B; Roof Plan as Proposed Drawing No 9; Street Scene and Elevations as Proposed Drawing No 10 Rev B; Arboricultural Constraints Plan Drawing No 10 Rev A.

3) No development above slab floor level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted including the external staircases have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

4) No development above slab floor level shall take place until a sample panel of the stone to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, mortar and pointing technique to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.

5) The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority, and shall allow that person to observe the excavations and record items of interest and finds.

6) Demolition or construction works shall take place only between 0800 and 1800 on Monday to Friday and 0800 to 1300 on a Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

7) Before the development is occupied, a scheme for the enhancement of biodiversity including a methodology and programme of implementation shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.

8) Prior to their installation, details of measures for the use of energy from low carbon sources and energy efficiency referred to in the Energy Statement by Enplanner ID: 1563 shall be submitted to and approved by the local planning authority. Any photovoltaic panels, framing or equipment shall not exceed the height of the parapet walling enclosing part of the roof. Development shall be carried out as approved details

and the approved measures shall be implemented before the development is occupied.

9) The development shall not be occupied until water efficiency measures have been implemented in accordance with a Water Management Statement that shall have first been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved measures.

10) Before the development is occupied, details of broadband provision to serve the dwelling shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details and the broadband provision shall be retained thereafter.

11) The development shall not be occupied until the first 5 metres of the access measured from the edge of the carriageway has been surfaced in a bound material in accordance with the details on Drawing No 7 Rev C.

12) No development shall take place until the visibility splays shown on Drawing No 6 Rev B have been provided. The visibility splays shall be maintained free of obstructions exceeding a height of 0.6m above the level of the adjacent carriageway.

13) The development shall not be occupied until the access, turning area and parking area have been provided in accordance with the details on Drawing No 7 Rev C. The access, parking and turning area shall thereafter be retained for those purposes.

14) The dwelling shall not be occupied until sheltered and secure space has been laid out within the site for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.

15) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

    i) the 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) wheel washing facilities;
    v) construction vehicle delivery hours.
    vi) Details of any temporary construction accesses and their reinstatement
    vii) A timescale for inspection of the highway next to the site and a the provision of a highway condition survey

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

16) Following the highway condition survey required by condition 15, details of any necessary reinstatement of the highway shall be submitted to and approved in writing by the local planning authority. The highway shall be reinstated in accordance with the approved details within 1 month from the date of the details being approved.

17) The drainage system detailed on Drawing No 9 Rev B shall not be constructed until a percolation test has been carried out in accordance with BRE Digest 365 or other relevant guidance that shall have first been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the results of the percolation test before the dwelling is occupied.

18) Prior to its installation, details of the green / planted roof shall be submitted to and approved in writing by the local planning authority. The details shall include planting plans; written specifications (including cultivation and other operations associated with plant establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate. The planting shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and shall be maintained in accordance with a management plan that shall have first been submitted to and approved in writing by the local planning authority; and any 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.