
Appeal Decision

Site visit made on 1 July 2019

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 19th July 2019.

Appeal Ref: APP/D3125/W/19/3225088
24 Bakers Piece, Witney OX28 1PQ

- 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 Brian Cade against the decision of West Oxfordshire District Council.
 - The application Ref 18/02103/FUL, dated 8 July 2018, was refused by notice dated 10 October 2018.
 - The development proposed is a detached 2 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the application, the Council adopted the West Oxfordshire Local Plan 2031 (adopted September 2018) (LP). For the avoidance of doubt, my determination is made upon the development plan as it exists at the date of my decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the Witney and Cogges Conservation Area, and on the setting of nearby listed buildings at West End.

Reasons

4. The vast majority of the appeal site is located within the Witney and Cogges Conservation Area (CA) which is characterised by a high proportion of very good quality historic buildings which show strong consistency in detailing and design. Undeveloped areas to the rear of properties along West End and historic walling denote the significance of these open spaces as former burgage plots as referred to in the Witney and Cogges Conservation Area Character Appraisal (2013) (CAP).
5. The property at 70 West End is a Grade II listed stone building dating from the early eighteenth century. The appeal site previously formed part of the rear garden of this property and there remains intervisibility between the two. The close proximity of the site to other nearby listed buildings along West End means that the site also forms the part of the surroundings in which these listed buildings are experienced. Accordingly, the site forms a part of their setting. As part of a former burgage plot, the heritage significance of the

appeal site stems from its openness and historic boundary walls which assist in an understanding of the historic pattern of development.

6. A previous proposal for three two storey dwellings on the site was dismissed at appeal¹ due to the adverse impacts on the CA by reason of the development of an historically open area and removal of the section of stone walling running along the entire western boundary. Since the previous appeal, the appellant has taken down a section of walling along the western boundary of the site in order to enable access, with some evidence of this being rebuilt in places. The Council apparently previously confirmed that such works would not require planning permission or conservation area consent and this is not a matter for me in determining this appeal on the planning merits of the proposal.
7. The present proposal can be distinguished from that previously dismissed at appeal in that it relates to a single dwelling and proposes reinstatement of stone walling enclosing the site. However, although of reduced height compared to the three houses previously proposed and those in Bakers Piece and Farmers Close, the proposal would still represent an uncomfortable intrusion of new built form into a historically open area. It would thus be of significant harm to the character and appearance of the CA by reason of the erosion of the historic burgage pattern. For the same reason, it would also have a materially adverse effect on the setting of nearby listed buildings at West End, particularly with No 70 with which it formerly had a functional connection.
8. Full enclosure of the site on its western side by stone walling would not be possible if the development were to come forward due to the need for an access. However, a section has already been removed to facilitate access and there is no substantive evidence such as to indicate that proper reinstatement could not be secured by condition, where required.
9. Although the site borders modern housing to the north and west, with land to the east used for industrial purposes, in its undeveloped state, it retains a strong connection with the listed building at No 70 and historic burgage pattern. The proposal followed favourable pre-application advice and the design has sought to overcome previous concerns and aims to use natural materials and take cues from nearby traditional buildings but this does not overcome the fundamental concern related to introducing built development into a historically open plot and in this context, the proposed house would not provide a sensitive buffer to nearby modern housing.
10. Whilst the CAP does not suggest that no development is acceptable in the CA, the present proposal would be materially harmful for the reasons identified. I do not have full details of a previous permissions apparently granted for a dwelling to the rear of No 64 in 1987 and 1993 in order to form a detailed comparison with the present proposal but these may well have been considered within a different policy context in any event. Although there may not have been historic public views of the appeal site, the proposed development would be clearly apparent in views from Bakers Piece. Details of a recent extension development are also not provided to enable an appropriate comparison.
11. Accordingly, and undertaking my statutory duties under sections 66(1) and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I

¹ APP/D3125/W/16/3161476

find that the proposed development would have a harmful effect on the character and appearance of the CA and on the setting of nearby listed buildings at West End. It would conflict with Policies OS2, OS4 and H2 of the LP which require development to be of high quality design and to complement the existing pattern of development and character of the area and to conserve the historic environment. It would also fail to accord with Policies EH10 and EH11 which seek to conserve the special interest, character and appearance of conservation areas and to ensure that development within the setting of listed buildings respects that setting.

12. The harm identified would be significant but less than substantial in the terms of the revised National Planning Policy Framework (2019) and accordingly, I turn to assess the public benefits arising from the proposal below.

Public benefits

13. The proposal would provide one additional relatively small unit of windfall residential accommodation in a sustainable location where the LP generally seeks to focus new homes. It would be acceptable in principle in locational terms and would make use of a currently unused piece of land in line with national policy aims to make efficient use of land and emphasising the benefits of using sites within existing settlements, all in the context of the impetus to meet the need for new homes. Existing boundary walls, which are identified as an important part of the historic character of the CA are intended to be repaired and reinstated, and this could be secured by condition. These aspects together offer modest support for the proposal. I have very little substantive evidence though such as to indicate that the proposal would represent the optimum viable use.
14. Weighed against this though, the proposal would result in significant harm to the character and appearance of the CA and to the setting of listed buildings at West End. Pursuant to paragraph 193, I am required to give at great weight to the conservation of designated heritage assets.

Balancing and conclusion

15. The modest benefits offered by the proposal would be outweighed by the significant harm to the designated heritage assets identified and the proposal would thus conflict with the development plan, read as a whole. There is no evidence to suggest that the relevant development plan policies are out-of-date in the terms of the revised Framework. Accordingly, the 'tilted balance' contained within paragraph 11 of the revised Framework is not triggered and the proposal would not represent the sustainable development in respect of which there is a presumption in favour. For the above reasons, and taking into account all other matters raised, the appeal does not succeed.

V Bond

INSPECTOR