
Appeal Decision

Site visit made on 2 July 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeal Ref: APP/Y3940/W/19/322225

Thenford, The Street, Kilmington BA12 6RG

- 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 Rupert Lund against the decision of Wiltshire Council.
 - The application Ref 18/11603/FUL, dated 6 December 2018, was refused by notice dated 30 January 2019.
 - The development proposed is erection of a 3-bedroom cottage within the curtilage of 'Thenford'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. When I visited the site, I saw that a dividing fence has already been constructed which would delineate the curtilage of the proposed dwelling. I understand that the fence is unauthorised development and is the subject of ongoing enforcement action by the Council.
3. Whilst that matter has no bearing on the merits of the current appeal, I am satisfied that the fence accords with that shown on the submitted plans, and I have had regard to it in determining this appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including whether it would conserve and enhance the landscape and scenic beauty of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB); and preserve the setting of the Grade II listed Thenford building;
 - Whether the proposal would make suitable provision for foul drainage; and
 - Whether the proposal would provide safe vehicular access to the highway.

Reasons

Character and Appearance

5. The appeal property is sited parallel to The Street, a main road running through Kilmington and forms a gap between Thenford to the east and Brendon

to the west. It is flanked on the roadside by a mature hedge which provides a soft edge to the highway.

6. The village is linear in form hosting a wide variety of properties flanking the main road in terms of their size, type, relationship with the highway, spacing between dwellings and boundary treatments.
7. The proposed dwelling would be positioned away from the neighbouring property, Brandon, to the west and its eastern elevation would be located close to the new property boundary. However, given the variety in building patterns in the area, the development would not to my mind appear as a notably cramped dwelling in the street scene and, in that regard, would not be harmful to the character and appearance of the area.
8. Similarly, whilst the site lies within the AONB, that designation covers a very wide area and in doing so washes over the whole village. The new development would be seen in the context of the mix of existing built development and boundary treatments. In this regard, I have been provided with no evidence of any distinguishing landscape features of the AONB which would be harmed as a result of the development. Similarly, given its setting amongst other buildings within the village, I find that no visual harm to the AONB would result.
9. However, the appeal site occupies a significant part of the existing curtilage of Thenford, which forms part of a pair of Grade II listed two-storey cottages. Whilst most likely originally dating from the 18th Century, a number of changes have been made over the years to the property, including in the late 19th/early 20th centuries when the building became a shop. Nevertheless, the Flemish bond brickwork, rubblestone, thatched roof with brick stacks and variety of fenestration are all features which contribute to its significance.
10. The building is set by the roadside and its prominent, traditional gable end is readily appreciated on approaching from the Green to the west. Its setting is also framed by the substantial hedge which lines the roadside to the property and its spacious garden. These features also contribute to its significance.
11. The statutory duty established in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and requires me to have special regard to the desirability of preserving the building or its setting or any special architectural or historic interest.
12. The proposed dwelling would be set back within its plot which would minimise the extent to which views of Thenford's gable would be obscured, and the new dwelling could be finished to a high standard of design using appropriate materials. However, the creation of a new residential curtilage, car parking, the usual domestic paraphernalia associated with a new dwelling and the removal of part of the boundary hedge would serve as a significant visual distraction to the listed building. Furthermore, the development would diminish its open setting.
13. To my mind, the abrupt foreshortening of the land attached to Thenford, which has already been marked with the installation of a boundary fence, is also harmful to its setting. Whilst the appellant compares the size of the remaining plot to other gardens in the area, I must assess the specific effect of the development being proposed on the setting of the heritage asset. Moreover,

whilst the boundary fence is similar to that which separates the appeal site from Millbeck to the rear, its positioning and prominence is, for the reasons stated, harmful to the setting of the host building.

14. Whilst the appellant has described the site as scrub with dilapidated structures and waste material, I have no evidence to suggest the land is anything other than garden land. Furthermore, the evidence suggests it has historically been open land and, regardless of its appearance in the past, it remains so, albeit with the unauthorised intervening fence.
15. Overall, therefore, I find that the proposed dwelling would fail to sustain or enhance the setting of Thenford and thereby the significance of the designated heritage asset.
16. Given the scale of the development in respect of the setting of the listed building, I consider the harm to be less than substantial. Even so, in line with the statutory duty, the National Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of designated heritage assets and that any harm should require clear and convincing justification. As such, it is necessary to weigh the harm against the proposal's public benefits.
17. In this case, the development would make a contribution of a single dwelling to housing land supply in the area. However, this would be a modest benefit which would not outweigh the harm I have found.
18. I appreciate the appellant has undertaken substantial renovation works to Thenford, including apparently much-needed repairs to the structure and to the thatched roof. However, those works have already taken place and are not a public benefit which is relevant to the consideration of this appeal.
19. Drawing this main issue together, I conclude that the proposal would fail to preserve the setting of the Grade II listed building in conflict with WCS Core Policy 57 and Core Policy 58. Those Policies require new developments to enhance local distinctiveness by responding to the historic environment and ensuring the conservation of listed buildings. Similarly, the proposal would not accord with Section 16 of the Framework which identifies heritage assets as an irreplaceable resource which should be conserved in a manner appropriate to their significance.
20. However, the proposed development would not appear as a cramped form of development detrimental to the general character and appearance of the area, nor be harmful to the landscape and scenic beauty of the AONB. As such I find no conflict with the adopted Wiltshire Core Strategy (January 2015) (the WCS) Core Policy 2(i), Core Policy 17 and Core Policy 51. In combination, those Policies, amongst other matters, require development to respect the existing character and form of settlements, and protect, conserve and enhance landscape character. For the same reasons, the proposal would not fail to accord with Objective 8 of the Creating Places guidance (2006) which also advises account to be taken of local distinctiveness.

Drainage

21. In contrast to the information supporting the planning application, the appeal evidence indicates that connection to a mains sewer does not appear to be feasible for the development. At the appeal stage, the appellant initially

indicated that foul waste would be disposed of to a septic tank, but this was subsequently changed with a reference instead to the provision of a package sewage treatment system. No further details in this respect are before me.

22. The Planning Practice Guidance (PPG) is clear that applications relying on anything other than connection to a public sewage treatment plant will need to be supported by sufficient information to understand the potential implications for the water environment.
23. It further advises that a proposal for a package sewage treatment plant should set out clearly the responsibility and means of operation and management to ensure that the permit is not likely to be infringed in the life of the plant. The PPG goes on to advise that there may be effects on amenity and traffic.
24. In the absence of any substantive information in this regard, and given the importance attached in the Framework to preventing new development from contributing to pollution, I conclude that appropriate provision for foul drainage has not been demonstrated as part of the proposal. This is not a matter that could be adequately dealt with through the imposition of a planning condition. Accordingly, the proposal would conflict with WCS Core Policy 57 which, amongst other matters, requires regard to be had to the compatibility of development with adjoining buildings and uses including consideration of pollution.

Highway safety

25. The development would be accessed directly off The Street, a fairly narrow village road subject to a 30mph speed limit. The application indicates two off-street parking spaces would be created within the development.
26. The proposed access would be gained through the existing hedge which curves slightly as it follows the road. As a result, the indicative guidelines for visibility splays of 43m for a 30mph road set out in Manual for Streets (MfS) would not be met. Whilst the appellant submits that 'X' distances of 45m would be achieved, that would be on the basis of a 'Y' setback distance of 1m from the highway edge. In contrast, MfS generally advises an appropriate 'Y' distance of 2.4m should normally be adopted as a guide to the suitability of such junctions.
27. On the basis of the submitted evidence, it does not appear that the recommended visibility splays could be secured through a planning condition.
28. Nevertheless, I saw on my site visit that, whilst only a snapshot, The Street was lightly trafficked and that vehicles did not appear to be travelling at excessive speeds. In this regard I concur with the appellant that the location of the appeal site within the built-up part of the village is likely to have a somewhat calming effect on traffic speeds. I also note the Council does not dispute that traffic could arrive and depart the site in forward gear.
29. In my judgement, therefore, the site circumstances of the proposal are such that the creation of a new access to serve the development would not pose an unacceptable hazard to other road users.
30. I am mindful in this regard that MfS, whilst a helpful guide, is not determinative in all cases. I have also had regard to my colleague Inspector's decision on APP/Y3940/W/18/3214521. However, I am not familiar with the

details of that case or the site circumstances and cannot be confident they are reasonably comparable to the case before me.

31. I therefore conclude on this main issue that the proposed development would not pose an unacceptable risk to highway safety and I find no conflict with WCS Core Policy 57 or Core Policy 61 which aim to achieve places which are safe and accessible, including requiring development to be capable of being served by safe access to the highway network. For the same reasons, the proposal would comply with paragraph 109 of the Framework.

Other Matters

32. A number of other comments in opposition to the proposal have been raised by interested parties which I have carefully considered. However, none would alter my conclusions on the main issues and, as the appeal is to be dismissed, I have not considered them further.

Conclusion

33. Whilst I have found no significant harm in relation to the effect of the proposal on the general character and appearance of the area, landscape or highway safety, it would give rise to less than substantial harm to the setting of a Grade II listed building. The public benefits would not outweigh the harm to the significance of this designated heritage asset. It has also not been demonstrated that the development would be suitably served by drainage infrastructure. For the reasons given, the appeal should be dismissed.

Ian Bowen

INSPECTOR