



Appeal Decision

Site visit made on 16 September 2019 by Ben Phillips Bsc Msc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref: APP/Y3940/D/19/3230894

Land known as the Orchard, St Mary Street, Chippenham, SN15 3JJ

- 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 J Spencer against the decision of Wiltshire Council.
 - The application Ref 18/11077/FUL, dated 28 February 2018, was refused by notice dated 27 February 2019.
 - The development proposed is described as works to facilitate 4 no. car parking spaces and turning area.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are:
 - The effect of the proposed development upon the character and appearance of the Conservation Area;
 - The effect of the proposed development upon the setting of the nearby listed buildings; and
 - The effect of the proposed development on the living conditions of the occupants of surrounding properties, with particular regard to noise and disturbance associated with the use of the access and parking spaces.

Reasons for Recommendation

Conservation Area

4. The appeal site is located within an historic part of Chippenham, the value of which is recognised by its inclusion within the Chippenham Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Chippenham CA was first designated in 1974 and reflects its historic market town nature.

5. The CA is large and diverse enough to provide 18 separate and distinct character areas. The appeal site is located within the St Mary and The Butts character area, which states that St Mary Street is the finest unspoilt street in the town and boasts its highest concentration of Grade II* listed buildings. The main interest of this part of the CA relates to the age of the surrounding streets and unspoilt frontage of these buildings which contribute to the historic, coherent and special architectural interest along St Mary Street.
6. The appeal site is a parcel of land, which historically was an orchard. The compact site is surrounded by development in all directions, including 4 modern cottages immediately to the north east of the site. The site is not visible from the surrounding roads or public land. It has the feeling of a typical urban, rear of high street space, overlooked by a number of properties, with these buildings providing a variety of rear elevations and projections. Parking spaces for these buildings are to the west and north of the site, with the pedestrian access to the 4 new cottage style dwellings¹ running along its northern edge.
7. The site is generally residential in character and is one of the few areas of open space in this tightly knit urban environment, however given its small size and appearance it has a neutral value to the CA and its significance as a heritage asset. It is noteworthy that the site is not specifically referred to in the Chippenham Conservation Area Appraisal, and that a previous Inspector² (considering the appeal for the 4 cottages) stated "*The site has no specific heritage value as an orchard or open space*".
8. The Council assert that there were orchard trees on the site, which have been removed, some without consent. Other than providing 2 application numbers for trees that were dead, dying or dangerous, the appellant is silent on the matter of tree removal upon the site. Whilst paragraph 191 of the National Planning Policy Framework (2019) (the Framework) requires me not to take into account a deteriorated state of a heritage asset where there is evidence of deliberate neglect, no evidence has been provided to demonstrate what the site was like prior to the removal of the trees. Accordingly, I am only able to judge the effect of the proposal on the evidence before me and what I observed on my site visit.
9. The proposed four parking spaces would not result in any physical structures being erected on site, and the removal of a part of the side wall to provide access would retain the current pattern of enclosure and not detract from the character or appearance of the wider area. Accordingly, I find that the proposal would have a neutral effect on the character and appearance of the conservation area. There would be no conflict with Core Policies 57 or 58 of the Wiltshire Core Strategy (CS) which, amongst other matters require development to create a strong sense of place and protect and conserve the historic environment. There would also be no conflict with the Framework which requires that great weight is given to the heritage asset's conservation.
10. In reaching this conclusion I am mindful that in allowing the appeal for the 4 dwellings to the north of the appeal site that a condition was imposed to protect the existing apple trees on the site, however as I have set out above, I

¹ Planning Application 06/00038

² Appeal Decision APP/J3910/A/06/2016700/NWF. The general policy requirements regarding Conservation Areas remain largely consistent since this previous Inspectors decision.

have assessed the proposal on its merits. Accordingly, this matter does not alter my findings in this regard.

Listed Buildings

11. The site has numerous listed buildings in its vicinity. Nos 4-12 St Mary Street to the north are Grade II listed dwellings. These are separated from the appeal site by defined boundaries - their rear gardens and the boundary wall, along with the pedestrian access to the 4 modern cottages. To the west is the Grade II listed Nos 38 and 39 Market Place (and the attached wall) and No 36 Market Place. These are separated by parking spaces and the side boundary wall to the appeal site. To the south is the Grade II listed St Andrews Church Hall and attached wall. This is separated from the appeal site by an open space and walls.
12. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 66). Whilst the frontages of the properties along St Mary Street and Market Street are largely unaltered, the rear elevations have had a number of extensions which are visible from the appeal site.
13. Given the proximity of the appeal site to nearby listed buildings, and from the historical records provided by interested parties, it is clear that that the site makes a contribution to their setting. However, following the development of the adjoining site with 4 cottages and parking areas to the rear of the listed buildings, it is clear that the setting of the listed buildings has changed over time. In that the appeal site provides open space between the buildings, it provides a relief from the built form of them. This openness would however be largely retained as a result of the proposal and whilst cars would be parked upon it at times, this would be further away from the listed buildings than the current parking arrangements. The proposal would thus have a neutral impact on the setting of the listed buildings.
14. Given my findings above, I conclude that the proposal would preserve the setting of nearby listed buildings and would sustain the significance of them as heritage assets. There would be no conflict with the aims of CS Core Policy 58 which requires development to conserve designated heritage assets and their settings, amongst other matters. Moreover, there would be no conflict with the Framework in this regard.

Living Conditions

15. The access to the proposed parking spaces would utilise the existing lane between Nos 3 and 4 St Mary Street. A number of residential properties face onto the existing narrow access, including the units at the rear of No 3 St Mary Street. This lane provides access to approximately 8 parking spaces already and the representations submitted indicate that the use of the lane to access these spaces causes noise and disturbance to nearby occupiers. This includes in nearby occupiers' bedrooms.
16. The provision of 4 new parking spaces would lead to an unavoidable increase in the intensity of the use of this narrow lane, bringing additional car movements directly past these bedroom and other habitable room windows, unconnected with the dwellings that the windows serve. There would be a high probability that the additional use of the access in close proximity to these windows would

cause noise and disturbance, particularly late at night and early in the morning when people may be sleeping. Such comings and goings, with vehicle doors closing and associated activity around the car parking spaces could disturb the sleep of nearby occupiers. This would have a harmful impact upon the living conditions of the occupiers of these properties.

17. Given my findings, I conclude that the proposal would have a harmful effect on the living conditions of the occupiers of nearby properties along the access lane to the parking spaces, in conflict with CS Core Policy 57 and paragraph 127 of the Framework, which collectively seek to adequately protect living conditions and the amenity of existing occupants.
18. I acknowledge that no objection was received from the Highway Authority regarding the layout and access/turning arrangements, however it is likely that its consideration was limited to the effect of the proposal on highway safety. This matter does not alter the conclusion that I have reached.

Other Matters

19. It is understood that the proposed development would provide off street parking spaces for the 4 recent dwellings adjoining the appeal site. However, the site is clearly centrally and sustainably located, and the lack of parking space provision was considered acceptable for the initial development. Other legislation is available to prevent unacceptable on street parking. The appellant also states that the proposal would bring the land into gainful use, however even if this was the case this does not outweigh the harm identified above and the conflict that would occur with the development plan.

Conclusion

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

B Phillips

APPEALS PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR