The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/Y3940/W/19/3236680
High Trees, A338 Broken Cross Northeast To Junction With Figsbury Road, Winterbourne Earls SP4 6HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Andrey Cochran against the decision of Wiltshire Council.
- The application Ref 19/03798/VAR, dated 8 April 2019, was refused by notice dated 20 June 2019.
- The application sought planning permission for erection of single detached dwelling and associated works without complying with conditions 2 and 3 attached to planning permission Ref 18/10127/VAR, dated 10 January 2019.
- The conditions in dispute are Nos 2 and 3 which state that:
  2. The development hereby permitted shall be carried out in accordance with the following approved plans:
     - Application Form & Certificate
     - Ref: Site Location Plan. Received - 26.10.2018
     - Ref: C793/1 - Land Adjacent to High Trees. 26.10.2018
     - Ref: P17-18 28_02 Rev A - Combined Layout & Access Drawing. 10.01.2019
     - Ref: 101 Rev A - Only Site Section A-A element. 09.01.2018
     - Ref: 010 Rev B - Works to Access. 26.10.2018
     - Ref: 102 - Proposed Floor Plans. 07.11.2017
     - Ref: 103 Rev A - Proposed Elevations North & East. 01.02.2018
     - Ref: 103 Rev A - Proposed Elevations South & West. 01.02.2018.
  3. The development hereby approved shall be carried out in accordance with the approved material details which were approved in writing by the Local Planning Authority in a letter dated 15th August 2018.
- The reasons given for the conditions are: For the avoidance of doubt and in the interests of proper planning and in the interests of visual amenity and the character and appearance of the area.

Decision

1. The appeal is allowed and planning permission is granted for erection of single detached dwelling and associated works without complying with conditions 2 and 3 attached to planning permission Ref 18/10127/VAR, at High Trees, Winterbourne Earls, SP4 6HD, in accordance with the terms of the application, Ref 19/03798/VAR, dated 8 April 2019, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site lies within the village of Winterbourne Earls, adjacent to the Winterbourne Earls Conservation Area (CA). I must therefore consider the effect of the proposal on the significance of the CA, which derives not only from its physical presence, but also its setting. As heritage assets are irreplaceable, any harm requires clear and convincing justification. The National Planning Policy Framework (the Framework) advises that any harm which is less than substantial must be weighed against the public benefit of the proposal.

4. Despite the absence of a character appraisal, the significance of the CA is derived from its cluster of historic buildings centred around the Church and manor house. The buildings within and surrounding the CA are largely traditional in their appearance and utilise a range of external materials, including red brick, thatch, cob, brick and flint and render. The appeal site makes a negligible contribution to the significance of the CA owing to its close proximity thereto and given its visibility in views from the CA in the vicinity of Tanners Lane.

5. The appeal site is formed from a modestly sized garden. Permission already exists to construct the dwelling in the general form proposed, albeit with brick, timber and glass.

6. The proposal seeks permission to amend the plans and materials conditions to allow for the dwelling to be constructed with a mix of timber cladding and natural stone, instead of timber cladding and red brick. The stone proposed would be a Purbeck stone which is a natural buff colour with some subtle grey hues with a rough, rather than dressed, texture.

7. Given the extensive use of glazing and timber in the elevations of the building, there would be a limited extent of stone, mainly used on both gable ends. Whilst I accept that there are limited examples of the use of such a material in the surrounding area, I consider that it would add depth and variation to the proposed dwelling without it appearing dated, or cluttered.

8. Whilst the Council is concerned that the dwelling would be particularly incongruous for the use of stone, it would still be seen against the backdrop of existing buildings and boundary walls which are constructed in a range of materials. Despite the visibility of the site from the adjoining public rights of way and to a lesser extent, from the main road through the village, the stone material would not be particularly jarring or strident when experienced in such views. There is a more prominent modern dwelling located within the CA which is not constructed of brick. It is experienced in views from the appeal site and its adjoining public rights of way and maintains the cohesion of the area's character and appearance, indicating that red brick is not regarded as the only acceptable material within this context.

9. Given the proposal's limited effect on the character and appearance of the area, and negligible significance of the site, the proposal would not harm the significance of the CA.

10. In view of this main issue, the proposal would not harm the character and appearance of the area and would therefore comply with, in particular, Policies CP57 and CP58 of the Wiltshire Core Strategy (2015), which, when read together, seek to secure a high standard of design which protects, conserves

and where possible enhances the historic environment. Given the absence of harm to the CA, there would be no conflict with the policies of the Framework.

Other Matters

11. I have had regard to the representation about the access to the proposed dwelling. However, as there is an extant permission that deals with this aspect, this has not altered my findings against the main issue.

Conditions

12. I have considered the conditions suggested by the Council in light of the Planning Practice Guidance. I have undertaking some minor editing in the interests of precision.

13. As the proposal is a variation of conditions, it is necessary to adapt the time limit condition to ensure the commencement of development by the original approval date. It is necessary to specify the approved plans for all aspects of the proposal in the interests of certainty. It is not necessary to specify any of the supporting documents save for where there is a specific condition relating thereto.

14. In the interests of the character and appearance of the area, it is necessary to add conditions relating to the roof material and for details of the stone to be first approved by the Council. For similar reasons, it is also necessary to ensure that the agreed boundary hedging and other soft landscaping measures are implemented at the appropriate junctures.

15. In the interests of highway safety and the free flow of traffic, it is necessary to condition the provision of the requisite visibility splays and parking area.

16. In the interests of the living conditions of future and neighbouring occupiers, it is necessary to restrict the glazing and opening of the first floor windows in the south and east elevations, and ensure that the balcony privacy screen is constructed and maintained thereafter.

17. The Council has suggested the removal of permitted development rights for the construction of dormer windows and rooflights, for the conversion of the garage and for any other householder alterations, including extensions. Ordinarily, such conditions should only be used in exceptional circumstances. I have considered the tight-knit urban context of the site and the need for conditions for obscure glass and privacy screens to maintain the living conditions of neighbouring occupiers. There is a potential that any subsequent alterations to the dwelling could have a detrimental impact on the living conditions of neighbouring occupiers. As such, I consider that there are specific circumstances in this case to justify removal of permitted development rights although the duplication of similar conditions is not necessary.

Conclusion

18. For the above reasons, the appeal is allowed subject to the conditions below.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before 22nd February 2021.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
   - Site Location Plan. Received – 5.04.2019
   - Ref: C793/1 - Land Adjacent to High Trees. Received - 26.10.2018
   - Ref: P17-18 28_02 Rev A - Combined Layout & Access Drawing. Received - 10.01.2019
   - Ref: 101 Rev A – Only Section A-A element. Received - 09.01.2018
   - Ref: 010 Rev B - Works to Access. Received - 26.10.2018
   - Ref: 102 - Proposed Floor Plans. Received - 07.11.2017
   - Ref: 103 Rev B - Proposed Elevations North & East. Received – 15.04.2019
   - Ref: 103 Rev B – Proposed Elevations South & West. Received – 15.04.2019

3. The roof of the development hereby approved shall be carried out in accordance with the approved material details which were approved in writing by the Local Planning Authority in a letter dated 15th August 2018.

4. No external stonework shall be constructed on site, until details and samples of the external stonework, including type, dressing, coursing and bedding of the natural stone, type of pointing and mortar mix, have been submitted to and approved in writing by the Local Planning Authority. The external stonework shall be constructed in accordance with the approved details.

5. No external stonework shall be constructed on site, until a sample panel of stonework, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

6. The dwelling hereby approved shall not be first occupied until the replacement hedgerow, identified on plan P17-18 28_02 Rev A – Combined Layout & Access Drawing has been planted along the northern boundary of the site.

7. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the dwelling or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping, including boundary treatment, shall also be carried out in accordance with the approved details prior to the occupation of any part of the development.

8. The development hereby permitted shall not be first occupied until the visibility splays shown on the approved plans leading from the lane onto the A338 have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

9. No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

10. The development hereby permitted shall not be first occupied until visibility splays have been provided on both sides of the property's access onto the lane, to the edge of the existing footpath/lane based on co-ordinates of 2.4m x 2.4m. The splays shall be kept free of obstruction above a height of 600mm at all times.

11. The first floor windows in the southern and eastern elevations (identified to be serving a Master Bedroom, Ensuite Bathroom & Dressing Room) shall be glazed with obscure glass only (to an obscurity level of no less than level 5 of the Pilkington Glass Scale (or equivalent)) and permanently fixed with a ventilation stay restricting the opening of the window prior to the first occupation of the development hereby permitted and shall be permanently maintained as such in perpetuity.

12. The 1.8 metre high glazed privacy screen as identified on the southern elevation of the first floor balcony hereby approved, shall be erected prior to the first occupation of the dwelling hereby permitted and shall be retained and maintained as such at all times thereafter. The glazed privacy screen shall have an obscurity level of no less than level 5 of the Pilkington Glass Scale (or equivalent).

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage hereby approved shall not be converted to habitable accommodation.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouse hereby permitted or within their curtilage.