



Appeal Decision

Site visit made on 6 November 2019

by S Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2020

Appeal Ref: APP/D3125/C/19/3222890

Ramblers Cottage, The Walk, Main Road, Alvescot, Bampton OX18 2PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Seth Dixon against an enforcement notice issued by West Oxfordshire District Council.
 - The enforcement notice, numbered EN No.2019/1, was issued on 17 January 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the removal of part of a dry stone wall involving the formation of a means of access on to a classified road.
 - The requirement of the notice is within 2 months of the notice coming into effect, reinstate the wall to its condition prior to its removal.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be corrected by (i) deleting the sentence under 'What you are required to do' and substituting it with '*Within 2 months of the notice coming into effect, reinstate the wall to match in materials, design and height that of the remaining wall to the front of Ramblers Cottage*'.
2. Subject to the above correction, the appeal is dismissed and the enforcement notice is upheld as corrected and the deemed planning permission is refused.

Procedural Matter

3. Appeals were made by both Mr Seth Dixon and Mrs Charlotte Dixon against the enforcement notice on ground (a). A letter to both parties dated 1 May 2019 confirmed that since the prescribed fees were paid by Mr Seth Dixon only, the appeal by Mrs Charlotte Dixon on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, had lapsed. Consequently, no further action will be taken on Mrs Charlotte Dixon's appeal. I will proceed in determining the appeal made by Mr Seth Dixon only.

Matters Concerning the Notice

4. The Council's alleged breach of planning control focuses on the part removal of the dry stone wall which, in its appeal statement, it describes as permitted

development, but combined with its purpose, creating a vehicular access on to a classified road, would require planning consent.

5. The terms of Class B of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) identifies that the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, will be permitted development where that access is required in connection with development permitted by any Class in Schedule 2 of the GPDO, other than in relation to Class A of Part 2. Thus, because Main Road is a classified road, the creation of a means of access would not be a form of development that is permitted by any Class in Schedule 2 of the GPDO.
6. I note that the appellant has indicated that by allowing the new access, the wall would be brought back to a better standard/condition than it was prior to demolition. The appellant described the wall as 'broken down in this area' whilst I note the requirement of the notice is to *reinstate the wall to its condition prior to its removal*. I have no evidence of the condition of the wall prior to its demolition and there is no appeal under ground (f) that would indicate that the appellant considers the steps required exceed what would be necessary to remedy the breach of planning. Consequently, I consider that the requirements to rebuild the wall to match the remaining section is reasonable.
7. It is open for me to correct the notice in accordance with my powers under section 176(1)(a) of the 1990 Act. As such, I consider that the notice can be corrected to provide clarity by deleting the sentence under 'What you are required to do' and substituting it with 'Within 2 months of the notice coming into effect, reinstate the wall to match in materials, design and height that of the remaining wall to the front of Ramblers Cottage. I am satisfied that no injustice will arise to either of the main parties in me so doing.

Appeal A - Ground (a)

Main Issue

8. The main issue is whether the proposal would preserve or enhance the character or appearance of the Alvescot Conservation Area (CA).

Reasons

9. The appeal site is located within the CA which was designated in 1988. Within the Council's Conservation Area Character Appraisal (the Appraisal) and the Proposals for Preservation and Enhancement document for Alvescot, specific reference is made to dry stone walls of various heights being seen throughout the village. The appraisal describes walls (along with open spaces, views, trees and hedges and groups of buildings) as one of the features that combine to create character and an individual sense of place.
10. Ramblers Cottage is a terraced property formed by the subdivision of one property into three cottages. The cottages within this group are set back from the road with a spacious area of informal garden and a wooded area to the front. A dry stone wall, which forms the boundary with the road, is interrupted just once to allow for a driveway that provides the single access to all three cottages. The wall extends at various heights beyond the boundary of the appeal site and its immediate neighbours in each direction, forming a

distinctive feature of the Conservation Area. Views along the main village street and into the area of natural landscaping and broadleaf trees enveloped by the prominent wall make a positive contribution to the character and appearance of the area and the special interest of the CA.

11. The wall, which has been partially demolished, is low in height with coping stones on top and is partially covered with ivy. The plan accompanying the Appraisal specifically indicates the wall as being a "significant boundary wall" within the CA and it is clearly an important heritage asset and distinctive visual and physical feature within the village. Whilst the portion of the wall represents only a small percentage of its total length, the interrupted section introducing a means of access at this point would visually erode the character of the street scene and would neither conserve or enhance the CA.
12. The appellant has referenced other similar openings along the same road in support of the proposal. However, the merits of these particular cases are not before me and I do not have sufficient details from which to draw a meaningful comparison. In any event, each case is determined on its own merits and I have assessed the appeal based on the evidence before me.

Planning Balance and Conclusion

13. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 193 of the National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.
14. As detailed above, the development harms the character and appearance of the CA, albeit causing less than substantial harm to its significance as a heritage asset given the scale of the proposal. Nonetheless this harm must still be given considerable importance and weight. It follows therefore that the development conflicts with Policy EH8 of the West Oxfordshire Local Plan (2018) which, broadly speaking, seeks to support new development where there would be no loss of, or harm to, any feature that makes a positive contribution to and conserves or enhances the setting of the CA.
15. The appellant has identified that a new access to the site would make provision for safer private space to the front of the house. However, this would be more reliant on a new access being created for the neighbouring property to extinguish the need to drive in front of the appeal property. That said, I can understand the desire to move the access, however, the benefits of a new access to the site would be of personal benefit rather than a public benefit.
16. Whilst the appellant has said that the creation of the access does not raise any issues in terms of highway safety, this indicates an absence of harm rather than a benefit of the scheme. As such it is given neutral weight.
17. Based on the evidence before me, there are no public benefits to outweigh the significant harm to the character and appearance of the CA that would arise

from the development. For the reasons given above I conclude that the appeal should not succeed.

S Hanson

INSPECTOR