



Appeal Decision

Site visit made on 23 December 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2020

Appeal Ref: APP/J3720/D/19/3238720

Orchard Lodge, Dassett Road, Avon Dassett CV47 2AY

- 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 and Mrs Richardson against the decision of Stratford on Avon District Council.
 - The application Ref 19/00418/FUL, dated 14 February 2019, was refused by notice dated 19 August 2019.
 - The development proposed is the demolition of existing single-storey outbuilding and car port. Erection of single-storey annexe and garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed extension would preserve or enhance the character and appearance of the Avon Dussett Conservation Area (ADCA) and the effect of the proposal on protected trees, and
 - whether the proposal would amount to the creation of a new dwelling and if so whether this would accord with the Council's spatial housing strategy.

Reasons

Character and appearance

3. The dwelling, the subject of this appeal, is connected to two other dwellings. The subject dwelling has a front outlook over a large garden with a courtyard to its side. The courtyard includes a long garage and store set away from the dwelling. The dwelling is largely two-storey but also includes some second-floor use. It also includes a small single-storey side and front extension. The site is spacious, and the dwelling is part of a wider context of build form that relate well to each other. The site makes a positive contribution to the character and appearance of the area.
4. The 'L-shaped' proposal would replace the existing garage and store and connect into the side of the dwelling. The single-storey proposal would wrap around two sides of the courtyard and employ a variety of styles to reduce its form and mass. However, the main dwelling is part of a substantial building in scale and footprint. Therefore, although the proposal would be subservient in scale, its width and footprint would not complement the form or design of the

- existing dwelling. The proposal would link a series of separate elements together in a form that would be discordant with the appearance of the main dwelling. By being connected, the proposal would diminish the grandeur of the existing dwelling.
5. Furthermore, it is also unconvincing that the proposal would appear as a utilitarian building. This would be due to the scale of the roof, its long continuous frontage and the inclusion of rooflights. These features would contribute towards the appearance of a single-storey residential building. These elements combined would detract from the appearance and significance of the host dwelling. Furthermore, the linking component whilst being of contrasting material, would be overt. It would both be taller than the adjacent eaves and stand ahead of the adjacent proposed elevation. This would emphasise the connection in a harmful manner and create an uncomfortable visual juxtaposition of forms.
 6. The site is within the ADCA. The statutory requirements¹ entail that special attention is paid to the desirability of preserving or enhancing the character and appearance of a conservation area. The Council's Character Appraisal² identifies that its significance derives partly from its two key forms of development; being rows of relatively simple cottages and finer separate houses. Also, the 'southern area' is characterised by many extensive residential gardens. It also identifies that the character consists of an range of dwelling styles but emphasises that design must respect the materials and scale that exist within the area. The proposal would be largely screened from the highway by distance and planting. However, the proposal would nevertheless be harmful to the character and appearance of the ADCA due to its scale and design.
 7. In terms of the advice in paragraph 196 of the National Planning Policy Framework (The Framework), the harm to the conservation area would be 'less than substantial' affecting only its immediate surroundings. The Framework sets out the need to address 'less than substantial harm' in a balanced manner against the public benefits associated with such schemes. The appellants have not advanced any public benefits to offset the harm. However, they have stated that the proposal would enable the provision of practical, safe and secure living accommodation for the appellant's elderly parents. In so far as these constitute public benefits, they would be insufficient to outweigh the identified harm to the ADCA.
 8. Furthermore, the proposal includes the removal of three protected trees. Policy CS.5 of the Stratford-on-Avon District - Core Strategy 2011-2031 (CS) (2016) explains the Development Plan's Landscape objectives. The companion text for Policy CS.5 requires development proposals to include a tree assessment to understand the impact of development. A tree survey has not been provided in evidence. Based purely on a visual observation, I consider that the trees make a positive contribution to the wider area. They are however, set back from the highway and the two nearest to the proposal appear to be poor quality, the third appears to have been pollarded in the past. Nevertheless, without the benefit of a survey the significance of the trees, and the impact of development upon them, cannot be determined. Consequently, this matter cannot be resolved with the imposition of a condition.

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

² Avon Dassett – Conservation Area Review 1999

9. The Council has identified that the site is within the Cotswold Fringe which is a Special Landscape Area. Policy CS.12 of the CS seeks to resist development that would have a harmful effect on its distinctive character. However, the proposal would have a low profile. It would also be read amongst other buildings and would be set back into the site. Consequently, it would not be harmful to the special landscape area due to screening and intervening buildings and built form.
10. Accordingly, in terms of the effect of the proposal on the character and appearance of the area, the proposal would be contrary to policies CS.1, CS.5, CS.8, CS.9 and CS.20 of the CS. These seek development to contribute towards the character of the district, to incorporate trees in a manner appropriate to the nature of the site, protect and enhance heritage assets, to positively contribute to local distinctiveness and for extensions to be of an appropriate scale. In contrast, for the above reasons, the proposal would accord with Policy CS.12 of the CS, which seeks to resist development that would have a harmful effect on the distinctive character of the Cotswold Fringe.

New dwelling

11. The proposal would include a range of rooms including two en-suite bedrooms, a living space and utility room. It would connect to the existing dwelling via an extended kitchen. The extended kitchen is proposed to be shared by all occupants. The site includes a large dwelling with only a front aspect. Therefore, the proposal would be intrinsically connected to the courtyard, garden, driveway and access onto the highway.
12. The proposal is presented as an extension to a dwelling, rather than the creation of a separate dwelling. The appellants explain that the annex would share utilities, garden, driveway and postal address and would not have a separate kitchen and is therefore ancillary. Ancillary uses are not distinguished by scale, although that may be relevant. There should be some functional relationship between the ancillary use and the primary use. That functional relationship should be one that is normally found; it is not based on the personal choice of the person carrying out both activities together. For a material change of use to occur the annex would have to be capable of being fully severed from the primary residential use.
13. The Council and appellants refer to the Uttlesford Judgement³. The judge in 'Uttlesford' considered that, even if the accommodation provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree. A "granny" annexe, even in a separate building in the curtilage of the main dwellinghouse, would normally be regarded as part and parcel of the main dwellinghouse use rather than ancillary to it. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling. I have also had regard to the Council's reference to extracts of a previous appeal decision⁴, although I have considered this appeal on its own merits.
14. The proposal would be connected to the main dwelling and rely on its kitchen to support the use of the annex. As such, the proposal would not be readily

³ Uttlesford D v SEE & White [1992] JPL 171

⁴ APP/T3725/X/13/2194189

severable from the main dwelling. Consequently, although having a comparatively large footprint, and containing a range of rooms, it would have functional dependency on the main dwelling. Therefore, it would be unable to function as a separate dwelling and would be ancillary. Although, the boot room could be converted into a small kitchen and the living room could have a front door access such changes would alter the nature of the proposal currently presented. A condition could have been imposed, to maintain the nature of the proposal, if I had been minded to allow the appeal.

15. Accordingly, in respect to the proposed use, the proposal would comply with policy CS.1 of the CS which seeks to contribute towards sustainable communities. I have also had regard to policies CS.8, CS.9, CS.12 and CS.20 of the CS. Policy CS.8 relates to the protection of the historic environment and Policy CS.9 relates to design. Policy CS.12 relates to the protection of the Cotswold Fringe. These are not directly related to the proposed use of the site. Finally, Policy CS.20 includes reference to conversions and changes of use for new dwellings. As I have concluded that the use would be ancillary, these policies are not deemed to be relevant in regard to the second issue.

Conclusion

16. The proposal would be ancillary to the main dwelling and therefore would not constitute the creation of a separate dwelling. However, the proposed extension would not preserve or enhance the character and appearance of the ADCA and would accordingly conflict with policies of the Development Plan. No other material considerations have been identified that would indicate support for the proposal. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR