
Appeal Decision

Site visit made on 4 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/F1610/W/19/3237260

1 Brookside Cottage, Shipton Oliffe, Cheltenham, Gloucestershire GL54 4JF

- 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 Miss C Moore against the decision of Cotswold District Council.
 - The application Ref 19/01147/FUL, dated 23 October 2018, was refused by notice dated 1 July 2019.
 - The development proposed is described as '1 No. 1 bedroom stone dwelling'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposal on the character and appearance of the area, flood risk and highway safety with particular reference to the access, parking and turning arrangements.

Reasons

Character and appearance of the area

3. The appeal site is within the Cotswold Area of Outstanding Natural Beauty (AONB) and partially within the Shipton Conservation Area (CA). The CA covers large parts of the linear settlement pattern in Shipton Oliffe whereby there is a distinctive positioning of built form predominantly adjacent to, or clustered near to the road, which is seen against a backdrop of established planting or woodland. Its significance lies in part in the way the vernacular buildings, set within an attractive rural landscape, reflect the evolution of the settlement over time. The consistent use of local materials contributes towards the coherent and distinctive character and appearance of the village. I am mindful of my statutory duty¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
4. The site is within the High Wold 7(c) Cotswolds High Wold Plateau landscape character area within the Cotswolds AONB Landscape Strategy and Guidelines, June 2016. The special and sensitive character of the AONB at this point is derived in part, from how the settlement sits within the landscape pattern of surrounding fields, hedgerows and woodland, and the route of the watercourse to the south of the appeal site creates an important natural feature.

¹ Section 72 Planning (Listed Building and Conservation Areas) Act 1990

5. The appeal site comprises primarily garden land for 1 Brookside Cottage, one of a group of four vernacular stone cottages in a 2x2 format. The main part of the appeal site retains a semi-rural character due to its generally spacious and green nature, largely free of built form. This, when combined with other nearby garden land and natural vegetation closer to the banks of the watercourse, results in a peripheral edge of settlement character, which transitions into open countryside further to the south. As such, the main south-western portion of the site plays a role in the relationship of Shipton Oliffe with the surrounding natural environment. Consequently, it contributes positively to the rural character and appearance of the area and the setting of the CA.
6. The proposal would introduce a detached dwelling, which although of modest proportions and height, in this sensitive context would encroach into an area that is generally free from built form. Furthermore, its siting behind, and some distance from nearby dwellings would be at odds with the prevailing distinctive settlement pattern. Additionally, a notable area of parking and hardstanding would represent an urban addition to the appearance of the site. Glimpses of the proposal from the road would be possible in gaps between existing dwellings, as well as in private views from nearby properties.
7. Taking these factors together, the proposal would have an adverse impact on the semi-rural character and appearance of the area, which would affect the surroundings in which the CA is experienced, albeit that given the modest nature of the proposal, this would be less than substantial harm to its setting. Moreover, the presence of additional built form in this location would cause localised harm to the relationship of the settlement with the natural surroundings, thereby harming the special qualities of the AONB.
8. Paragraph 196 of the National Planning Policy Framework (the Framework) indicates that where the development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide level access and accommodation for the appellant's family which would result in a smaller, accessible dwelling. This in turn would contribute towards and diversify the overall housing supply. Nonetheless, these benefits would not surmount the great weight I must give to conserving the significance of designated heritage assets under paragraph 193 of the Framework.
9. In addition, paragraph 172 of the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONB's.
10. Whilst conditions could be used to ensure that the materials used in the development would be in keeping, this would not fully overcome the concerns identified. Furthermore, although the appellant refers to the appeal site as overgrown and unmanaged, when I observed the site its appearance was not objectionable and as already stated, its undeveloped green nature makes a positive contribution to the character and appearance of the area.
11. I am referred to a two-storey extension recently carried out at 1 Brookside cottage². However, as this broadly continued the built form of the existing dwelling, its siting and impact is considerably different to the proposal before me and is therefore, not directly comparable. As such, it is of limited weight.

² Reference 17/01835/FUL

12. Accordingly, I find that the proposal would result in unacceptable harm to the character and appearance of the area, would cause harm to the significance of a designated heritage asset by failing to preserve or enhance the setting of the CA and would undermine the special qualities of the AONB. As such, it would be contrary to policies DS3, EN1, EN2, EN4 and EN5 of the Cotswold District Local Plan 2011-2031, August 2018 (LP). Policy DS3, in setting criteria for supporting small-scale residential development in non-principal settlements, requires development to, amongst other matters, complement the form and character of the settlement. Policies EN1 and EN4 of the LP seek to, amongst other matters, protect the character of the built, natural and historic environment with policy EN5 indicating that great weight will be given to the conservation and enhancement of the Cotswold AONB. Policy EN2 requires development to accord with the Cotswold Design Code which forms appendix D of the LP. This guidance seeks the highest standards of design for new development and includes reference to the importance that the layout and street pattern play in the distinctiveness of settlements in the district³.

Flood risk

13. Policy EN14 of the LP requires development proposals to avoid areas at risk of flooding in accordance with a risk based sequential approach. It follows that a sequential test should be applied to residential development lying within Flood Zone 2 or 3. This accords with advice in the Framework and Planning Practice Guidance (PPG) whereby the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Furthermore, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
14. The parties disagree as to which Flood Zone the appeal site lies within. The Environment Agency indicates that the site lies within Flood Zones 1, 2 and 3⁴ with the parts lying within Flood Zones 2 and 3 having a corresponding medium and high risk of flooding. The appellant accepts that the map extract from the Lead Local Flood Authority⁵ shows the southern portion of the site to be within Flood Zone 3. Notwithstanding the assertions made by the appellant in relation to the accuracy of the flood map information regarding the specific circumstances of the appeal site, I have not seen substantive evidence, such as site specific flood modelling, to show that the entirety of the appeal site is at a low risk of flooding. Therefore, there is nothing before me that would lead me to set aside the classification of flood risk advocated by the Environment Agency given their specialist knowledge.
15. Moreover, the PPG sets out a checklist for a site specific flood risk assessment which, in referring to the sequential test, suggests that this may only be skipped if the development site is wholly within Flood Zone 1. On this basis, even if only parts of a development site are at increased risk of flooding, this would not dispense with the need to undertake the sequential test in the first instance. The suggestions made by the appellant with regard to the siting of built form or cordoning off of areas within a site might be considerations that could comprise part of a sequential assessment rather than being considered independently of that process.

³ D9-D15 Appendix D, Cotswold District Local Plan 2011-2031, August 2018

⁴ Letter dated 29 May 2019

⁵ Appendix to Appellants Statement of Appeal; Paragraph 4c viii of statement

16. Additionally, the evidence does not show that the proposal would fall within the definition of 'minor development' in paragraph 046 Reference ID 7-046-20140306 of the PPG such that it would be an exception to the general application of the sequential test. Therefore, I cannot agree that the sequential test is not applicable to the case before me and based on the information presented, I am not assured that it is shown that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
17. Moreover, the Flood Risk Assessment (FRA) prepared by Three Counties dated 8 June 2018 does not clearly show that the development would be appropriately flood resistant and resilient for the lifetime of the development taking into account the effects of climate change.
18. Therefore, on the basis of the evidence before me, I am not satisfied that the sequential test has been passed, nor that the proposal secures appropriate flood risk mitigation measures that reflect the risk of flooding at the site. Hence, the proposal would increase the risk of harm from flooding and conflict with policy EN14 of the LP, as well as advice set out in the Framework and PPG which include objectives to direct new development, in the first instance, to areas at the lowest risk of flooding.

Highway safety

19. The proposed dwelling would use the existing access from the lane and would provide 2 off-street parking spaces with a space for turning⁶ that would serve the proposed one bedroom dwelling as well as the existing three bedroom dwelling. The parties agree that the existing access would provide sufficient visibility⁷.
20. Policy INF5 of the LP stipulates that development will make provision for off street parking where there is clear and compelling evidence necessary to manage the local road network and that provision should accord with the guidance set out in Appendix F of the LP. Notwithstanding that the Council refer to the provision of 3 parking spaces as being inadequate⁸, it is not shown what number of parking spaces would be required by Appendix F of the LP. As such, the information in front of me falls short of the clear and compelling evidence referred to in policy INF5, and there is little to suggest that two spaces would be so inadequate to serve the two dwellings that it would result in a highway safety concern.
21. Nevertheless, the access drive is narrower than the minimum 5 metres width for shared driveways serving between 2-5 dwellings from a Class 3 (subject to a 30mph speed limit) highway suggested in figure 3.8 of the Gloucestershire County Council, Highways Development Management Standing Advice – Technical Note 2nd Edition, Proposed or Existing Residential Development – 5 dwellings or less. I have not seen evidence to substantiate that this advice would not be applicable to the circumstances of the appeal proposal. On this basis, there would be insufficient room for two vehicles taking opposite directions to comfortably pass for most of the length of the driveway which could necessitate reversing manoeuvres either onto the highway or towards the

⁶ Job No. 17026 Block Plan Proposed dated 8 May 2019 and Appellant Statement, Paragraph 5 (a)(viii) & (ix)

⁷ Planning Officer Report section (d) Impact on the highway and Council's appeal statement

⁸ Planning Officer Report section (d) Impact on the highway and Council's appeal statement

turning space. The awkward configuration of the access combined with its length, means that drivers may not see approaching vehicles from the opposite direction before entering the restricted width access, thereby increasing the likelihood of such reversing manoeuvres.

22. Although the development is intended to serve the appellant's parents, which I acknowledge may reduce the potential for conflicting vehicle movements using the driveway, the proposal is for an independent dwelling house, the occupants of which may change over the lifetime of the building such that in future the respective occupants may be unrelated. Therefore, I am required to assess the likely impact of the development on this basis.
23. Accordingly, I find that due to the narrow width, length and configuration of the driveway, the development would fail to provide a safe and suitable access contrary to the criteria in paragraph 108 of the Framework and policy INF4 of the LP relating to highway safety.

Other Matters

24. In reaching my findings I have had regard to the benefit that the proposal would bring by providing an additional small single storey dwelling that would provide suitable accommodation particularly for older people, thereby diversifying the housing stock. Even so, the benefits accruing from a single dwelling would be limited in nature and therefore, would be insufficient to outweigh the harm I have identified.
25. In support of the proposal the appellant asserts that a good level of amenity space would be provided. There is broadly no dispute between the parties that the quantum of garden space⁹ shown would be sufficient. Even so, the absence of harm in this regard would not weigh in favour of the proposal.
26. In addition, the proposal presents opportunities to enhance planting for wildlife. However, there is limited evidence to show that notable benefits to ecology would arise in excess of requirements necessary to comply with other development plan policies relating to biodiversity. As such, this is a neutral factor.
27. The appellant raises concerns regarding the time taken for the planning application to be validated, and that the Council did not proactively engage in negotiating with them during the determination of the application. However, these are not matters that I can comment on within the scope of this decision.

Conclusion

28. For the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁹ Section (c) Impact on neighbouring amenity, Case Officer Delegated Report