
Appeal Decision

Site visit made on 21 May 2020

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th July 2020

Appeal Ref: APP/J0405/W/20/3245786

41 High Street, Haddenham HP17 8ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by TRI-STAR Ltd against Aylesbury Vale District Council.
 - The application, Ref 19/00005/APP, is dated 30 December 2018.
 - The development proposed is extension and alterations of existing house inc conversion of attached building and erection of one new dwelling and outbuilding.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I have received a copy of the Council's appeal statement which confirms the reasons why the Council would have refused planning permission, had it been empowered to do so. I have drawn on this, together with other evidence before me, to inform the main issues in this appeal.
3. The appellant submitted amended plans with the planning application which mainly alter the original scheme by removing a proposed single storey outbuilding and a first-floor link extension, and reducing the number of new openings in the barn conversion. The Council have had the opportunity to comment on the amended plans as part of this appeal. I am satisfied that interested parties have not been prejudiced and I have taken the amended plans into account in determining this appeal.
4. The Council's evidence refers to several policies contained in the emerging Vale of Aylesbury District Local Plan. However, I have not been provided with a copy of the relevant emerging policies and I understand that several elements of the emerging plan have been modified following the Examination hearing sessions, and a decision on the Plan's soundness has not yet been made by the Examination Inspector. Consequently, policies in the emerging local plan do not carry substantial weight and do not yet form part of the development plan, thus I have not relied on them in my consideration of this appeal.

Main Issues

5. Having regard to the foregoing, the main issues in this case are:

- Whether the development would preserve or enhance the character or appearance of Haddenham Conservation Area, and its effect on the setting of a nearby Listed building.
- The effect of the development on the living conditions of neighbouring occupiers with particular regard to outlook.

Reasons

Character, appearance and setting

6. Haddenham is a settlement comprising historic, post-war, and modern buildings. The Haddenham Conservation Area (CA) boundary generally follows the settlement's historic core, which itself has a varied character. The appeal site lies in the CA and is located off High Street which is characterised by a tight-knit arrangement of vernacular buildings which contributes to a great sense of enclosure. The buildings have an understated appearance and follow a predominantly linear pattern, although some buildings along the street exist in spaces to the rear of other buildings. The extensive use of witchert¹ in the composition of local buildings evokes a venerable quality and richness, reinforcing the area's historic English village feel. It is these elements which contribute to the significance of the CA².
7. The appeal site is a roughly 'L' shaped plot which includes the existing dwelling (No 41), a barn which is linked to the main dwelling by a single storey element, several small outbuildings and extensions, and a large garden. Both No 41 and the attached barn are buildings of 'local note' due to their traditional form, age, and prominent position in the street. The neighbouring dwelling (No 43) is a Grade II Listed vernacular building.
8. In contrast with the narrow street, the garden is relatively open, located immediately to the rear of No 41 and adjacent to the dwelling and rear garden associated with No 43. A row of relatively modern houses overlooks the garden to the west diminishing the contribution it makes to the CA. However, the presence of witchert walls on two sides of the garden reinforces its affinity with the historic buildings which lie close to it, with both No's 41 and 43 being clearly visible from the garden area. The appeal site therefore makes a valuable contribution to both the character and appearance of the CA, and the garden area makes a contribution to the setting of No 43.
9. The proposed dwelling would consist of a one and a half storey building with a steep roof pitch, along with a single-storey rear projecting element with a flat 'green' roof. The main part of the dwelling would be rendered white and have traditional clay tiles, whilst the rear element would be clad in timber with narrow 'slit' windows on one side. Consequently, whilst traditional design features would be evident, the dwelling would have a notably contemporary appearance.

¹ A locally historic method of building construction

² I have been provided with a copy of the Haddenham Conservation Area document² 2008 which I have used, along with the evidence before me and my site visit, to understand the significance of the CA.

10. The dwelling would occupy an area of the existing garden and be visible from the rear of existing properties, including the Grade II listed building adjacent. The overtly modern design of the dwelling, including the large single-storey element attached to the rear, would be at odds with the prevailing traditional character of existing buildings in the immediate vicinity. When viewed in the context of the traditional design of properties in the area, including No's 41 and 43, the introduction of the contemporary styled dwelling would compete with, rather than complement, the traditional townscape. Consequently, due to its modern style and appearance, and extensive footprint, the proposed dwelling would be a jarring intrusion into the setting of the Listed building. The juxtaposition of built forms in this case would detract from the vernacular style of the witchert buildings nearby, thus harming the historic character and appearance of the Listed building and CA as a whole.
11. Whilst views of the proposed dwelling would be limited from the street, the degree of visibility from public locations is not the critical issue, but rather the intrinsic special architectural and historic significance that the CA and Listed building have, and whether that would be preserved or enhanced. I have also been made aware of other examples of contemporary building designs in the area, and I appreciate that there are circumstances where a modern approach is an appropriate design response within a historic context. However, in this case, I find that the existing garden has a visual, functional and historic relationship with the surrounding historic buildings, indicative of a period when the buildings would have had a more rural setting. Given that I find that the garden is of significance to the appreciation of the CA and the setting of the Listed building, I find that the dwelling proposed would be significantly detrimental to that historic setting in this case and give this considerable weight.
12. In respect of the other works, it is proposed to convert the barn and the single-storey element which adjoins the barn (former stable) to provide additional living accommodation in association with No 41. There is no dispute between the main parties that some of the historic fabric of the barn would be lost due to the removal of part of the witchert walls required to facilitate new openings. However, the new openings proposed within the barn and former stable would not be substantial to the extent that the original form and appreciation of the building would be harmed, particularly as the openings would be situated in elevations located away from the street. Nevertheless, the provision of the pitched roof in place of the flat roof of the former stable, due to its scale and modern style, would to some extent detract from the simplicity of the existing barn and former stable attachment, undermining its understated rustic form.
13. The structural report submitted by the appellant confirms that witchert is exposed internally within the barn, although no information has been provided concerning the extent to which internal walls and floors would need to be insulated or lined to accommodate the building's proposed use as living accommodation. It is my understanding that earth walls, such as witchert, are susceptible to instability over time unless they are carefully managed and maintained. Nevertheless, I appreciate that similar agricultural buildings in the area have been converted to living accommodation³, and I have no evidence to suggest that such conversions have been detrimental to the structural integrity of comparable buildings locally. Moreover, a planning condition could be

³ See page 2 of the Haddenham Conservation Area document 2008

- imposed in the event that I was to allow the appeal requiring the submission of a method statement in order to ensure the integrity of the barn was retained.
14. A new first-floor extension is also proposed on the dwelling's rear projection which would provide a pitched roof in keeping with the main dwelling, replacing the current flat roof which is out of keeping. This would result in relatively modest improvements to the overall character and appearance of No 41 and the group of buildings as a whole.
 15. I accept that the existing detached garage and sheds do not make a positive contribution to the CA. However, whilst the garage is visible from the street, its presence is limited by its significant set-back position towards the rear of the site and its relatively small scale. The sheds are even more inconspicuous. Consequently, their removal would have a neutral impact on the significance of the CA.
 16. Drawing together the various elements of the proposal, the limited harm to the historic fabric of the barn and former stable would be offset by the enhancement arising from the proposed first-floor rear extension to No 41. Consequently, I find that the works to the existing buildings overall would preserve the character and appearance of the CA. However, I find that the proposed dwelling would neither preserve or enhance the character or appearance of the CA, and would harm the setting of the Grade II Listed building at No 43. Thus, the overall effect of the proposal would result in harm to heritage assets.
 17. The Council also suggests that the loss of the existing tree in the rear garden would be harmful to the CA. However, the tree is not noted for its importance in the Haddenham Conservation Area document⁴. Furthermore, the area is not defined by prominent trees and the loss of this inconspicuous tree would not be harmful. Be that as it may, this does not compensate for the adverse effects I have identified.
 18. In the context of paragraphs 193 – 197 of the National Planning Policy Framework (the Framework), the extent of harm to the significance of the heritage assets would be less than substantial. In such circumstances, the Framework advises that harm should be weighed against the public benefits associated with the proposal. In this regard, the proposal would bring a redundant barn building into use. However, the barn is in good overall condition, particularly given its age, and there is no evidence to suggest that its continued use for storage purposes is likely to be detrimental to its long-term condition or structural integrity. The proposal would also make a small contribution towards local housing supply and would improve the living environment of the existing home. There would be modest economic benefits during construction and indirect benefits to the local economy through the spending potential of additional residents. There would also be opportunities for biodiversity gain within the appeal site through landscaping and measures to encourage wildlife.
 19. Whilst the harm of the proposal to the above noted heritage assets would be less than substantial, sections 66 and 72 of the Act⁵ are clear that such harm

⁴ Page 19 - Map showing examples of important trees, hedges and open space within Haddenham Conservation Area

⁵ The Town and Country Planning Act 1990

should be given considerable importance and weight. In this context, the considerable weight afforded to the less than substantial harm to the heritage assets would outweigh the combined weight afforded to the public benefits associated with the proposal.

20. Consequently, the proposal would be harmful to the character and appearance of the surrounding area, would neither preserve nor enhance the character or appearance of the CA, and would harm the setting of a Listed building. The proposal would therefore conflict with Saved Policies GP.35 and GP.53 of the Aylesbury Vale District Local Plan 2004 (Local Plan) which require, amongst other things, that development respects the building tradition, form, order and the historic scale and context of the setting, ensuring that development in conservation areas preserves or enhances its special characteristics. The public benefits would not outweigh the less than substantial harm to heritage assets, contrary to the requirements of the Framework.
21. I am satisfied that the loss of the tree could be compensated for, thus the proposal would comply with Saved Policies GP.38 and GP.39 of the Local Plan, but this does not diminish the harm I have identified.

Living conditions

22. Due to the position and scale of the first-floor extension proposed to the rear of No 41, it would affect the outlook obtainable from the facing windows of No 43. Despite this, there is no dispute between the main parties that there would be no unacceptable loss of light or overshadowing due to the presence of existing built form, and the fact that other unaffected windows exist within the Listed building which would ensure sufficient light and outlook for its occupants. I have no reason to disagree.
23. The Council's main contention relates to the proposed dwelling and the impact on the occupiers of No's 41 and 43. However, the proposed dwelling would be slightly offset from both the ground floor and first floor rear facing windows of No 41 as extended, thus the dwelling would not occupy a large proportion of the obtainable outlook. Therefore, the outlook from these windows would not be dominated by the dwelling to an extent where the built form would appear overpowering.
24. In respect of No 43, the pitched roof element of the proposed dwelling would generally align with the gable end of No 43, limiting the extent to which it would be visible from the windows. Whilst the single-storey element would be visible, it would be partially obscured by the existing boundary wall and positioned at an oblique angle relative to the rear windows of the house.
25. I appreciate that the dwelling would be visible to varying degrees from the garden of No 43, but the taller element of the built form would be set slightly away from the boundary and would not project beyond the building line of No 43. The single-storey element would run generally parallel with the common boundary, but its overall height and set back from the existing wall means that it would not appear oppressive in any obtainable views. I am satisfied that the occupants of No 43 would be able to continue to enjoy their home and garden without being overlooked, and the proposed dwelling would not dominate their obtainable outlook such that it would have a significant adverse effect on their living conditions.

26. There is no evidence to suggest that the proposal would be unacceptable to the living conditions of any other occupiers and, consequently, and with regard to the foregoing, I find that the living conditions of neighbouring occupiers would be sufficiently protected. Therefore, the development would comply with Saved Policy GP.8 of the Local Plan which requires that proposals do not unreasonably harm any aspect of the amenity of nearby residents.

Other Matters

27. The appellant suggests that the presumption in favour of sustainable development should be triggered in this case owing to the out of date nature of housing policies in the development plan. However, footnote 6 of paragraph 11 of the Framework effectively disengages the tilted balance where a proposal would result in unacceptable harm to heritage assets, as is the case here.

28. I appreciate that the appellant engaged with the Council at pre-application stage and, in their view, some of the concerns raised by the Council contradict this previous advice. However, these are matters between the main parties which do not alter my overall conclusions. I have had regard to all the evidence before me in concluding on the main issue relating to character and appearance, finding unacceptable harm for the reasons set out.

Conclusion

29. The proposal would not unacceptably harm the living conditions of nearby occupiers. However, it would unacceptably harm the character and appearance of the CA and the setting of a Listed building. Therefore, the appeal is dismissed.

Matthew Woodward

INSPECTOR