
Appeal Decision

Site visit made on 11 August 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2020

Appeal Ref: APP/J0405/W/19/3249323

Littleworth, Gibraltar, Dinton, Buckinghamshire HP17 8TY

- 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 C Bowler against the decision of Aylesbury Vale District Council.
 - The application Ref 19/02318/APP, dated 16 June 2019, was refused by notice dated 24 September 2019.
 - The development proposed is conversion of existing annex into a separate dwelling and raising of the roof to create one and a half storey rear extension with two dormer windows to front and four rooflights to the rear roofslope.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing annex into a separate dwelling and raising of the roof to create one and a half storey rear extension with two dormer windows to front and four rooflights to the rear roofslope at Littleworth, Gibraltar, Dinton, Buckinghamshire HP17 8TY in accordance with the terms of the application, Ref 19/02318/APP, dated 16 June 2019, subject to the following conditions in the attached schedule.

Preliminary Matter

2. The description of development in my formal decision is taken from the Appeal Form and decision notice. This provides a fuller and more accurate description than that given on the original application form.
3. The original application was for a two-bedroom dwelling, with two parking spaces. Revised plans were submitted during the consideration of the application. These show a one-bedroom dwelling and a single parking space. I have considered the appeal on this basis.

Main Issues

4. The main issues in this appeal are:
 - Whether the location is appropriate for residential development, having particular regard to access to services and facilities by a range of means of transport;
 - Whether the development would preserve or enhance the character or appearance of the Conservation Area and the settings of nearby listed buildings;

- The effect of the development on highway and pedestrian safety, and
- The effect of the development on the living conditions of neighbouring residents, with particular regard to privacy.

Reasons

Location

5. The appeal relates to an existing side annex extension to a large detached dwelling known as Littleworth. The site is in the hamlet of Gibraltar, which consists of a small number of dwellings and a pub situated around a narrow lane leading from the A418. Gibraltar is not listed as a settlement in Appendix 4 of the Aylesbury Vale Local Plan (AVLP). As such, residential development in this location would not be consistent with saved policies RA13 and RA14 which seek to focus development into, or on the edge, of defined settlements.
6. The Council has indicated that these policies should not be considered up-to-date and did not rely on them in their decision. Rather, they considered the location of development against the policies of the National Planning Policy Framework (the Framework). The Council's concerns in this regard relate primarily to the lack of services and facilities in the vicinity of the site and its accessibility by a range of means of transport.
7. Paragraph 78 of the Framework states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 states that isolated homes in the countryside should be avoided unless they meet one of a number of exceptions. However, the development would not be isolated for the purposes of the Framework. As such, the development does not have to meet one of the exceptions to be acceptable in principle.
8. The specific context of this proposal is an important factor. The development would convert an existing single-bed self-contained annex into a separate single-bed dwelling. This might still result in some increase in overall occupancy levels, but the effect on the local population would be negligible.
9. My attention has also been drawn to a recent appeal decision¹, where the Inspector concluded that residents in Gibraltar have easy access to public transport services. I agree that the number and regularity of services to higher order settlements from nearby bus stops would normally be considered very good in comparison to many rural areas. This weighs in favour of the development. Furthermore, the Inspector concluded that services within nearby Dinton would be available by walking or cycling. The site is also directly opposite a pub, which could provide something of a community facility and place to interact with local residents. There is nothing before me to suggest that the Inspector's conclusions are not valid in this regard. Therefore, the development would be located where local services can be accessed and the vitality of the local community maintained.
10. There would probably still be a need for future occupants to travel further afield by car for work or other everyday needs. However, there remains good opportunities to use public transport and to walk or cycle to other nearby

¹ Appeal reference: APP/J0405/W/19/3229920

facilities. Similarly, the scale and context of the development is such that any increase in trips from the hamlet would be insignificant.

11. The development would therefore conflict with AVLP policies RA13 and RA14, the objectives of which are set out above. Notwithstanding this, I consider there to be a high degree of consistency between the location of development and the provisions of paragraphs 78 and 79 of the Framework. I shall return to this in the 'planning balance'.

Character and Appearance

12. The site lies in the Dinton, Westlington, Upton and Gibraltar Conservation Area (CA). It is also within the setting of the Bottle and Glass pub and The Cottage, which are both Grade II listed buildings. Although not mentioned in the decision notice, Old Thatch, which is another Grade II listed building, sits next door to The Cottage. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural interest which they possess. Section 72(1) of the same Act requires special attention to be given to the desirability of preserving or enhancing the character or appearance of that area. These requirements are largely reflected in paragraphs 192 and 193 of the Framework, which states that great weight should be given to a heritage asset's conservation.
13. The significance of this part of the CA clearly lies in the historic pattern and grain of the settlement and the age and quality of its buildings. The Conservation Area Appraisal (CAA) suggests that it is likely that the hamlet was originally part of a single farm complex. This is reflected in the tight-grain of the majority of the buildings and their close relationship with the lane. The majority of buildings date from the seventeenth and eighteenth century, with only a small number of nineteenth or twentieth century examples. The latter tend to sit in more generous plots, but this has not altered the overall sense of enclosure or density that exists around the lane.
14. The predominant height of the buildings in the hamlet are 1.5 or 2 storeys, with dormer windows in line with the eaves. Roofs are often hipped, or half-hipped and a number of buildings, including the pub, The Cottage and Old Thatch have thatched roofs. This reinforces the rural character of the hamlet and its historic and aesthetic qualities. The modest height of the buildings, the sense of enclosure, adherence to the historic settlement layout and the architectural and historic quality of the cottages all contribute to the significance of the CA. Modern developments have not undermined the original historic character of the hamlet.
15. The annex is in a prominent and sensitive location near to the junction with the A418. Although technically a rear extension, it effectively has its own principal elevation facing the lane, which includes a large box bay window. The building line and part of the roof slope project beyond the end of the main dwelling, which brings it nearer the road and adds to the prevailing sense of enclosure. Nevertheless, the annex still appears as a relatively small and subordinate part of the dwelling as a whole.
16. The development would clearly lead to an increase in the height, scale and mass of the annex. However, the ridge height of the roof would still be well below that of the main dwelling. The final height of the dwelling would still also

be commensurate with the prevailing height of buildings in the immediate area. The alterations to the roof profile would clearly result in a discernibly larger feature that would extend out over the bay window. Nevertheless, the stepped eaves and half-hipped design would help to break up the overall mass of the structure.

17. The proposed dormers would reflect the style of housing in the hamlet and add a degree of articulation that would break up the mass of the roof and soften any visual impact. The materials proposed across the building would also complement those of the host dwelling and the wider area. Taken together, I consider that the design of the dwelling would be sympathetic and complementary to the character of the CA. Furthermore, although larger than at present, it would still appear as a subordinate structure to the main dwelling.
18. The footprint of the annex would increase to the rear. This would also involve the creation of a large catslide roof slope. From the side, this would create a somewhat asymmetrical appearance. However, this aspect of the design would not be prominent in the street scene and thus would not result in harm.
19. The development would have no particular impact on how nearby listed buildings would be viewed or appreciated. From the A418, the annex is seen in the background to any views of the pub. This would not change. The increase in scale would not be visually intrusive or overbearing. Similarly, the 'unfolding views' along the lane would not be unduly affected. The annex is already well-related to the roadside and the development would not alter this. If anything, it would further complement the existing sense of enclosure. Views of the listed buildings from any point on the lane would not therefore be disrupted or undermined. There is also nothing before me which suggests Littleworth or the annex have any historic connections to the listed buildings. As such, the alterations would not harm their settings in this regard either.
20. I therefore conclude that the development would result in a complementary form of design that would remain as a subordinate feature in the street scene. The development would not result in any harm to the character and appearance of the CA or the setting of the listed buildings. It would therefore preserve the special character and significance of all heritage assets. Accordingly, there would be no conflict with policies GP35 and GP53 of the AVLP which seek, amongst other things, to ensure development respects the characteristics of the site and its surroundings and preserves the special characteristics of an area. There would also be no conflict with the requirements of paragraph 192 of the Framework, the objectives of which are set out above.

Highway and pedestrian safety

21. The proposal includes provision for a single parking space adjacent to the annex. Visibility for vehicles exiting the space, either in a forward gear or reverse, would be restricted. This would be particularly the case to the right of the access where a hedgerow abuts the roadside. It is likely that vehicles would need to edge out into the road to see clearly. Levels of visibility would not comply with the guidance set out in the Department for Transport's Manual for Streets 1 (MfS1) or the Chartered Institution of Highways and Transportation's Manual for Streets 2 (MfS2).

22. The local context must be considered when deciding whether this would result in an unacceptable risk to users of the highway. Although it doubles as a public right of way (PROW), the lane serves a relatively small number of dwellings and there is no through traffic. Neither party has provided any evidence relating to the number of trips generated by the hamlet, but it would be reasonable to assume that movements are relatively small in number. The lane is also narrow and, due both to this and the number of accesses along its length, vehicles are unlikely to be travelling at speed. There are also parking restrictions along the side of the pub fence which would help ensure the carriageway would remain free of obstructions. All of these factors serve to mitigate and minimise the risks.
23. There are a number of existing accesses and thus any pedestrians using the lane would already need to be aware of the potential for vehicles to be entering the carriageway. There is also no footway, thus both pedestrians and drivers will already be aware of the need to pay due care to the potential conflicts. The creation of a single new access and potential for one additional car would therefore have very little impact on pedestrian safety.
24. There would be no scope for turning within the site. As such, drivers would be required to either reverse in or out of the space. This would mean some potential for manoeuvres taking place in the carriageway. While not ideal, the dwelling would be unlikely to generate many trips and thus the risk to passers-by would not be significant. Visibility along the lane itself is good in both directions. This would ensure other users of the road would be able to see vehicles entering or exiting the site and act accordingly.
25. It is self-evident that the nature of the road is such that drivers exiting the site would need to emerge cautiously from the spot. The appellant has suggested that the parking space could be moved by around 0.8 metres to the south-east. While this would not bring visibility up to the standard recommended by MfS1, it would provide some separation from the hedgerow. It would also make it a little easier to see cars exiting the space, particularly for pedestrians walking toward the junction. This minor change would have some benefits and can be required by condition.
26. The concerns with regard to the proximity of the A418 are overstated. There is a sufficient distance between the site and the junction for vehicles to wait safely on the lane while any manoeuvres are taking place or to see vehicles leaving the site from that direction. The likely level of traffic using the lane, and the amount of time needed to carry any manoeuvres, would also be unlikely to give rise to unacceptable safety risks. It is doubtful that the use of the parking space would have any particular impact on the A418.
27. In conclusion, the local context of the site is such that I do not consider the development would result in unacceptable risks to drivers or pedestrians. Accordingly, there would be no conflict with AVL Policy GP84 which seeks to ensure the enjoyment of the PROW is maintained. The status of the Buckinghamshire Local Transport Plan 4 (LTP4) and Buckinghamshire Development Management Guidance document (DMGD) is not clear in relation to the development plan. Nevertheless, I find no conflict with these documents in terms of their overall objectives of maintaining highway and pedestrian safety. There would also be no conflict with paragraph 108 of the Framework which seeks to ensure safe and suitable access can be achieved for all users.

Living conditions

28. The Council's main concern relates to the potential for the overlooking of Littleworth's rear garden. The ability to see into neighbouring gardens is a feature of most residential areas. However, the gap between the rear boundary wall of the dwelling and the common boundary would not be particularly wide. This could give rise to some concerns from any future occupiers of Littleworth about potential loss of privacy.
29. The provision of the 1.8m high fence would address any potential issues on the ground floor. The first floor windows would also have a floor to cill height of no less than 1.7 metres. The Council acknowledges that this would normally be sufficient to ensure privacy and have suggested a condition to this effect. I agree with this conclusion. The presence of the swimming pool in the garden of Littleworth might increase the sensitivity of the situation, but I am still satisfied that there would be no material harm to occupants' living conditions.
30. Neighbours have raised concerns about impacts on the privacy of other neighbouring dwellings. The dormers would provide an opportunity to see out from a higher level than at present. However, there is a considerable distance between the site and the gardens or windows of dwellings on the opposite side of the lane. Furthermore, any views of these properties would be at an oblique angle. As such, I do not consider the dormers would result in any material harm to privacy. The window in the flank of the dwelling would utilise obscured glazing and thus would also not lead to any harm.
31. I am therefore satisfied that there would be no harm to the living conditions of neighbours through a loss of privacy. Accordingly, there would be no conflict with AVLP Policy GP8 which seeks to ensure residential amenity is protected. There would also be no conflict with paragraph 127 of the Framework which includes an expectation that development will provide good standards of amenity for existing users.

Other Matters & Planning Balance

32. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
33. As noted above, the development would conflict with AVLP Policies RA13 and RA14. However, the Council acknowledges that the policies of the AVLP are out-of-date and thus paragraph 11d of the Framework is engaged. This states that in such circumstances, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework as a whole.
34. I have found no other harm relating to the development, including in relation to heritage assets. Therefore, there are no policies in the Framework which provide a clear reason for refusing the development. The adverse impact of being outside a defined settlement is significantly minimised and mitigated by the relatively accessible nature of the hamlet and the fact the development would not necessarily lead to a significant increase in population or potential

trips. Accordingly, I have given little weight to the conflict with the AVL policies in this regard.

35. The development would still make a small but positive contribution to the overall housing land supply and have associated social and economic benefits. While limited in scale, these still weigh in favour of the development.
36. Comments have been made regarding the condition of 'Gibraltar Lane'. I saw nothing to suggest that it was incapable of accommodating any additional traffic. Furthermore, a single bed dwelling is unlikely to generate a significant number of trips. Concerns over construction vehicles are noted. However, any issues relating to this would be for a temporary period only. I have noted comments relating to the display of site notices. However, this is outside the scope of the appeal. None of these factors outweigh my conclusions or warrant the withholding of permission.
37. Taking all relevant matters in to account, I therefore conclude that the adverse impacts of development would not significantly or demonstrably outweigh the benefits when considered against the Framework as a whole. The development therefore benefits from the presumption in favour of sustainable development set out in paragraph 11d. This is a significant material consideration in favour of the development. Accordingly, I consider there to be sufficient material considerations to justify a decision other than in accordance with the development plan in this case.

Conditions

38. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
39. I have imposed conditions relating to boundary treatments, rainwater goods and joinery products. I have amended the suggested condition on rainwater goods to require approval on all aspects other than just colour. This is to improve the clarity of the condition and ensure the details are acceptable in the CA. I have also imposed conditions requiring the approval of materials and the proposed render. These are by necessity pre-commencement conditions to ensure the development proceeds in accordance with the approved details. The appellant has confirmed in writing that these conditions are acceptable. I have made minor amendments to the Council's suggestions in the interests of clarity and certainty. These conditions are all necessary in the interests of the character and appearance of the area.
40. I have imposed conditions controlling the nature of windows in the development in the interests of the living conditions of neighbours. The Council has suggested conditions relating to the provision of an access and parking space. I have amended these in the interests of clarity and to ensure they are achievable. I have also removed the requirement for approval of details by the Council as this is unnecessary. A condition requiring the access and parking space to be provided prior to occupation is however necessary in the interests of highway and pedestrian safety. Similarly, I have imposed a condition requiring any surfaces to be permeable in the interests of drainage.

41. The removal of permitted development rights should only be carried out where there is a clear reason to do so. In this case, the sensitive location of the site and proximity to neighbouring dwellings justifies conditions restricting the enlargement of the dwellings, alteration of boundary treatments or installation of additional windows. I have also imposed the suggested condition requiring the installation of a bat box in the interests of biodiversity.

Conclusion

42. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than where specified by conditions 3, 4 and 10, the development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 1923-p/01 Rev A, 1923-p/02.
- 3) No development shall commence until details of bricks, roof tiles, doors and window frames to be used in the development have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall commence until a detailed specification, including the colour, texture and finish of the render on the front, side and rear elevations has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) All new joinery shall match exactly the materials, style, moulding and details of the existing original work except where otherwise shown on the drawings hereby approved.
- 6) The rooflights hereby permitted at both ground and first floor on the north east facing rear elevation shall be flush fitting and shall not be glazed or re-glazed other than with non-reflective glass. These windows shall have a cill height of not less than 1.7m above internal floor level.
- 7) The window at first floor level in the north west facing side elevation of the development hereby permitted shall not be glazed or re-glazed other than with obscured glass to a minimum of level 3. Once installed the obscured glazing shall be retained thereafter.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement of any dwelling nor the erection of any garage shall be carried out within the curtilage of any dwelling the subject of this permission, no buildings, structures or means of enclosure shall be erected on the site which is the subject of this permission other than those expressly authorised by this permission.
- 9) No windows other than those shown on the approved drawing 1923-p/01 Rev A shall be inserted into the north west or north east elevations (side and rear) of the dwelling hereby permitted without the prior express permission in writing of the local planning authority.
- 10) The development hereby permitted shall not be occupied until a new means of access and parking space has been constructed. The parking space identified on drawing 1923-p/01 Rev A shall be moved south eastwards by no less than 0.8m. The access and parking space shall be permanently maintained for this purpose thereafter.
- 11) Any hard surfaces within the development shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling hereby permitted.

- 12) Prior to the first occupation of the dwelling hereby permitted, details of all screening and boundary gate, walls, fences and any other means of enclosure shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the building hereby approved shall not be occupied until the details have been fully implemented and thereafter retained as approved.
- 13) Prior to first occupation of the dwelling hereby permitted, details of all rainwater goods to be used in the development shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved details and rainwater goods retained as approved thereafter.
- 14) The development hereby permitted shall not be occupied until one bat box has been installed on a south-facing aspect, located as high as possible (i.e. at the gable apex or eaves).