



Appeal Decision

Site visit made on 22 September 2020

by S Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/F1610/C/20/3254674

The Old Cowsheds, Church Lane, Long Newnton, Tetbury, Gloucestershire GL8 8RL

- 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 Act).
 - The appeal is made by Mr James Fenton against an enforcement notice issued by Cotswold District Council.
 - The enforcement notice was issued on 11 May 2020.
 - The breach of planning control as alleged in the notice is without planning permission the erection of an outbuilding namely a toilet block on the Land.
 - The requirements of the notice are 1. Permanently remove the outbuilding from the Land; 2. Reinstate the Land to its former condition.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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 in Section 3 by deleting the words "namely a toilet block".
2. Subject to correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the erection of an outbuilding on land at The Old Cowsheds, Church Lane, Long Newnton, Tetbury, Gloucestershire GL8 8RL, as shown on the plan attached to the notice, subject to the following condition:
 - 1) The building hereby permitted shall be demolished and all materials resulting from the demolition shall be removed within three months of the date of failure to meet any one of the requirements set out below:
 - i) Within three months of the date of this decision the side walls of the outbuilding shall be finished with natural stone to match the stonework on the front elevation of the building.
 - ii) If an appeal is made in pursuance of i) above, that appeal shall have been finally determined.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the

time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matter

3. The development is described as 'an outbuilding namely a toilet block' in Section 3 of the enforcement notice. The use of the building is superfluous, and I have therefore corrected the Notice in Section 3 to omit 'namely a toilet block' from the description using my powers under Section 176(1) of the Act. This would not prejudice or result in any injustice to the Council's or the appellants' case.

Ground (a) and the deemed planning permission.

The Main Issue

4. This is the effect of the development on the character and appearance of the area, including the Cotswolds Area of Outstanding Natural Beauty (AONB) and the Long Newnton Conservation Area (CA).

Reasons

5. The appeal relates to a small building to the side of the access to the property known as The Old Cowsheds. According to the council, the land upon which the structure has been constructed, is outside the domestic curtilage of the property and is therefore considered to be open countryside. The site is located within the CA and the AONB. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is reflected in paragraph 193 of the National Planning Policy Framework (the Framework) which 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 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty in Areas of Outstanding Natural Beauty.
6. The character of the CA is of open pasture fields, dispersed woodland, dry stone walls and scattered stone buildings of traditional vernacular style along the country lanes. Policy EN5 of the Cotswolds District Local Plan (2018)(CDLP) makes it clear that conservation and enhancement of the AONB, including its special qualities, will be given great weight. One of these qualities relates to distinctive settlements developed in the Cotswolds vernacular, with high architectural quality and integrity. It would be reasonable to assume that the special character of the CA also contributes to the special qualities of the AONB in this regard.
7. The appeal building is positioned close to the inside wall of the road boundary. The building appears to be block built and partially clad in natural stone with a wooden door and brick detailing to the front elevation. The development is of small scale and virtually hidden behind the stone boundary wall with a good level of planting to the rear and sides. The building reflects, in its materials that are predominantly on show, the heritage themes that contribute to the distinctiveness of the local built environment.

8. The views across the site from the public realm remain uninterrupted and the openness is preserved. The rural identity of the settlement remains. The building is neither obtrusive within the wider landscape or considered to adversely impact upon either the character or appearance of the CA, or the landscape character within the Cotswolds AONB. Accordingly, I consider that the development does not have a harmful impact on its immediate surroundings or the wider landscape. In coming to this conclusion, I have had regard to the screening which exists around and within the site. The development is barely visible above the stone boundary wall to the front of the property, through the access and from public vantage points.
9. The scale of development is not significant in relation to the AONB as a whole and the development leaves the character and appearance of the CA unharmed, that is to say, preserved. Overall, for the reasons outlined above, I find that the development accords with Policies EN2, EN4, EN5, EN10 and EN11 of the CDLP and guidance contained within the Framework which, among other things, expect development to respect the character and distinctive appearance of the locality, and preserve and where appropriate enhance the special character and appearance of the CA.
10. The ground (a) appeal therefore succeeds.

The appeal on ground (g)

11. The appeal on ground (g) was brought because the appellant considered that the period specified in the notice, in accordance with section 173(9), falls short of what should reasonably be allowed to comply with the notice. The ground (g) appeal no longer needs to be considered following the grant of planning permission for the works.

Conditions

12. The purpose of condition 1) is to require the appellant to comply with a strict timetable for dealing with the completion of the external facing materials which need to be addressed in order to make the development acceptable in this location. The condition is drafted in this form because, in the case of a retrospective grant of permission, it is not possible to use a negatively worded condition precedent to secure the subsequent implementation of the outstanding detailed matters. This is because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.

Overall conclusion

13. For the reasons given above I conclude that the appeal on ground (a) and the deemed application for planning permission succeeds. Consequently, the enforcement notice is quashed, and planning permission granted on the deemed application subject to the condition above.

S Hanson

INSPECTOR