
Appeal Decision

Site visit made on 22 December 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2021

Appeal Ref: APP/P1615/W/20/3259979

Cross Stores and land to the rear of Main Road, Alvington GL15 6AX

- 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 F Towell against the decision of Forest of Dean District Council.
 - The application Ref P1817/19/FUL, dated 18 November 2019, was refused by notice dated 3 July 2020.
 - The development proposed is erection of 3 No dwellings with associated parking, landscaping and works. Erection of 1 No garage. Demolition of existing shop and store.
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Decision

1. The appeal is dismissed

Procedural Matters

2. In accordance with the Coronavirus (Covid-19): planning update published by Ministry of Housing, Communities and Local Government (MHCLG) on 13th May 2020, neighbourhood plans awaiting referendums can be given significant weight in decision-making. I have acted accordingly in relation to the emerging Alvington Neighbourhood Development Plan 2019.
3. The appellant has stated an award of costs against the Council would be legitimate, but I see no explicit application for costs, what the extent (partial or full) of any potential application might be or substantive details or arguments supporting such an application. Neither do I see evidence to invoke my own discretion and power to initiate an award of costs. I have proceeded to deal with the appeal accordingly.

Main Issues

4. The main issues are the effect of the proposal on:
 - (a) the character and appearance of Alvington Conservation Area;
 - (b) highway safety;
 - (c) protected species; and
 - (d) living conditions of future occupiers with regard private outdoor space.

Reasons

Character and Appearance

5. The site is located within Alvington Conservation Area, and the characteristics of the immediate context are generally representative of the wider conservation area as a whole.

6. Among other things, the conservation area is described as deriving its significance from large proportions of open space that stretch back from the rear of properties facing the road, a pattern of development that evolved in the 12th century. Furthermore, these areas of open space are described as being integral to the area's character, where their large proportions create a rural atmosphere to the village. In addition, the conservation area derives some of its significance from buildings of varying styles and uses, the main link between them being red sandstone construction. The site comprises an open field off of Church Lane, which is intrinsic to the significance of Alvington Conservation Area. It also comprises a building that is in a poor condition but is not of red sandstone construction and therefore detracts from the significance of Alvington Conservation Area, and in particular the collection of red sandstone buildings directly adjacent.
7. The proposal would erode an area of open land which contributes to the significance of Alvington Conservation Area. Given the prevalence of open land throughout the area, there would be less than substantial harm to its character and appearance. The proposal's replacement of an existing building in poor condition with a building of more appropriate red sandstone construction would enhance the significance of Alvington Conservation Area. However, the building is only a small component of the wider area and therefore detracts to a limited extent. Accordingly, any enhancement to the significance of the area derived from addressing the poor condition of the building would be similarly limited. This would not outweigh the erosion of a much larger area of open land, where a failure to conserve heritage assets should be given great weight¹.
8. In general, the character and appearance of the proposed dwellings themselves are not disputed, and they may well sit successfully within their surroundings and match with existing materials used in the construction of other buildings in the locality. Furthermore, even when considering the set-back nature of the dwellings the majority of the open space would still be fundamentally lost. Consequently, the siting of the dwellings does little to mitigate the harm to Alvington Conservation Area's character and appearance.
9. Special attention has been given to the desirability of preserving or enhancing the character or appearance of Alvington Conservation Area, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Overall, the proposal would harm the character and appearance of Alvington Conservation Area and conflict with Policies CSP.1, CSP.4 and CSP.16 of the Forest of Dean District Council Core Strategy 2012 (CS) and Policies AP.4 and AP.5 of the Forest of Dean District Council Allocations Plan 2018 (AP) and Policies NE3, BE1 and BE2 of the Alvington Parish Neighbourhood Development Plan 2019 (NDP). Among other things, these seek to reinforce aforementioned statutory duties in policy terms.

Highway Safety

10. The site is located off of Church Lane, which is a narrow vehicular highway to the north east. It forms a junction with Main Road, which is the principal vehicular highway running through the area and is located immediately adjacent to the site to the north west. The site's existing access point along Church Lane is currently used by up to four existing dwellings and is in the vicinity of the Main Road junction.

¹ Paragraph 193 of the National Planning Policy Framework

11. The proposal would use the existing access point and the quantum of development would be such that the vehicular movements at the site would approximately double. There is no evidence in front of me, through visibility splays, swept path analysis, traffic survey data, incident report or otherwise, to demonstrate that such an increase in vehicular movements can be accommodated without harming highway safety.
12. The need for such evidence is critical because of the proportion of increased movements and proximity to a junction, which could be heavily used and in combination with the narrowness of the highway could generate additional user conflict. Traffic surveys have not demonstrated that the other junctions to Main Road, away from the junction adjacent to the site, are used to a greater extent as the principal junction serving dwellings on Church Lane, or that this would mitigate vehicular movements to the benefit of the proposal.
13. It is not clear how Policies CSP.1 (environmental design), CSP.4 (settlement strategy) and CSP.16 (village strategy) of the CS, as set out on the decision notice, relate explicitly to highway safety and therefore have not informed the assessment of this main issue. Notwithstanding and overall, there is no evidence to demonstrate highway safety would be preserved, and therefore the proposal would conflict with Policies AP.1, and AP.4 of the AP. Among other things, these seek to ensure development is safe and accessible.

Protected Species

14. Part of the site is an area of open land, which is undeveloped and comprises vegetation and tree cover. It is located on the periphery of the settlement with the wider rural landscape to the east. Forest of Dean District Council Alvington Character Appraisal 2007 states that areas of open land are integral to Alvington's character, where the amount of wildlife evident in the fields strengthen links with the surrounding rural landscape.
15. In addition, part of the site is a building in poor condition, and on my site visit the building appeared to be significantly overgrown at the rear, which made it impossible to rule out the presence of crevices or other potential points of entry that could attract protected species, such as bats. This is notwithstanding the concrete roof, the contentions around which are not supported by an appropriate survey in any event. Consequently, based on the physical characteristics of the site in the round, if protected species are present in the area, there is a reasonable likelihood that they could be using the site.
16. The proposal would see the existing building demolished and open land developed, which could harm or disturb protected species. There is no evidence in front of me, by way of preliminary ecological appraisal or otherwise, to demonstrate that there is not a reasonable likelihood of the site being used by protected species. Furthermore, there is no evidence in front me, by way of ecological impact assessment or otherwise, to demonstrate that if present protected species would not be harmed or disturbed.
17. The application forms are a starting point for ascertaining what material considerations may exist under the proposal. Consultation through the application process helps further in this respect, among other things. On the basis of consultation responses from the relevant departments and my own observations and assessment it is reasonable to require further evidence in this case.

18. Overall, it has not been demonstrated that the proposal would have an acceptable effect on protected species. It is therefore in conflict with Policies CSP.1, CSP.2, CSP.4 and CSP.16 of the CS and Policies AP.1, AP.4, AP.7 and AP.8 of the AP. Among other things, these seek to ensure that development does not harm or disturb protected species.

Living Conditions

19. Part of the site comprises a narrow strip of land located directly in-between existing buildings to the south west and Church Lane to the north east. Furthermore, the frontage is curtailed by Main Road to the west and the rear is curtailed by the existing access point to the east. Consequently, opportunities for its redevelopment are restricted in every direction.
20. The proposal would deliver a dwelling on this part of the site, and given the layout constraints, would provide 30sqm of private outdoor space. The dwelling would comprise two bedrooms, which in accordance with guidance² should provide 100sqm of private outdoor space to create suitable living conditions for future occupants. Given that the proposal would provide less than one third of the guideline amount, it is reasonable to conclude that there would be a substantial shortfall in private outdoor space.
21. There is no evidence in front of me to demonstrate that the private outdoor space is similar compared to adjoining dwellings, or that even if this was the case it would be a mitigating factor in failing to meet the identified guidance by a substantial amount.
22. Overall, the proposal would deliver cramped levels of private outdoor space that would harm the living conditions of future occupiers and conflict with Policy AP.4 of the AP, and Forest of Dean Residential Design Guide 1998 which among other things seeks to deliver high quality design pursuant to the living conditions of occupiers.

Other Matters

23. In relation to pre-application advice given by the Council, Planning Practice Guidance³ is clear that such advice is not binding and does not pre-empt the democratic decision making process or a particular outcome. Any issues raised have been considered under this appeal insofar as they are material to the decision.
24. The principle of development, including the proposal's accordance with the settlement strategy pursuant to delivering development within defined boundaries, is not disputed. Neither is the proposal's construction measures pursuant to carbon reduction, among other things. Notwithstanding, these matters do not mitigate the harm identified under the main issues.
25. Further correspondence with the local highway authority is independent of this appeal process, including the evidence presented therein and has had no bearing on my decision.
26. Paragraph 213 of the National Planning Policy Framework provides that existing policies should not be considered out of date simply because they were adopted prior to its publication.

² Forest of Dean Residential Design Guide 1998

³ Paragraph: 011 Reference ID: 20-011-20140306 Revision date: 06 03 2014

27. Even if the development plan was deemed to be out of date pursuant to a shortfall in housing land supply and delivery as the appellant contends, and Paragraph 11 of the National Planning Policy Framework was engaged, the limited quantum of development and relatively limited socio-economic benefits generated as a result would be significantly and demonstrably outweighed in cumulative terms by the adverse impacts identified under the main issues.
28. The full details and evidence of the relevant application⁴ are not before me and I am therefore unable to make a detailed assessment of how it is relevant in this case. Notwithstanding, it appears to have been for one dwelling and therefore of a different scale to the proposal in this case. Furthermore, I am not clear whether any demolition was required under the relevant application, another differentiator compared to the proposal in this case.
29. There are a number of listed buildings in the wider area, but there is no evidence in front of me that the site or the proposal interfaces with their settings to the extent it would alter the outcome of the appeal.

Conclusion

30. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR

⁴ P0002/18/FUL