



Appeal Decision

Site visit made on 9 February 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/Y3940/W/20/3256886

Clock House, Road off Honeystreet North of Canal, Honeystreet, Pewsey SN9 5PS

- 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 Donovan Love against the decision of Wiltshire Council.
 - The application Ref 19/09834/FUL, dated 26 September 2019, was refused by notice dated 19 February 2020.
 - The development proposed is the demolition of two dwellings and vacant commercial buildings and replacement with six dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of two dwellings and vacant commercial buildings and replacement with six dwellings at Clock House, Road off Honeystreet North of Canal, Honeystreet, Pewsey SN9 5PS in accordance with the terms of the application, Ref 19/09834/FUL, dated 26 September 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Donovan Love against Wiltshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area with particular regards to (i) the setting of Mill House, a Grade II listed building, (ii) the impact on non-designated heritage assets and (iii) the special qualities of the North Wessex Downs Area of Outstanding Natural Beauty (AONB).

Reasons

4. Honeystreet is a small linear settlement whose form and history has been heavily influenced by the arrival of the Kennet and Avon Canal. The wharf at Honeystreet facilitated historic commercial activity including timber mills, barge building and the movement of heavy cargos which is reflected in some of the uses and built form of the present settlement. The juxtaposition of a concentration of industrial activity otherwise set within a wider scenic rural landscape makes the settlement particularly distinctive.

5. The appeal site lies towards the eastern end of the built-up area of the village, adjacent to the canal and was a former industrial site accommodating a sawmill and barge construction activities. A mix of buildings exist on the site. However, the site has been vacant for some time and the majority comprise dilapidated industrial buildings. Combined with overgrown vegetation within the site, this results in a neglected appearance. Nevertheless, the functional working character of the site is discernible.
6. Mill House, a grade II listed building is situated on the opposite side of the lane. The list description dates the dual aspect, stone built detached house from the early-mid 19th century. Its significance derives partly from its aesthetic appearance and historic fabric. However, its date, proximity to the industrial activities at the nearby wharf and name heavily suggest that it was probably associated with the owner of the nearby sawmill at the appeal site. The refined residential dwelling would have presented elevations towards both the scenic rural surroundings and the industrial activities adjacent. The quality of the materials and detailing denote that the building was one of some status. Therefore, some significance is derived from the part it played in the social and economic evolution of the settlement.
7. The appeal site, due to its proximity and likely historic use and association, forms part of the surroundings in which Mill House is experienced. Accordingly, it forms part of its setting. I have a statutory duty¹ to give special attention to the desirability of protecting the setting of listed buildings. Moreover, the remnants of the historic buildings on the appeal site and the canal infrastructure have a degree of heritage interest. As such, they constitute non-designated heritage assets which are also relevant to my consideration.
8. The proposal would remove the existing buildings at the appeal site and introduce a grouping of six two storey dwellings. The contemporary design uses a linear footprint with a narrow depth which gives the dwellings a simple, functional form reminiscent of some utilitarian industrial buildings at the site and nearby. The detailing of the buildings would be restrained which assists the clean lines of the structures. Natural materials comprising timber wall cladding and slate roofing would be reasonably complementary as I observed both are present on other buildings in the vicinity. The dark colour proposed would be visually recessive thereby detracting from the massing of the buildings.
9. Moreover, the consistency of approach to the built form and materials would provide coherence to the site overall thereby avoiding an obvious fragmentation of the former industrial site. To my mind these factors would accord with paragraph 127 c) of the National Planning Policy Framework (the Framework) which stipulates that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). It follows that I cannot agree with the assertion that the proposal would be suburban in character or use incongruous plot sizes.
10. In coming to my view, I have had regard to the heritage assessments and visual assessment provided by interested parties². It is asserted that the

¹ Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

² Heritage Assessment of Mill House, Ian Lund, August 2019; Heritage Note prepared by Cogent Heritage dated 13 December 2019 & Visual Impact report prepared by WH Landscape dated 7 January 2020.

height, position and orientation of Plots 1 & 2 in particular would harmfully impact on the setting of Mill House. However, the Tithe survey map extract of 1839 shows a somewhat sporadic group of buildings on the site. The 1880 OS map extract shows buildings rather than open space at the corner near the junction of the lanes. Therefore, these maps would not support the assertion that the orientation and arrangement of buildings on the appeal site was deliberate or regular in order to facilitate a direct view to the wharfside from Mill House. Neither do they show that open space was retained at the corner to permit views of the south facing elevation from the main road to the east.

11. I acknowledge that the height of the dwellings would be greater than most of the buildings at the appeal site and that the setting would change as a result of the proposal. Nevertheless, overall, the subdued approach to detailing, dark materials and simple form would preserve the hierarchy of Mill House in the proximate relationship, and change does not necessarily equate to harm.
12. In addition, I am mindful that planning permission exists for the redevelopment of the site³ for 5 dwellings. The appellant indicates that development has commenced, and I have not seen any evidence to the contrary. I accept that, if the appeal proposal were not permitted, there is a realistic prospect of the approved scheme being built out. Accordingly, it attracts considerable weight as a fall back position, and has established the residential use of the site within the setting of Mill House. By comparison to the appeal proposal, I consider those buildings would take a more conventional, overtly domestic form that would be less sympathetic to the industrial significance of the site to the designated heritage asset. Paragraph 192 c) of the Framework states that account should be taken of the desirability of new development making a positive contribution to local character and distinctiveness.
13. Taking these factors together, I do not agree that the proposal would dominate the setting of Mill House or otherwise undermine the factors that contribute towards its significance that I have identified. Furthermore, it would enhance local character and distinctiveness by comparison to the extant scheme. As I have found that the proposal would conserve the significance of the setting of this designated heritage asset, it follows that the balancing exercise in paragraph 196 of the Framework necessary when less than substantial harm is identified, would not apply.
14. The set back of the buildings and landscaping proposals would open up the relationship of the appeal site with the canal. The configuration of residential gardens to the canal would be broadly similar to that approved as part of the 5 dwelling scheme, rather than being significantly enclosed as the Council assert. My view on this is reinforced by the observations of the Canal and River Trust⁴ that the proposal would re-establish the open relationship the site originally had with the Kennet and Avon Canal. They further describe the buildings as located thoughtfully to respond to the canal. As such, I find no harm would result to the setting of the canal as a heritage asset.
15. The proposal would result in the loss of the historic fabric of the existing buildings on site which are non-designated heritage assets. Paragraph 197 of the Framework states that for non-designated heritage assets a balanced judgement should be made having regard to the scale of any harm or loss and

³ Reference 17/02632/FUL

⁴ Letter dated 3.1.20

the significance of the asset. The information provided, together with my observations suggests that the individual buildings are not of any particular architectural merit, rather it was their use and association with the canal that conveyed significance. As such, the historic fabric of the buildings is of little significance and its loss would result in minimal harm. Nevertheless, a balanced judgement is still required.

16. The proposal would secure the use of the site, providing additional homes on previously developed land that would conserve the setting of the canal and Mill House. The Council have confirmed that they are presently unable to demonstrate a five-year housing land supply which underlines the benefit that additional housing would bring. Moreover, full implementation of the extant permission would result in the loss of most of the existing buildings in any event. In combination, these are factors that carry substantial weight in favour of the proposal which would be sufficient to outweigh the minimal harm arising from the loss of the existing buildings.
17. The site is located within the AONB and paragraph 172 of the Framework stipulates that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's. The special qualities and scenic beauty of the AONB is derived in part from expansive areas of undeveloped chalk downlands, vales and their inter-relationship with modest rural settlements. The appeal site is previously developed land contained within the existing built up area of Honeystreet. It is not of a scale that would undermine or significantly change the relationship of the settlement with its wider rural surroundings. Moreover, for the reasons outlined, the proposal would be sympathetic to the historic environment which would assist in preserving the special qualities of the AONB.
18. Concerns are raised regarding the impact of lighting on the dark skies of the AONB, particularly in relation to the glazed roof areas. I acknowledge that intrinsically dark landscapes in the AONB contribute positively towards its special qualities. Core Policy 51 of the Wiltshire Core Strategy, January 2015 (CS) refers to the need to protect landscapes against intrusion from light pollution.
19. Planning Practice Guidance⁵ advises on what factors can be considered when assessing whether a development proposal might have implications for light pollution. This includes considering whether the development would be in or near a protected area of dark sky or an intrinsically dark landscape where new lighting would be conspicuously out of keeping with local nocturnal light levels.
20. The lighting assessment provided outlines the existing nocturnal context and light levels at Honeystreet and concludes that the proposed lighting would not be any more intrusive than existing light levels. I have seen little substantive evidence that would undermine these findings. In addition, the proposed external lighting scheme details the use of low level sources, downlighting and motion sensors that would limit the intensity and duration of external lighting which would mitigate against the impact.
21. It further sets out that the lighting in the circulation spaces below the glazed roof features would be at low illuminance and controlled by movement sensors, a timer switch and refers to electrically operated blinds timed to operate at

⁵ Paragraph 002 Reference ID:31-002-20191101

sunset. However, I have given this very little weight as the internal lighting arrangements and use of blinds within dwellings could not be guaranteed in perpetuity nor easily enforced.

22. Accordingly, I accept that there would be some light associated with the proposal, but the evidence does not show that it would be conspicuously out of keeping with existing local nocturnal light levels within the settlement. Therefore, it is not shown that the degree of lighting would harm the special qualities of the AONB.
23. I have taken account of the representations received that express a preference for the extant 5 dwelling scheme. However, amongst other matters, paragraph 130 of the Framework states that where the design of a development accords with the clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.
24. Accordingly, I find that the proposal would contribute positively to local distinctiveness and therefore, would not result in harm to the character and appearance of the area. In addition, it would conserve the setting of Mill House, the Kennet and Avon Canal and would preserve the special qualities of the AONB. Having weighed up the minimal harm arising from the loss of the existing non designated heritage assets at the site, the balance tips in favour of the development. It follows that the proposal would accord with core policies 51, 57 and 58 of the CS. Core policy 51 seeks to protect, conserve and enhance landscape character including the AONB. Core policy 57 requires development to achieve a high standard of design that amongst other matters, is sympathetic to and conserves historic buildings and historic landscapes. Similarly, core policy 58 states that development should protect, conserve and where possible enhance the historic environment.

Other matters

25. Some of the representations received raise additional concerns in relation to highway safety and parking, the lack of affordable housing, the impact on wildlife, impact on existing trees and loss of privacy to the occupants of Mill House. In comparison to the fall back position the proposal would add an additional dwelling. The proposed layout shows that suitable access can be achieved and would provide parking spaces in line with the Council's requirements. Notwithstanding that parking arising from other land uses nearby may cause frustration and inconvenience to local residents, there is little substantive evidence to show that the proposal before me would cause unacceptable highway safety impacts. This therefore attracts limited weight.
26. The Council raised no objection regarding the lack of affordable housing provision. As such, there is little evidence before me in relation to the development plan requirement for affordable housing and it is not clearly shown that there would be a conflict in this regard. In any event, the existence of planning permission for 5 market dwellings at the site carries considerable weight as a fall back position. Therefore, I have given this matter limited weight.
27. The application is accompanied by a detailed ecology assessment which sets out mitigation and enhancement measures to adequately provide for biodiversity and I have little basis to disagree. A planning condition can secure these measures.

28. In the absence of a tree survey concerns are expressed regarding the impact upon existing trees at the site. The protected walnut tree, as well as ash and lime trees are shown as retained in the proposed layout and landscaping details. However, further details of tree protection measures and an arboricultural method statement should be secured by condition in order to adequately safeguard the health of these trees.
29. The nearest dwelling to Mill House would be Plot 1. The majority of north facing windows in Plot 1 would not directly align with the southern elevation of Mill House. Moreover, there is a lane between the respective dwellings. This configuration combined with the separation distance, internal layout of Plot 1 and obscure glazing to the secondary window serving bedroom two would prevent intrusive views into windows at Mill House. As such, it would reasonably safeguard the living conditions of the occupants of Mill House and provide appropriate levels of amenity as required by core policy 57 of the CS.

Conditions

30. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these as this provides certainty.
31. A condition to ensure compliance with previously agreed details for noise attenuation is required to protect the living conditions of future residents. Similarly, compliance with details previously agreed in relation to building recording, archaeological work and structural information are necessary in the interests of conserving the historic environment. Furthermore, taking into account the comments of the Canal and River Trust and proximity to other residences a construction method statement should be agreed to address the hours of working and impact upon the canal during the demolition and construction activities. To be effective these will need to be agreed prior to the commencement of demolition and construction works.
32. As indicated above, tree protection measures and an arboricultural method statement should be agreed to safeguard the health of retained trees at the site which contribute towards the visual amenity of the area. To prevent damage to the trees, this must be agreed prior to the commencement of works at the site.
33. In the interests of maintaining the overall quality of the design and proper functioning of the development, conditions requiring the implementation of the landscaping scheme and management plan, flue finish, drainage scheme, lighting scheme, access and parking are necessary. In some cases, I have amalgamated and adjusted the wording of the conditions suggested by the Council to reduce the overall number.
34. Given the former industrial use of the site and in the interests of human health, a condition is necessary to secure the mitigation measures proposed in the ground contamination report provided, as well as a verification report that they have been carried out. In the interests of biodiversity, a condition to secure the mitigation and enhancement in the ecology assessment submitted is also required.

35. I accept that some measures to prevent unreasonable overlooking to nearby existing residents and future residents within the development should be implemented. This primarily relates to obscure glazing and restrictions on openings in relation to secondary windows or circulation spaces. Therefore, they would not harmfully compromise the internal living conditions of future residents unduly. However, I have omitted the reference to the window serving bedroom 2 on the east side of Plot 4 as the layout indicates the side window of bedroom 2 would face west. Therefore, it would be unlikely to overlook other residents to an unreasonable degree. In addition, I have amended the reference to the window in bedroom 2 of Plot 6 to refer to the south elevation.
36. The Council have also suggested conditions to restrict permitted development rights normally afforded to householders to prevent any future additions, extensions, external alterations, buildings, structures, gates, walls, fences or other means of enclosure. Planning Practice Guidance advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. It is not fully explained why such a blanket removal of freedoms to carry out small scale domestic alterations would be reasonable or necessary in these circumstances in order to make the development acceptable in planning terms. Therefore, I am not satisfied that such onerous and widespread restrictions would meet the requisite tests set out in paragraph 55 of the Framework and have not imposed them.

Conclusion

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

Helen O'Connor

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 0376-200H Site Plan- proposed
 - 0376-201C House Type 1A - Detached Units
 - 0376-202C House Type 2 - Semi-Detached Units
 - 0376-203C House Type 3 - Detached with Basement
 - 0376-205B Proposed Site Elevations - East & South
 - 0376-206B Proposed Site Elevations - North & West
 - 0376-207 House Type 1B - Detached Unit
 - 0376-304B Site Plan - Plot Boundaries & Views
 - 0376-400 Proposed Foul Drainage Layout
 - 0376-402 Proposed External Lighting Scheme
 - 0376-501 Typical Window Facade Details
 - 0376-502 Typical External Wall Details
 - 0376-503 Typical Window Details
 - 454/100 B Soft Landscape Proposals
 - 454/101 B Proposed Fencing
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) Details of protective fencing to prevent parked and moving vehicles damaging the waterway edge or entering the canal.
 - ii) Details of the method of pollution prevention to the canal during demolition and construction.
 - iii) The methodology and materials for any remedial work needed to the waterway wall.
 - iv) Details of the delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the walnut, ash and lime trees shown as retained on drawing 0376-200H and the appropriate working methods (the arboricultural method statement) in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

- 5) No dwelling hereby approved shall be occupied until the alternative scheme of noise attenuation approved by the local planning authority in the discharge of conditions letter dated 6 November 2015 attached to planning permission E/10/0772/FUL has been implemented. Thereafter, it shall be maintained as such.
- 6) The development shall be implemented in accordance with the scheme of building recording agreed; approved programme of archaeological work and structural report agreed in the discharge of conditions letter dated 22 February 2017 attached to planning permission E/10/0772/FUL.
- 7) The external flues shall be finished in a matt black colour and maintained as such thereafter.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The hard landscaping shown in the approved details shall be carried out prior to the first occupation of any of the dwellings or in accordance with a programme agreed in writing with the local planning authority.
- 9) The development shall be implemented in accordance with the landscape management plan by Enderby Associates dated September 2019.
- 10) No dwelling shall be occupied until the road, parking and turning areas have been provided in accordance with drawing 0376-200H. This includes the visibility splays shown for Plot 1 and visitor parking. Thereafter, they shall be retained as such and the visibility splays shall be kept clear of any obstruction to visibility above a height of 600mm from ground level at all times.
- 11) Prior to the first occupation of the respective dwelling, the following windows at first floor shall be glazed to an obscurity level of no less than level 3 and fixed with a ventilation stay restricting the opening of the window and shall thereafter be retained as such:
 - i) Window serving bedroom 2 on front (north) elevation of Plot 1
 - ii) Window serving landing/stairwell on the front (north) elevation of Plot 1
 - iii) Window serving landing/stairwell on the front (south) elevation of Plot 2
 - iv) Window serving bedroom 2 on front (north) elevation of Plot 5
 - v) Window serving landing/stairwell on the front (north) elevation of Plot 5
 - vi) Window serving bedroom 2 on side (south) elevation of Plot 6
- 12) The development shall be implemented in accordance with the 4036R2v3 Contaminated Land Options Appraisal and Remediation Strategy prepared by Groundfirst dated 1 April 2020. A Verification Report to confirm that the strategy has been completed as prescribed shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any of the dwellings approved.

- 13) Unless otherwise previously agreed in writing with the local planning authority, no dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with the scheme referenced 71817R2 prepared by SuDSmart Pro/Geosmart dated 26 September 2019 and foul drainage works have been implemented in accordance with drawing no. 0376-400.
- 14) The development shall be implemented in accordance with the mitigation and enhancement measures set out in JJ379.2a Ecological Appraisal prepared by James Johnston Ecology dated 25 September 2019 prior to the first occupation of any dwelling or otherwise in accordance with the timetable detailed in the document.
- 15) Prior to the first occupation of any dwelling hereby approved, external lighting shall accord with the details shown on drawing 0376-402. Thereafter, no other external lighting shall be installed.