
Appeal Decision

Site visit made on 4 May 2021

by Helen Heward BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 May 2021

Appeal Ref: APP/P1133/W/20/3263859

Chapel Cottage, Broadhempston, Totnes, Devon TQ9 6BN

- 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 Neil Tully against the decision of Teignbridge District Council.
 - The application Ref 19/01399/FUL, dated 13 September 2019, was refused by notice dated 19 June 2020.
 - The development proposed is described as a two-storey detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site comprises two adjacent parcels of land separated by a public road. The application describes the proposal as *"a new 2 storey detached residence set within the garden of Chapel Cottage, Broadhempston a GII listed building with additional amenity and parking spaces provided in adjacent garden area"*. The dwelling would be constructed on the lower parcel of land. On the higher parcel the application proposes refurbishing an existing garage building and constructing a new garden building, both with grass roofs.

Main Issue

3. The main issue is whether the proposal would preserve the settings of the grade I listed Church of St. Peter and St. Paul, the grade II listed Chapel Cottage and the former Methodist Chapel, and preserve or enhance the character or appearance of the Broadhempston Conservation Area (BCA) including the effect of the proposal upon orchard trees.

Reasons

4. The approach to listed buildings and conservation areas is underpinned by the statutory requirements placed on decision makers by the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) includes that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

5. The Church of St. Peter and St. Paul is of 13th century origins, with nave, aisles, porch, and west tower of 15th century perpendicular design. Victorian and early 20th century restorations include replacement of the North and South aisle tracery by the well-known Victorian architect J.D. Sedding.
6. As well as its architectural and cultural qualities Historic England (HE) advise that *"the church's prominent hilltop position, thought to be the centre of the original settlement and a pre-conquest ecclesiastical site, enables views from locations within the village. To the south and east, buildings have developed close to the boundaries of the graveyard, creating a sense of enclosure. In contrast, due to the land falling to the north and historic development of dwellings beyond the lane at the mound's base, the setting of the church on this aspect retains an open spatial quality, with views to distant fields adding to this sense and bringing the rural surroundings into the heart of the village."* This character contributes substantially to the quality of the setting and to the significance of the grade I listed church.
7. The two parcels of land of the appeal site form part of the land falling away to the north that affords the open spatial quality and attractive views of distant fields. At the time of my site visit apple trees growing on the lower parcel were in blossom and their conjoined crowns made a striking contribution in the available views. Like the Inspector in a previous appeal¹ I found that these trees provide an attractive green fringe to the churchyard and strengthen the link between the church and the agricultural landscape beyond.
8. The higher parcel has a short boundary adjacent to a main entrance and a long boundary directly adjacent to the church grounds. It is visually and physically closely associated with the churchyard and forms part of the immediate setting of the church. Both parts of the appeal site are an integral part of the setting of this rural church and contribute to a retained physical appreciation of the historic relationship between the church, landform, and the countryside. The appeal site makes a small but positive contribution to the setting and significance of this grade I listed building.
9. The significance of Chapel Cottage and its adjoining barn is derived primarily from its architectural qualities as well as its historic interest, and as a record of 18th century housing in Broadhempston. The lower parcel of the appeal site forms part of the garden, which together with the mature apple trees, provide an attractive green space and assist in maintaining a historic link between this listed dwelling and the surrounding landscape. The lower parcel makes a noticeable contribution to the setting and significance of this listed building.
10. The significance of the former Methodist Chapel is derived primarily from its architectural qualities as well its historic interest in Methodism in Devon. The green open qualities of the appeal site assist in maintaining the attractive rural setting when viewed from the east. The appeal site makes a small but positive contribution to the setting and significance of this asset.
11. The Teignbridge District Conservation Area Character Appraisals, Broadhempston: December 2000 (the Appraisal) advises that the significance of the BCA is derived primarily from its archaeological remains, medieval planned layout, fine parish church and traditional vernacular buildings. The BCA encompasses most of the village and the area around the church is at the

¹ APP/P1133/W/18/3197589 paragraph 6

centre of the original settlement. Gardens and orchards are described as being integral to the historic plan of the village.

12. The long-established orchard at Chapel Cottage is noted as one of the defining features. The conjoined crowns of the five mature apple trees are highly visible and contribute significantly to the visual amenity of the area in several views. The upper parcel of the appeal site is an important part of the central space around the church at the centre of the BCA. In these ways the appeal site makes a small but important contribution to the significance of the BCA.
13. The proposal would result in the removal of three of the apple trees and the pruning of a fourth. Sixteen new trees would be planted including fruiting and native varieties to both the main and upper garden areas.
14. In the previous appeal the Inspector referred to the existing orchard trees as over mature and the appellant informs that one has since been removed due to overturning and collapse. However I note that in a Tree Schedule on a tree survey drawing for this appeal all of the trees are noted as mature. Four are category B trees, three of which are given a life expectancy of up to 20 years, including T3 which is to be removed. The only reason given for removal is due to development requirements. The retained trees would likely suffer harm from the removal of the others that they have been growing together with.
15. On a Layout and Landscape Plan the canopy of T2 is shown partially over the dwelling but on a Tree Protection Plan the canopy is smaller and does not extend over the dwelling. A section of walling for the dwelling is shown within the Root Protection Area (RPA) of T2 and ground protection is proposed. With foundations, trenches, and other construction requirements I very much doubt that the RPA of T2 could be satisfactorily protected. It is quite likely that T2 would be harmed or lost.
16. I am also mindful that advice in BS5837:2012 Trees in relation to design, demolition and construction includes that the default position should be that structures are located outside RPAs. Even if T1 and T2 were successfully retained, the mass and depth of the present orchard tree group would be lost, so too the tree closest to the road, T3.
17. HE advised that a building of appropriate scale, massing and design in this location may not adversely alter the character of the setting of the church. The submitted design seeks to emulate a simple traditional agricultural building form based on a rectangular building platform. Neither the Council or HE object in principle to modern and sustainable design and nor do I. However, HE was not convinced by the proposed elevational treatment, shallow eaves, and fenestration.
18. The windows would appear domestic in style, size and proportions. The number and arrangement of windows at first floor level would be particularly inappropriate with the agricultural building style. A shallow hipped roof with corrugated sheeting and very shallow eaves would reflect an agricultural building style. But in this location, and with domestic guttering and window openings below, it would appear quite incongruous. I agree with HE that overall the design would not result in a building which is either sympathetic to the immediate surrounding built architecture or would contribute positively to local character and distinctiveness.

19. The dwelling might not be visible in views to the church and some clear and wide-ranging views from the church grounds would remain. Nonetheless, from the northern churchyard path the proposed dwelling would partially intrude into some views across the cottage garden to the wider landscape beyond. The diminishment of the conjoined canopy of the orchard trees would be harmful to the orchard setting of the church. The falling ground to the north of the churchyard contributes to the landscape setting of the church. I am not persuaded that the siting of the dwelling at a low level within the basin of the garden area would satisfactorily mitigate and compensate the harms.
20. A proposed flat-roofed garden shed/room building on the upper parcel of the appeal site would be roughly at the same level as the churchyard. This building would interrupt and disrupt a view of the church from the lane and would be seen at close proximity in north facing views of the countryside from within the churchyard. Works to provide a grass roof to the existing garage could affect a wall to the churchyard or be in very close proximity. I agree with HE that there is insufficient evidence in this regard.
21. The appellant made an offer to remove the garden shed/room and works to the garage. The Planning Practice Guidance² includes advice that in exceptional circumstances it may be appropriate to use conditions in order to grant permission for only part of the development for which planning permission is sought. Therefore, were I minded to allow the appeal a condition could be imposed to not approve these details, avoiding potential harms to the Grade I listed building.
22. I attach little weight to submissions that the northern elevation of the church is the least important or that views have been previously compromised by unsympathetic modern buildings which are located close to the boundary. It is a grade I listed building of exceptional interest and within the top 2.5% of historic buildings. Overall, the harm to the setting and significance of the church from the dwelling would be limited. I am not persuaded that new planting would mitigate or compensate the harm.
23. The positioning of the dwelling within the long-established orchard area of Chapel Cottage, the diminishment of the orchard tree group and the green space would all detract from the historic relationship of Chapel Cottage to its garden and the surrounding landscape. I am not persuaded that the retention of two trees and new planting would visually separate the proposed dwelling from Chapel Cottage. The harm to the setting and significance of Chapel Cottage would be limited.
24. In views from the lane near the former Methodist Chapel the canopies of the orchard trees are clearly seen. The dwelling would be set down, behind a wall and at a lower level than the adjacent lane. Nonetheless the diminished green space and mature orchard trees would cause a minor harm to the attractive rural setting of this listed building.
25. In close views from the adjacent lane the canopies of the orchard trees are a central focal point. The dwelling would be set down, close behind a wall and at a lower level than the adjacent lane. The Council acknowledges that there may be views that are not affected. However, from the lane near Pound House a view of the top of the northern façade and the hipped roof would replace a view of the orchard trees. From the west, Pound House, the proposed dwelling, and

² Reference ID: 21a-013-20140306

- Chapel Cottage would be seen together with few gaps. Proposed tree planting would have little effect upon close views from within the settlement.
26. When directly alongside the lower part of the appeal site the view over and through the garden orchard to countryside beyond would be greatly reduced. In time orchard trees in the retained garden would mature but they would not compensate the loss of the historic orchard trees close to the lane. The harm to the character and appearance of the BCA would be moderate.
 27. Some views would be experienced as partial and fleeting, but the changes would be permanent. My attention is drawn to unsympathetic modern buildings located close to the boundary of the churchyard and a recent refurbishment of the Village Hall. The appellant also submits that the scheme has been significantly improved from the previous appeal proposal. However, I have assessed this appeal on its own merits.
 28. Whilst there is nothing to say that appropriate sympathetic change within the setting of a historic asset cannot be allowed in principle, the significance of a heritage asset can be harmed or lost through development within its setting. Advice in the National Planning Policy Framework (Framework), is clear that heritage assets are irreplaceable, and any harm or loss should require clear and convincing justification.
 29. For the reasons given, I conclude that the proposal before me would fail to preserve the setting of the grade I listed Church of St. Peter and St. Paul, the settings of the grade II listed Chapel Cottage and the former Methodist Chapel and would fail to preserve or enhance the character and appearance of the BCA. I attach considerable weight to the harms that I have found.
 30. The appeal scheme would conflict with requirements of Teignbridge Local Plan 2013-2033 Policy ENV5 to protect and enhance the area's heritage, and which require that development proposals take account of the significance, character, setting and local distinctiveness of any affected heritage asset, including Listed Buildings and Conservation Areas. It fails to satisfy requirements of Policy EN12 to contribute to the protection and enhancement of trees in the area.
 31. It also fails to satisfy requirements of Policy S2 to integrate with and, where possible, enhance the character of the adjoining built and natural environment, particularly affected heritage assets; respect the distinctive character of the local landscape, protect and incorporate key environmental assets of the area, including (amongst other things) topography, landmarks, views, trees, and heritage assets.
 32. In the context of the Framework, the harms that would arise, individually and collectively, would amount to less than substantial harm. Paragraph 196 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
 33. Unsightly bins would be removed. The proposal would provide a sustainable, self-contained dwelling suitable as a "lifetime home" in close proximity to local facilities. The dwelling would contribute one unit to the delivery of housing. I have set aside the restoration of a garage on the upper parcel for reasons given. I attach a modest amount of weight in favour of the public benefits. The harms that I identified weigh heavily against granting permission and are not outweighed by the public benefits put forward by the appellant.

Other matters

Privacy

34. A first-floor bedroom window would afford a view over the back of the retained garden at Chapel Cottage. There would be some loss of privacy from this elevated and close view which could not be fully mitigated. But the size of the retained rear garden of Chapel Cottage would be relatively large and the limited overlooking would not be dissimilar to what one might find or reasonably expect in a village situation such as this and the existing garden is not a particularly private or enclosed space.
35. Had I been minded to allow the appeal a planning condition could have been imposed to require that first floor windows in the east elevation be obscure glazed to prevent close views of the rear of Pound House. In this way the proposal would not have resulted in an unacceptable loss of privacy from overlooking. It would have satisfied requirements of Policy S1 of the Local Plan in respect of the impact on the residential amenity of existing dwellings, particularly privacy, security, outlook, and natural light.

Below ground archaeology and drainage

36. A designated Area of Archaeological Potential is shown in the Appraisal. The area where the dwelling would be is not within this area, but part of the site is. There is limited evidence about the potential for below ground archaeological deposits associated with the early church on the appeal site. There is also little information about the potential for flooding from the drainage system for the proposed development. However, as I am minded to dismiss the appeal for other reasons below ground archaeology and drainage matters are not determinative.

Conclusion

37. In light of my findings above, and taking all other matters raised into consideration I conclude that the appeal should be dismissed.

Helen Heward

Planning Inspector