



Appeal Decision

Site Visit made on 5 July 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/P1615/W/21/3269444

5 Cross Farm Close, Aylburton, LYDNEY, Gloucestershire GL15 6EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Charlie Vine against the decision of Forest of Dean District Council.
 - The application Ref P2010/20/FUL, dated 8 December 2020, was refused by notice dated 4 February 2021.
 - The application sought planning permission for the change of use of land from agricultural to residential without complying with a condition attached to planning permission Ref P0735/18/COU, dated 14 May 2018.
 - The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in accordance with the approved plans listed in the table below.
 - The reason given for the condition is:
For the avoidance of doubt and in the interest of proper planning
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agricultural to residential at 5 Cross Farm Close, Aylburton, LYDNEY, Gloucestershire GL15 6EB in accordance with the application Ref P2010/20/FUL made on the 8 December 2020 without complying with condition No 2 set out in planning permission Ref P0735/18/COU granted on 14 May 2018 by the Forest of Dean District Council, but otherwise subject to the following conditions:

1/ The development hereby permitted shall be only in accordance with the following approved plans: 201 Revision F (Proposed Site Plan); 201 Rev F (Sections or cross sections); Location Plan Revision B.

2/ Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 2015, and any subsequent amendments, no development falling within Class E and Class F of Part 1, Class A of Part 2 and Classes B, C, D, G and I of Part 14 of Schedule 2 to the Order, shall be erected, constructed, laid or placed within the extended curtilage hereby permitted.

3/ The landscaping scheme approved through Proposed Site Plan drawing No 201 Rev F received on the 8th December 2020 (including the erection of fencing) shall be fully implemented not later than the first planting season following the date of this decision. Thereafter the

hedgerow along the eastern, southern and western boundaries shall be grown to, and maintained at, a minimum height of 1.7m. If at any time during the subsequent five years any tree, shrub or hedge forming part of the scheme shall for any reason die, be removed or felled it shall be replaced with another tree, shrub or hedge of the same species during the next planting season to the satisfaction of the Local Planning Authority.

Preliminary Matters

2. The proposal is to amend the 'Plans Condition' to allow for the inclusion of drawing number 201 Rev F. The primary difference is that the use of a post and mesh fence to a section of the southern boundary of the residential land would be amended to a close board fence. This fence is already in place. The plans also proposed a new hedge to the front of the fence, though this hedge has either not been planted or not grown to any noticeable height as yet.

Main Issue

3. The main issue is the effect of the proposed amended boundary detail on the character and appearance of the area and the significance of the Aylburton Conservation Area (CA).

Reasons

4. The proposed close board fence would be between the end of the garden/residential area of No 5 Cross Farm Close and what appears to be a private access track of likely agricultural original purposes. To the south of the site is also an overgrown field area with some dilapidated old stables and also an open area adjacent to what remains of Vine Hall Farm which is used for parking.
5. The area adjacent to the remaining stone buildings and walls of Vine Hall Farm is essentially this parking area and the rear of a terrace that fronts the A48. To the rear of this terrace and their garden boundaries there are examples of close board fences similar to that constructed by the appellant. To my mind, the area adjacent to the proposed fence is a mix of rural/former agricultural buildings and properties with a more modern residential character. In this setting, the proposed close board fence would not appear alien or overly urban in its use as boundary treatment.
6. The close board fence is also a relatively small section of the boundaries of the rear garden of No 5, with fencing of a more rural character still proposed around much of this remaining boundary. Furthermore, whilst it would take some time to mature, the proposed hedges along the outside of the fence would soften the visual impact further.
7. This is an area which has clearly changed in character considerably over the years. Within this context the area of close board fence as a section of boundary to residential land would not appear obtrusive or incongruous within its setting, even adjacent to agricultural land, when taking into account other nearby modern dwellings with many close board fences evident.
8. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of

planning functions. The National Planning Policy Framework also advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework 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.

9. From my observations and from the evidence before me the significance of this CA is derived from its historical layout and traditional old buildings which remain. It is my view that the section of close board fence preserves the significance of the CA, with such fences already a relatively common feature in the CA, with there being no harm to this heritage asset. As such, the proposal accords with policy CSP.1 of the Core Strategy, and policies AP.4 and AP.5 of the Allocations Plan. These policies require development to protect the special qualities and historic character of an area, taking into account local character with design solutions, amongst other things. Furthermore, for the reasons set out above the proposed fence as a boundary treatment would not be in conflict with the National Planning Policy Framework, National Planning Practice Guidance or the National Design Guide.

Other Matters

10. As stated by the Council, there does appear to be no threat from flooding as a result of the fence near the brook. I have no substantive evidence to demonstrate otherwise.
11. The proposal is effectively for the retention of a section of fence and I have no reason to consider that the appellant is seeking some sort of unauthorised vehicular access as a result of the proposals.

Conditions

12. As explained above, the 'plans' condition has been amended to include the plan which includes the section of close boarded fence, as already erected on site. Furthermore, the conditions from the original consent relating to the restriction of permitted development rights on this land and also landscaping requirements, both in the interests of visual amenity, are reimposed.

Conclusion

13. For the reasons given I conclude that the appeal should succeed.

Mr S Rennie

INSPECTOR