
Appeal Decision

Site visit made on 20 July 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/F1610/W/21/3269970

Land north of Glebe Farm Bungalow, Glebe Farm, Little Rissington, Cheltenham GL54 2ND

- 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 Phillip and Michael Ainslie against the decision of Cotswold District Council.
 - The application Ref 20/02585/FUL, dated 24 July 2020, was refused by notice dated 1 October 2020.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The parties were given the opportunity to comment on the revised Framework as part of the appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area having particular regard to whether it preserves or enhances the character or appearance of the Little Rissington Conservation Area (CA), and the setting of nearby listed buildings.

Reasons

Character and appearance, and designated heritage assets

4. The appeal site is within the CA, which covers most of the village of Little Rissington. Its significance is derived from a combination of factors including how the buildings and spaces in the settlement have evolved over time. It contains a concentration of attractive vernacular stone buildings that date from the late 17th century and early 18th century. The settlement pattern includes clusters of tightly arranged buildings, many of which present directly onto the winding main road through the village. Gaps between buildings that allow for pockets of greenery or glimpses to the countryside beyond, provide a pleasing foil to the intimate configuration of built form. These factors result in an attractive, rural character to the CA.

5. Groups of tightly arranged cottages and buildings are especially evident along the main road near to the appeal site, many of which are listed buildings¹. The closest listed building is Bobble Farmhouse which stands on the opposite side of the main road with its principal twin gabled elevation facing towards the appeal site. Its significance is derived from its aesthetic quality as a traditional stone farmhouse with outbuildings, as well as its historical functional connection with agriculture.
6. The appeal site forms part of the grounds to Glebe Farm Bungalow, a modest detached post-war dwelling, and is used to keep poultry. However, the historic map extracts² provided show the site was an orchard for a notable period. Other than two, small timber shelters the site is open and undeveloped. The presence of scrub, low ruderal vegetation on the land, bramble, hedgerow and dry-stone wall combined with nearby trees conveys a natural, informal and spacious quality to the site.
7. As one approaches the appeal site from the north around the bend in the main road, the spaciousness and verdant nature of the appeal site opens out and provides a visual response that balances the immediate linear presence of the buildings on the left, including Bobble Farmhouse. As such, it contributes positively to the surroundings in which Bobble Farmhouse is experienced. Similarly, the site provides a spacious contrast when approaching from the south. Hence, it makes a valuable contribution to the rural character and appearance of the CA, which is reinforced by the finding of the Inspector in the 2007 appeal decision³ concerning the site.
8. In considering the impact of the proposal, I am mindful of my statutory duties⁴ to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and to the desirability of preserving or enhancing the character or appearance of the CA.
9. The proposed detached dwelling would introduce notable built form, associated domestic garden and hardstanding into this setting. Its presence would harmfully erode the informal, spacious, undeveloped qualities of the land and accentuate its domestic character. The evidence presented indicates that historically the appeal site formed part of a larger piece of undeveloped land. Relatively recent residential development to the west of the appeal site has already reduced its extent. Moreover, the appeal site is described in the Heritage and Impact Assessment as the last surviving open area within Little Rissington⁵. In these circumstances, the reduction in spaciousness of the remaining open space would be particularly marked.
10. Policy EN11c) of the Cotswold District Local Plan 2011-2031, August 2018 (LP) supports development that affects conservation areas provided, amongst other matters, that it would not result in the loss of open spaces, including garden areas and village greens, which make a valuable contribution to the character and/or appearance of the conservation area. For the reasons outlined, the proposal would harmfully encroach into such an open space. It is put to me

¹ Extract from Gloucestershire Historic Environment Record, Appendix 1, Heritage and Impact Assessment prepared by Elmwood Heritage, May 2020

² Figure 2, Heritage and Impact Assessment prepared by Elmwood Heritage, May 2020

³ Appeal reference APP/F1610/A/07/2046650, paragraph 4, Appendix 1, Appellants' Appeal Statement

⁴ Sections 66 & 72 Planning (Listed Buildings and Conservation Areas) Act 1990

⁵ Page 11, Heritage and Impact Assessment prepared by Elmwood Heritage, May 2020

that a total loss of openness would be required in order for there to be a conflict with the policy. However, I cannot agree as the policy clearly seeks to prevent harm to conservation areas. Therefore, notwithstanding that the built form of the proposed dwelling would leave some space around the building and would be smaller than the scheme found unacceptable by the Inspector in 2007, it would fail to meet the requirements of policy EN11c).

11. The appellants point out that the appeal site is presently garden land to Glebe Farm Bungalow and could potentially be more manicured. Be that as it may, my observations were that the site presently has an informal rural appearance. Moreover, the creation of a new dwelling would result in an increased concentration in the use of the remaining garden space, thereby providing greater impetus for associated ornamental planting and domestic paraphernalia. Hence, the proposal would fail to preserve the positive qualities that the site contributes towards the CA.
12. The proposed dwelling would be a modestly sized detached chalet style residence that would utilise the roof space by providing dormer windows. Although the Council have expressed some concerns that the design would fail to appear as a traditional rural building, it broadly follows the general advice set out in the Cotswold Design Code⁶ relating to scale, proportion and the Cotswold vernacular architectural style. Furthermore, it would be completed in sympathetic materials. As such, its unassuming scale and design would be inoffensive. Nevertheless, as the proposed dwelling would address Glebe Close, it would turn its back, and present its rear elevation to the main road which would be out of keeping with most dwellings in the vicinity. As a result, it would undermine the street scene along the higher order road. Furthermore, given that harm would result from its presence in this context, the proposed design would not provide an enhancement to the character or appearance of the CA.
13. In addition, despite the proposed dwelling being set into the plot, the proximity of the site together with its elevated level relative to the main road would mean that the presence of the building would be readily apparent. The photograph provided illustrates how the existing dwellings to the west of the appeal site are visible from the main road⁷. The proposal would be in closer views with, and from, the principal elevation of Bobble Farmhouse. Consequently, it would dilute the appreciation of its aesthetic quality that is presently possible due to the spaciousness of the site and would therefore, be harmful to its setting.
14. The appellants highlight the findings of the Inspector in 2007 who stated that the loss of open space would affect the setting of listed buildings nearby, but that the effect would not be so significant as to justify refusal. However, the Heritage and Impact Assessment provided concludes⁸ that the proposal would result in 'minor harm' to the CA, as well as the settings of the listed Glebe Farmhouse, Bobble Farmhouse, Mullions, Twyn Cottage, Holly Cottage and the Old Shop. Nevertheless, my consideration of the evidence before me, which includes my own observations, has led me to find harm in relation to the significance of the CA and the setting of Bobble Farmhouse. I consider that the separation distance of the site from the other listed buildings mentioned along the main road would be sufficient to prevent specific harm to their settings.

⁶ Appendix D, Cotswold District Local Plan 2011-2031, August 2018

⁷ Plate 5, Heritage and Impact Assessment prepared by Elmwood Heritage, May 2020

⁸ Page 15, Heritage and Impact Assessment prepared by Elmwood Heritage, May 2020

15. Furthermore, given the date of the 2007 decision, the Inspector would not have had regard to national policy contained in the Framework, nor more recent case law relating to the discharge of the statutory duties relating to the listed buildings. The appellants reference case law⁹ whereby the Court found only three categories of possible harm relating to designated heritage assets in the Framework. They are substantial harm, less than substantial harm or no harm. For the reasons outlined, I find that the relatively modest scale of the proposal would result in less than substantial harm to the significance of two designated heritage assets, namely the CA and Bobble Farmhouse.
16. Paragraph 202 of the Framework advises that in such circumstances the harm should be weighed against the public benefits of the proposal. The development would make more efficient use of the land and would contribute to the overall housing supply and mix, in a location where the principle of development is supported by other development plan policies. Furthermore, there would be economic benefits arising from construction, and the contributions and activities of future occupants. The latter may also support local services and facilities. In addition, some enhancements could be secured to improve the biodiversity of the site.
17. My attention is drawn to paragraph 68 of the 2019 Framework (similar to paragraph 69 in the revised Framework) which states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. Nevertheless, the Council can currently demonstrate a housing land supply of 6.8 years¹⁰, and I have not seen evidence to show otherwise. Whilst the Government's objective is to significantly boost the supply of homes, this is not without qualification nor reference to the other policies in the Framework. The recent call for sites¹¹ made by the Council does little to persuade me that it is being anything other than diligent in ensuring land comes forward for homes where and when it is needed.
18. In these circumstances, a single additional dwelling would make a limited contribution to the overall supply. Moreover, the degree of economic and social benefit that would accrue is not quantified, but it would be likely to be commensurate to its modest scale. This would also be true of the biodiversity gain arising from the planting, bird and bat boxes and hedgehog passes recommended in the Preliminary Ecological Appraisal¹². In addition, whilst the Framework encourages making effective use of land, paragraph 124 states that the desirability of maintaining an area's prevailing character and setting should be taken into account. Therefore, overall, the public benefits arising from the development attract limited weight.
19. Although less than substantial, mindful of the statutory duties and national policy¹³, the harm to the significance of the designated heritage assets attracts great weight. Policy EN10 of the LP also stipulates that in considering proposals that affect a designated heritage asset or its setting, great weight should be given to the asset's conservation. Therefore, the public benefits identified would not outweigh the harm to the historic environment.

⁹ R (oao James Hall and Company Limited) v City of Bradford Metropolitan District Council and Co-Operative Group Limited [2019] EWHC 2899 (Admin) – paragraph 2.15 Appellants' Supplementary Planning Statement, September 2020 prepared by Robinson and Hall

¹⁰ Cotswold District Council Housing Land Supply Report, October 2020, Appendix 8, Council's Appeal Statement

¹¹ Appendix 7, Appellants' Appeal Statement

¹² Section 6, Preliminary Ecological Appraisal prepared by Windrush Ecology, April 2020

¹³ Paragraph 199 National Planning Policy Framework

20. In support of the proposal the appellants refer to three recent examples¹⁴ where the Council has permitted residential development in Little Rissington. As they are in or close to the same conservation area and are broadly similar development, they are material to my determination, and I observed the recently constructed house near Orchard House when I visited the site. Nevertheless, based on the information provided, it is not shown that any of the respective sites were considered to make an important contribution to the character and appearance of the CA due to their openness. Unlike the appeal proposal, the planning history for each of the sites does not reveal that this had been the specific finding of an Inspector in an appeal decision that related to the site. This represents a significant difference with the scheme before me. Consequently, these examples are of limited weight. In any event, I have determined the appeal proposal on its own merits.
21. I have also had regard to an appeal decision in Fairford¹⁵. However, that proposal was for three dwellings and concerned a different conservation area. Neither was the site within the setting of a listed building. Consequently, the significance of the heritage assets concerned differed from the appeal scheme, as did the context and configuration of the development. As such, it carries little weight in the assessment of the individual merits of the appeal proposal.
22. Accordingly, I find that the proposal would be harmful to the character and appearance of the area, would fail to preserve or enhance the character and appearance of the CA, and would adversely affect the setting of Bobble Farmhouse. Therefore, it would conflict with policies EN1, EN2, EN10 and EN11 of the LP which taken in combination, and amongst other things, seek development that respects the character and distinctiveness of the local area and safeguards the historic environment.
23. For similar reasons, although not cited on the decision notice, the proposal would also conflict with policy DS3 c) of the LP, which requires small scale residential development in non-principal settlements to complement the form and character of the settlement.

Other matters

24. In making my determination I have had regard to the representations made, one of which supported the proposal as an ideal location for development. However, for the reasons outlined I have found otherwise.
25. The appellants have also provided a copy of the Council's pre-application advice. This pertained to a larger dwelling and concluded that such a proposal would be unlikely to receive support. Notwithstanding its comparative reduction in size, I find little in its content that would provide support for the appeal proposal, and therefore, it would not lead me to a different view.
26. Reference is made to the absence of harm in relation to the living conditions of others, the Area of Outstanding Natural Beauty and highway safety. Be that as it may, these matters would not amount to benefits of the proposal as they would be required to make the proposal policy compliant. As such, they are neutral factors in the overall planning balance.

¹⁴ Planning Reference 18/04970/FUL West of Trimleys, Little Rissington (Appendix 3); Planning Reference 18/02673/FUL Orchard House, Little Rissington (Appendices 4 and 5); Planning Reference 18/01539/FUL Robins Roost, 6 Bobble Court (Appendix 6), Appellants' Appeal Statement).

¹⁵ Reference APP/F1610/W/15/3129215, Appendix 2, Appellants' Appeal Statement

Planning Balance and Conclusion

27. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹⁶. The benefits of the proposal that are outlined above, attract limited weight and hence, would not outweigh the significant weight given to the conflict with the development plan. Accordingly, they do not justify my determining the development other than in accordance with the adopted development plan and Framework.
28. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.