



Appeal Decision

Site Visit made on 23 November 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/W1850/W/21/3276349

Three Penny Bit Cottage, Lugwardine, HR1 4DP

- 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 R Harrison against the decision of Herefordshire Council.
 - The application Ref 201742, dated 1 June 2020, was refused by notice dated 4 December 2020.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would provide satisfactory living conditions for future occupiers; and
 - The effect of the proposed development upon the character and appearance of the area including the effect of the proposal upon the setting of listed buildings and non-designated heritage assets.

Reasons

Living conditions for future occupiers

3. The site contains a number of trees including a Lime Tree that is subject to a Tree Preservation Order. The Council contend that the proposed development would not provide satisfactory living conditions for future occupiers due to the potential overshadowing impact from nearby trees.
4. Whilst there would be mature landscaping near to the proposed dwelling the kitchen/dining room and lounge would have large openings in the southern elevation and would be dual aspect providing natural light throughout the day. Whilst the bedrooms would face the Lime tree, taking this into consideration along with the height and crown spread of the tree and the separation between the two, I am satisfied that future occupiers would not experience undue overshadowing.
5. As such, I conclude that the proposed development would provide satisfactory living conditions for future occupants in accordance with Policy SD1 of the Herefordshire Local Plan Core Strategy (2015) (CS) which, amongst other things, requires new development to safeguard residential amenity for proposed residents. It would also accord with the National Planning Policy

Framework (the Framework) which, amongst other things, seeks to ensure that new development provides a high standard of amenity for existing and future users.

Character and appearance including impact on heritage assets

6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
7. The Framework, at paragraph 203, sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
8. The Council has identified a number of designated and non-designated assets in the area including non-designated heritage asset Three Penny Bit Cottage which neighbours the site and statutory listed Lugwardine Bridge and Lower Lodge which sits opposite the site on the other side of the road. The site forms part of the historic park of statutory listed New Court and is considered to be a non-designated heritage asset in the form of an unregistered historic park and garden.
9. The appeal site comprises a largely open green parcel of land on one side of the A438. The site is overgrown with a low boundary fence enclosing it from the road and nearby properties.
10. The site sits in a prominent position on the entrance into the village with historic buildings either side of the road acting as a gateway into Lugwardine. This part of the village is characterised by historic buildings and green spaces that surround the built form that contribute to its rural agrarian character. This landscape, including the appeal site, provides the setting for designated and non-designated assets in the village.
11. The extent of the setting of heritage assets is not fixed and may change and be experienced differently as the asset and its surroundings evolve. Whilst the site is visually and physically separated from the rest of the historic park it has an inherent value as an area of undeveloped land that neighbours Three Penny Bit Cottage and that contributes to the spaciousness of the area and forms part of the setting of Lower Lodge.
12. I acknowledge that the proposed development would not be isolated and that there is a degree of architectural variety in the area. However, I find that the introduction of the built form through a new dwelling and the urbanisation of the site and the associated residential paraphernalia would significantly erode the verdant nature of the site. The loss of this open area would unacceptably diminish the contribution it makes to the setting of nearby heritage assets and the character and appearance of this part of the village through this urbanisation.
13. Taking into account the site's prominent position in the street scene the development as proposed would not successfully integrate into the wider

landscape. Despite existing trees and the proposed landscaping, it would be very apparent and intrusive appearing as an incongruous form of development that would change the verdant appearance of the site to something more urban diminishing the site's contribution to the collective setting and significance of nearby heritage assets.

14. As such, in my judgement, the proposal would not preserve the significance of nearby designated and non-designated heritage assets and would harm the character and appearance of the area. The proposal would be contrary to CS Policies LD1, LD4, SD1, SS6 and RA2, which amongst other things, require new development to maintain local distinctiveness; ensure that distinctive features of existing buildings and their setting are safeguarded; to protect, conserve and where possible enhance heritage assets in a manner appropriate to their significance; to conserve and enhance those environmental assets that contribute towards the county's distinctiveness and for high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment.
15. It would also be contrary to Policies BL1, BL3 and BL7 of the Bartestree with Lugwardine Group Neighbourhood Development Plan (2016) which, amongst other things, require good design incorporating locally distinctive features; development that is in keeping with the scale, form and character of its surroundings and for proposals to protect, conserve or enhance designated and non-designated assets including unregistered parks and gardens.

Other Matters

16. Although the site is outside the settlement boundary, it is in a location that is within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot and bus, providing them with transport choice and not an over-reliance on a car. I also note that the appellant is proposing to widen the footpath in front of the site to aid connectivity. However, these matters would not overcome the harm that I have identified in relation to character and appearance.
17. The site is located within the River Wye Special Area of Conservation, however, as I am dismissing the appeal on other substantive grounds it has not been necessary for me to consider this matter further.

Planning Balance

18. I acknowledge at the time the application was determined the Council was unable to demonstrate a deliverable five year supply of housing land. That situation has changed upon publication of the Council's Annual Position Statement. Consequently, paragraph 11(d) of the Framework is not engaged. Planning law requires that applications for planning permission, should be determined in accordance with the development plan, unless material considerations indicate otherwise.
19. However, even if the Council was not able to demonstrate an adequate supply of housing land, the proposal would make only a small contribution to the area's housing supply and its social, economic and environment benefits would be limited.

20. Furthermore, I have found that the proposal would give rise to harm to the setting of nearby designated and non-designated heritage assets. The adverse impact of which would significantly and demonstrably outweigh the benefits.
21. I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm. The appeal is therefore dismissed.

Conclusion

22. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR