



Appeal Decision

Site visit made on 28 January 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 24 February 2022

Appeal Ref: APP/G1630/W/21/3284065

Dippers Cottage, Gabb Lane, Apperley, Gloucester GL19 4DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Mark van Gils against Tewkesbury Borough Council.
 - The application Ref 21/00618/FUL, is dated 12 May 2021.
 - The development proposed is described as 'Alterations to main dwelling and erection of an outbuilding. 1) Erection of an outbuilding to be used as an office/playroom in our garden (include a wet room) 2) Addition of a balcony 3) Addition of window 4) Addition of Velux window'
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a balcony, window and rooflight to main dwellinghouse. Erection of an outbuilding to be used as an office/playroom at Dippers Cottage, Gabb Lane, Apperley, Gloucester, GL19 4DN in accordance with the terms of the application, Ref 21/00618/FUL, dated 12 May 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the interests of brevity, I have taken the description of development from the Council's registration letter as this more succinctly describes the appeal proposal, whilst remaining accurate.
3. The plans and drawings submitted as part of the application and this subsequent appeal did not contain reference numbers or dates. I have confirmed with the Council the date that the plans were received and have therefore included this as part of the planning condition to add clarity to the approved plans and drawings.
4. The appeal relates to the failure of the Council to give notice of its decision on an application for planning permission. The Council has, however, submitted a report recommending approval of the planning application. Despite this, as the appeal has been submitted based on the Council's failure to determine the application within the prescribed time period, the Council no longer has the jurisdiction to determine the application. Nevertheless, I have based my main issues, as set out below, to reflect the principle matters that were considered in the Council's report.

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the host dwelling and surrounding area, with due regard to the location of the site in a Landscape Protection Zone
- the effect on the living conditions of the occupants of neighbouring properties
- whether the proposed development is suitable having regard to flood risk

Reasons

Character and Appearance

6. Dippers Cottage is a traditional brick-built, detached dwelling that appears to have already been altered and extended in the past. The dwelling is accessed off a long driveway and is set in a spacious plot. Neighbouring residential properties are located a considerable distance away, with the nearest neighbouring dwelling approximately 200m away. A public right of way crosses the site, although from my observations it did not appear as though it had been heavily used in recent times.
7. The appeal site is in the open countryside with the surrounding adjoining land appearing to be predominantly in agricultural use. The landscape in which the site lies is locally designated as a 'landscape protection zone' (LPZ) under Saved Policy LND3 of the Tewkesbury Local Plan to 2011 (adopted 2006) (the 'Local Plan'). The designation is associated with giving special protection to the ecological or visual amenity of the river environment of the Severn Vale.
8. The site has a generally open feel, with a combination of post and rail and wire fencing delineating the site's boundaries from the surrounding rolling land. Some parts of the site's boundary also contain areas of dense vegetation.
9. The proposed alterations to the main dwellinghouse include a balcony and associated French windows on the western elevation, that faces towards the access drive. Additionally, a new roof light is proposed in the north facing roof slope, as well as a new window to the rear elevation. Each of the proposed alterations are suitably scaled in relation to the existing property. Additionally, the use of matching materials in the proposed glazing elements, would ensure that the alterations would respect the character and appearance of the existing dwelling.
10. Turning to the proposed outbuilding, Policy HOU8 of the Local Plan sets out that outbuildings should, amongst other matters, respect the scale and proportion of the existing/original dwelling. The outbuilding is proposed to be located a short distance to the south of the dwellinghouse. It would have a floor area of approximately 30m², along with generally low eaves and an overall height of approximately 3.5m. The proposed outbuilding therefore would have relatively modest proportions compared to the host dwelling, which has a much greater mass and height. Consequently, it would appear as a subordinate form of development that would not be overly prominent in the context of the host dwelling that it relates to.

11. Additionally, while the appeal property already contains several structures in its garden space, including an outbuilding and large car port, the plot remains spacious. It can therefore accommodate the proposed outbuilding without it resulting in a cramped form of development on the site.
12. Furthermore, the outbuilding would have the appearance of a conventional timber summerhouse and would not be inconsistent or appear out of place in the garden of the appeal dwelling. The outbuilding would be located close to the existing public right of way that crosses the site. However, I am satisfied that it would not give rise to any adverse impact to the use of the right of way, or to visual amenity, subject to a condition relating to its final finish. This is due to its overall scale, design, and the garden context in which it would be viewed.
13. Overall, the development is of an appropriate design and scale that preserves the character and appearance of the host dwelling and surrounding area, including the designated LPZ. Consequently, the proposals accord with Policies HOU8 and LND3 of the Local Plan and Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (December 2017) (JCS). Collectively, these policies seek to, amongst other things, require development to respond positively to, and respect the character of the site and its surroundings, including protecting the landscape setting of the Severn Vale. The development is also in accordance with the aims of the National Planning Policy Framework (the Framework), which requires good design as part of sustainable development.

Effect on Living Conditions

14. As previously detailed, the nearest neighbouring dwellings are located a considerable distance from the appeal site.
15. Given the limited scale and nature of the appeal scheme, alongside the distance to the nearest residential properties, I am satisfied that the proposals would not result in any harm to the living conditions of occupants of any neighbouring properties. Accordingly, the proposals comply with Policy HOU8 of the Local Plan and Policy SD14 of the JCS, which amongst other matters, seek to safeguard the amenity of neighbours. This also generally accords with the Framework on these matters.

Flood Risk

16. Planning Policy Guidance (PPG) and the Framework aim to steer development to areas with the lowest probability of flooding through a sequential test. Policy INF2 of the JCS reflects this by also seeking to prevent development that would be at risk of flooding, in accordance with a risk-based sequential approach. The policy further outlines that development proposals must not increase the level of risk to the safety of occupiers of a site, the local community, or the wider environment either on the site or elsewhere.
17. The Council has provided extracts from the Gloucestershire Strategic Flood Risk Assessment Maps (SFRA) that demonstrate a significant proportion of the site is located within Flood Zones 2 and 3, areas of medium and high risk of flooding. However, the proposed new floorspace to be created by the outbuilding is located entirely within Flood Zone 1.
18. The access to the outbuilding would be via the current site access which, as per the SFRA, is in Flood Zone 3. However, I am satisfied that given the outbuilding

is to remain ancillary to the use of the main dwellinghouse, the proposals would not result in any significant increase in trips to the property. Nor would it increase the level of risk to the safety of occupiers of the site, the wider community or wider environment.

19. I therefore consider the proposals to be a suitable form of development, having regard to flood risk, and deem them to accord with Policy INF2 of the JCS and the relevant policies of the Framework in relation to flood risk.

Conditions

20. The Council has suggested a range of conditions, which the appellant has been made aware of and has raised no objection to. I have considered the suggested conditions and amended and reordered them as necessary in the interests of precision and clarity, as well as to comply with advice in the Planning Practice Guidance. Of note is the alteration to the commencement of development condition from five to three years.
21. A condition is needed to secure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning. A condition requiring the use of matching materials for the proposed windows and French doors is necessary in the interests of the appearance of the development. Likewise, a condition requiring the prior approval of the final finish of the outbuilding is also deemed necessary in the interest of the appearance of the development. Finally, a condition requiring that the outbuilding remain ancillary to the host dwelling is necessary to prevent the creation of a separate unit of accommodation, in a location that would otherwise not be suitable.
22. The Council has also suggested a condition requiring the approval and incorporation of a new boundary treatment to provide a suitable means of enclosure to the site. The Council has indicated that this is to mitigate for the loss of hedgerow along the eastern boundary that would be removed for the outbuilding. However, I do not find this proposed condition to be reasonable or necessary. The hedgerow to be removed is not positioned on the site's boundary but approximately 1m off the established boundary line. The existing boundary treatment in this part of the site instead comprises a post and wire fence along with separate vegetation, that is taller in height than the hedge to be removed. As such, the removal of the hedgerow will not affect the current means of enclosure on the boundary. I therefore do not consider it necessary to provide any further boundary treatment in this location.

Conclusion

23. For the reasons outlined above and having regard to the development plan, and all other material considerations, the appeal is allowed and planning permission is granted.

Lewis Condé

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, received by the Local Planning Authority on 28 June 2021:
Site Location Plan V2;
Block Plan;
Proposed Elevations – Dwellinghouse;
Proposed Floor Plan – Dwellinghouse;
Proposed Roof Plan – Dwellinghouse;
Proposed Elevations – Outbuilding; and
Proposed Floor Plan – Outbuilding.
- 3) The materials to be used in the construction of the French doors and windows of the development hereby permitted shall match those used in the existing building.
- 4) Prior to construction of the outbuilding a specification of the finish, to include the colour of any paint, proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials and finish as approved.
- 5) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Dippers Cottage.