



Appeal Decision

Site visit made on 8 February 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/P1615/W/21/3279940

Church Villa, High Street, Ruardean GL17 9US

- 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 & Mrs Wright against the decision of Forest of Dean District Council.
 - The application Ref P1747/20/FUL, dated 21 October 2020, was refused by notice dated 8 February 2021.
 - The development proposed is for the erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve the setting of the Grade II* listed Church of St. John the Baptist, have any adverse effect on the setting of the Ruardean Castle Scheduled Monument and whether it would preserve or enhance the character or appearance of Ruardean Conservation Area.

Reasons

3. The appeal site lies within the settings of the Grade II* listed Church of St. John the Baptist (the Church) and Ruardean Castle Scheduled Monument (SM). It also lies wholly within Ruardean Conservation Area (CA).

The Church

4. Taking each of the assets in turn, the special interest of the Grade II* Church derives from its age, with its origins in the 12th century, 13th century nave and arcade, 14th century striking staged tower with spire and 15th century chancel and Early English doorway with hoodmould and carved head. Since the medieval period, it has served as a place of worship with a scale and sense of grandeur which signify the prosperity of the area at that time. Its significance lies in its original historic fabric and features, its long-standing and unchanged function as a place of worship, and its setting, both as an integral part of the village streetscene and CA, yet also experienced within a peaceful and dramatic rural landscape setting overlooking the Wye Valley.

The Scheduled Monument

5. The SM draws its significance from the archaeological features that remain of the 13th century stone keep and associated 14th century manor house within their former parkland enclosure. Again, it is the openness, dramatic and elevated position of the SM which enables an appreciation of the former role

and prominence of these buildings and their connection with the Church and development of the area. Despite that only few remains of the buildings appear above ground, there is an obviously distinctive and striking quality to the whole area covered by the SM and its overlapping setting with the Church that increase the sensitivity of this historic landscape.

The CA

6. The CA covers a large area and includes the Church and churchyard, along with the SM and much of its former parkland enclosure, given the pivotal role these buildings played in the early evolution of the settlement. The linear arrangement of the main street along a prosperous historic trade route, the settlement's medieval core and range of traditional, vernacular buildings, both residential and commercial, also contribute to the special interest and significance of the CA.

The Appeal Site's Contribution

7. The appeal site clearly reads as an elongated rear garden of the dwelling which fronts onto High Street. Despite that the garden boundary hedge and trees have been recently reduced, views of the garden and its associated domestic paraphernalia are largely filtered from local viewpoints. In contrast to other dwellings on the opposite side of the Church which are exposed and have gardens with domestic paraphernalia visible from the churchyard and SM, the appeal site offers a sense of spaciousness and greener backdrop that denotes a change from the urban scene to the more rural surroundings. Therefore, the appeal site is a positive feature within the setting of the Church and SM, and within the CA, that contributes to their respective significance.

The Proposal

8. The appeal proposal seeks to construct a single storey, three bedroom dwelling and detached garage at the northern end of the garden. The dwelling would have an irregular plan, with a north-south element, and east-west adjoining section partly angled to fit the tapered shape of the site. The existing off-road parking area would serve the new dwelling, which would require the provision of an alternative access and parking area to serve the host dwelling, though that aspect does not form part of the current scheme. Most of the garden to serve the dwelling would be to the south, encompassing an important Walnut tree, but the rear elevation would contain large, glazed openings providing access to a more modest, private area of garden to the north. A previous appeal scheme¹ for a dormer bungalow on the site was dismissed in 2019.

Effects

9. Owing to the overall scale, massing and design, in addition to its siting in close proximity of the northern boundary, the proposal would result in a substantial bulk of highly visible building within a part of the settlement which has a semi-rural character. Though it would notionally be a single storey dwelling, the overall height of its steeply pitched roof would result in it being highly visible, with such effects exacerbated by a number of glazed roof panels that would emit light from the highest point of the dwelling.

¹ APP/P1615/W/19/3228924 dated 15 October 2019

10. Whilst I note that the design and use of materials would be superior to the previously dismissed scheme, the character and appearance of the appeal site would still be markedly changed by the proposal. The height of the dwelling would far exceed the uppermost parts of the trampoline and greenhouse presently in the garden, which can be seen from the churchyard, the lane and in the vicinity of the SM. Though it is suggested that the extent of visibility would be minimised by enhanced landscaping on the northern boundary, I consider it unlikely that such landscaping could effectively screen such a scale and bulk of building. Furthermore, the dwelling has been designed with large, glazed openings on the northern elevation, which, when considered with the modest intervening garden area and available views, hints at a likely gradual change towards a lower landscaped boundary to achieve a more open outlook.
11. A massing comparison model has also been provided which appears to show that whilst the proposed dwelling would be lower than that previously dismissed, it would only be modestly so, given the elevated floor level on a base that would address the slope of the site. The same massing comparison also shows that the appeal proposal would have a far greater spread of built mass, with a generously-proportioned 165 sqm of floor area distributed across the series of interlinked built elements. Whilst it is alleged that the submitted photomontages show the building would have a minimal impact in comparison to those buildings and features already present, I consider that the effects of the proposed landscaping have been overstated. Considered in the round, the proposal would be a strident intervention on a site which makes a positive contribution to the area by being open and largely green.
12. Other dwellings recently built or currently under construction within the CA do not harm its appearance or harm the settings of the assets as they form a more obvious part of an established streetscene and are further from the Church and SM. The appeal site is closer to the Church and SM and in an area of CA that has softer, greener characteristics. The proposal would result in a suburbanisation of this scene, eroding the positive contribution that it currently makes to the CA and settings and the way they are experienced.
13. I agree that there would be only limited harm to the tranquil character of the lane from additional comings and goings considered in the context of the current use of the garden and access. I do, however, consider that additional domestic paraphernalia would result in additional visual harm, the like of which is unlikely to be avoidable through removing permitted development rights. However, the effects of such paraphernalia would be rather limited given that the dwelling itself would form such a dominant backdrop.

Fallback Scenarios

14. Three fallback scenarios have been put to me as alternatives which could be constructed in the event that the appeal scheme fails. The first is an extant permission for a garage with room in the roof, which, whilst two storey, would be a far smaller building more closely related to the existing dwelling and outbuildings. Though the evidence suggests that the overlap with the appeal site would prevent it from being built, in my view, the permission for that structure would still remain. There would be no physical overlap of any buildings that would prevent its construction. Whilst the red line on the Location Plan would cut through the building, it is crudely drawn and also appears to cut through an existing outbuilding which the block plan suggests

would be retained. As such, the appeal proposal would be more harmful than the extant scheme and I consider that nothing would prevent its construction in addition to the dwelling in any event.

15. The second fallback alternative is the construction of the basic form of the appeal building using permitted development rights², but for purposes incidental to the host dwellinghouse (to include uses such as a swimming pool, gym and home office etc.). Without fettering the interests of any future decision maker, it is relevant to note that in this scenario, the computer generated images appear to show a raised platform to the north of the building which may prevent it from being permitted under E.1 (h).
16. The third fallback scenario is for the construction of a number of outbuildings covering a significant area, but no more than 50% of the total garden so as to accord with E.1(b) of Class E. In this scenario, the submitted graphic appears to suggest that no regard would have to be given to trees which are protected by virtue of the CA designation of the area.
17. In both of the scenarios involving the construction of buildings under permitted development rights, it is highlighted that there would also be no means to control the materials or landscaping, thus potentially resulting in greater harm than the appeal proposal.
18. Whilst I note the theoretical reliance on the use of permitted development rights, I cannot be certain that either scenarios are legitimate fallbacks, not least because neither is supported by a Certificate of Lawfulness³. I have doubts about the excessive size of such structures relative to the host dwelling and additionally, whether they could be considered incidental owing to the multifunctional uses that they could support, and given that these are not specifically defined in the submission before me. Accordingly, I do not consider that the Council has placed insufficient weight on these fallback scenarios as I also find that too little evidence exists to qualify that such rights could be implemented.
19. In view of the above, the proposal would be harmful to the significance of the Church and SM, undermining the ability to understand these assets and their settings. For related reasons, it would also fail to preserve the character and appearance of the CA. It would therefore fail to meet the expectations of the LBCAA⁴ and the Framework⁵ and would also conflict with, in particular, Policy CSP.1 of the Core Strategy⁶ and Policies AP4 and AP5 of the Allocations Plan⁷. These Policies collectively seek to ensure that the design of new development takes account of local character and history, and preserves those aspects of the historic environment, together with their settings, which are recognised as being of special historic quality.
20. Under the terms of the Framework, these harms would be of a less than substantial magnitude, but nevertheless of considerable importance and weight. In such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal, which I do below.

² Under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development Order) 2015, as amended

³ Under Section 192 of the Town and Country Planning Act 1990

⁴ Planning (Listed Buildings and Conservation Areas) Act 1990

⁵ The National Planning Policy Framework

⁶ Forest of Dean District Council Core Strategy (2012)

⁷ Forest of Dean District Council Allocations Plan (2018)

Balancing Exercise

21. The appellant is of the opinion that the proposal would be beneficial because it would deliver a dwelling in an area where there is a shortfall in the five year housing land supply (5YHLS). The Council acknowledge that the supply is likely to be in the region of 4.8 years' worth, as a best case scenario. The public benefits from the delivery of an additional dwelling in an area where there is a modest housing shortage, along with the economic benefits from the construction phase and throughout the dwelling's occupation attract only limited weight commensurate with the scale of the proposal.
22. Paragraph 11 and associated footnote 8 of the Framework state that relevant policies for the supply of housing should not be considered up to date where a five year housing land supply cannot be demonstrated. Paragraph 11 d) i) sets out that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. Paragraph 11 d) i) also states that the permission should be granted unless the application of Framework policies that protect important areas or assets provide a clear reason for refusal. Heritage assets clearly fall under the ambit of such protective policies.
24. I have found harm to the significance of the listed building, the SM and the CA and consequently regard that this harm provides a clear reason for refusal. Consequently, the presumption in favour of sustainable development is not triggered and the public benefits of the scheme do not outweigh the identified harms or indicate that a decision should be made other than in accordance with the development plan.

Conclusion

25. For the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR