
Appeal Decision

Site visit made on 25 May 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/W0340/W/21/3284585

Redwood, Burnt Hill, Yattendon, Thatcham RG18 0XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Justin Knott of Bellmore Homes Limited against the decision of West Berkshire Council.
 - The application Ref 21/01645/FULD, dated 15 June 2021, was refused by notice dated 24 September 2021.
 - The application sought planning permission for demolition of existing house, garage and outbuildings, erection of one new house and detached open carport without complying with a condition attached to planning permission Ref 20/02001/FULD, dated 6 November 2020.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved drawings: - Drawing title "Proposed Site Plan, Location and Block Plans". Drawing number 20/16/01. Drawing submitted 28/08/2020. - Drawing title "Proposed Access & Visibility Splays" (access only, excluding building footprint). Drawing number 19/02. Drawing submitted 28/08/2020. - Drawing title "Proposed Plans and Elevations". Drawing 20/16/03. Drawing submitted 28/08/2020. - Drawing title "Proposed Site Sections". Drawing 20/16/02. Drawing submitted 28/08/2020.
 - 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 dismissed.

Procedural Matters

2. Section 85 of the Countryside and Rights of Way Act 2000 (as amended) requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of Areas of Outstanding Natural Beauty (AONBs) when performing their functions. The appeal has been considered accordingly.
3. There is no evidence before me contesting whether the condition relating to the removal of permitted development rights is necessary. Consequently, the proposal in this case has been assessed on the basis that the condition removing permitted development rights is necessary, and that there is no fallback position.

4. The Council note that although the development has commenced, the terms of the condition proposed to be varied have not been breached. Consequently, the application was determined under Section 73 of the Town and Country Planning Act 1990 and the appeal has been dealt with accordingly.
5. The effect of potentially allowing the appeal would be to issue a new planning permission for a replacement dwelling that sat alongside the existing planning permission for a replacement dwelling. Consequently, it is necessary to consider the proposal in the context of a replacement dwelling and not as a series of extensions to an existing dwelling.

Main Issue

6. The main issue is the effect that varying the condition would have on the character and appearance of the area, including North Wessex Downs AONB.

Reasons

7. The site was occupied by a detached dwelling and a single storey detached garage prior their demolition following the implementation of the planning permission granted under 20/02001/FULD. The original dwelling had a ground floor footprint of around 51m² and was very modest in scale, massing, height, and layout.
8. The replacement dwelling granted planning permission under 20/02001/FULD had a ground floor footprint of around 113m² and twice the scale of the original dwelling. This was deemed proportionate by the Council.
9. The proposal would deliver a larger replacement dwelling through single storey side extension to include a plant room, a rear single storey conservatory and rear extension, and the enlargement of the car port to a double car park.
10. This would result in a replacement dwelling with a ground floor footprint of around 147m². This would be a significant increase in scale at around three times that of the original dwelling.
11. Furthermore, it would be approaching a ground floor footprint of around 185m², where at appeal¹ it was found that such an increase would not be proportionate to the original dwelling.
12. The significant increase in the ground floor footprint would be compounded by the appreciable increase in width of the replacement dwelling, which would measure around 21m. This would be a significant increase in scale approaching three times that of the original dwelling, which measured 8m in width.
13. Altogether, the cumulative effect of a significantly larger ground floor footprint, in conjunction with a significantly wider frontage, means that the proposal would not result in a replacement dwelling that is proportionate to the original dwelling.
14. Whilst I acknowledge the rear of the building would be somewhat less prominent, the other aspects of the replacement dwelling would still be prominent from public land.

¹ APP/W0340/W/19/3243683, which is relevant because it involves the same site and engages Policy C7 of the Housing Site Allocations Development Plan Document 2017.

15. Furthermore, whilst the car port is a lighter weight structure compared to the dwelling, it is still a noticeable addition to the building and has informed my assessment accordingly.
16. Consequently, the proposal would result in overdevelopment of the site, and this would harm the character and appearance of the area and the natural beauty of the AONB, where new large free-standing dwellings delivered as replacement dwellings are seen as a key issue with the potential to have significance influence on the area's special qualities².
17. Policy C7 of the Housing Site Allocations Development Plan Document 2017 requires an assessment of a replacement dwelling relative to the original dwelling. Consequently, comparisons with other dwellings in the area³, and indeed the replacement dwelling already granted planning permission at the site, have carried limited weight in my assessment.
18. Whilst aspects of the proposal's design, including the use of materials, siting, and landscaping, may otherwise be acceptable, these do not overcome the direct policy conflict relating to the proportions of the replacement dwelling relative to the original dwelling.
19. A previous appeal⁴ at the site related to a proposal for two new dwellings and did not engage with Policy C7 of the Housing Site Allocations Development Plan Document 2017 or requirements relating to a replacement dwelling. Consequently, despite sharing the same site, the appeal is not directly relevant in policy terms, and I have given it limited weight in my assessment.
20. Notwithstanding, I note the inspector sets out that their attention was not drawn to particular instances of harm to the AONB, whereas in this case the Council has drawn my attention to the relevant management plan and the importance of controlling overly large standalone dwellings delivered as replacement dwellings.
21. Overall, varying the condition in the manner proposed would harm the character and appearance of the area, including North Wessex Downs AONB. It would therefore not comply with Policies ADPP1, ADPP5, CS14 and CS19 of the West Berkshire Core Strategy Development Plan Document 2012.
22. It would also not comply with Policies C1 and C7 of the Housing Site Allocations Development Plan Document 2017 or the North Wessex Downs AONB Management Plan 2019. Among other things, these policies and documents reflect the statutory duties pursuant to conserving and enhancing the natural beauty of AONBs.

Other Matters

23. The Council is not bound by the professional recommendation of its planning department and are open to make a democratic decision at planning committee that departs from this. Similarly, whilst some statutory consultees have raised no objection, or have no comments to make about the proposal, these do not change my findings under the main issue.

² Page 79 of the North Wessex Downs AONB Management Plan 2019

³ Such as the 'illegitimate extension' to Thee Oaks, among others

⁴ APP/W0340/W/18/3214091

24. There is no evidence that the ground source heat pump would be incompatible with neighbouring occupiers, or that it would not be suitably controlled by other regulations. Consequently, there is no evidence that it could be delivered unfettered or that it should be considered as a fallback position with which to weigh in the planning balance.

Conclusion

25. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR