
Appeal Decision

Site visit made on 19 July 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 August 2022

Appeal Ref: APP/C3105/W/22/3295234

Reynards Lodge, North Lane, Weston On The Green OX25 3RG

- 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 and Mrs G Bushby against the decision of Cherwell District Council.
 - The application Ref 21/04299/OUT, dated 29 December 2021, was refused by notice dated 7 March 2022.
 - The application sought outline planning permission for demolition of workshops, stables and tennis court and erection of three dwellings and conversion of existing building to form a dwelling without complying with a condition attached to planning permission Ref 21/02146/OUT, dated 23 August 2021.
 - The condition in dispute is No 11 which states that:
None of the three new build dwellings hereby approved shall exceed one storey in height, that is, the eaves of the said dwellings shall not exceed single storey height and any accommodation above ground floor in those dwellings shall be predominantly within the roof space.
 - The reason given for the condition is:
To safeguard the character and appearance of the Conservation Area and the significance of other heritage assets and in the interests of the visual amenity of the locality and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of workshops, stables and tennis court and erection of three dwellings and conversion of existing building to form a dwelling at Reynards Lodge, North Lane, Weston On The Green, OX25 3RG in accordance with the terms of the application, Ref 21/04299/OUT, dated 29 December 2021, without compliance with condition number 11 previously imposed on planning permission reference 21/02146/OUT, dated 23 August 2021, but subject to the conditions in the Schedule at the end of this decision.

Preliminary Matter

2. The reason for the condition refers to the effect of the proposal on the significance of heritage assets (in the plural), in addition to the Weston On The Green Conservation Area (CA), within which the site lies. However, the Council has confirmed that no heritage assets other than the CA and the Grade II listed Westfield Farm Cottage would be affected by removal of the disputed condition. I see no reason to disagree.

Main Issue

3. The main issue is whether the condition is necessary in order to preserve or enhance the character or appearance of the area, including on the CA and the Grade II listed Westfield Farm Cottage and its setting.

Reasons

4. The site is within the Farms Character Area (FCA) of the CA. The FCA includes three former farms, now predominately in residential use, including converted agricultural barns and outbuildings, interspersed with dwellings. The appeal site consists of Reynards Lodge, a former barn, now used as a dwelling and its garden. The garden includes lawns and landscaping and has a domestic appearance. As such, whilst the barn-like appearance of Reynards Lodge itself makes a positive contribution to the semi-rural nature of this part of the FCA, and the CA as a whole, the garden is of neutral significance.
5. Immediately adjacent to the site is Westfield Farm Cottage, a Grade II listed building dating from the late C17. This two-storey stone cottage is accessed from and positioned perpendicular to North Lane. Its significance is its age and attractive design which contributes positively to the CA. Also adjacent to the site, but accessed off Shepherds Close, is Westfield Farm House (WF). This is an unlisted dwelling, but one which contributes to the CA by reason of its historic use as part of the wider farm and its traditional farmhouse design.
6. As part of application 21/02146/OUT, plans were provided which amongst other things included an indicative design and position of plots 1 and 2, each having a height of up to 2.5 storeys. As an outline application, with all matters reserved, I have treated these plans as showing one possible way that the site could be developed, rather than a fixed proposal.
7. The Weston on the Green Conservation Area Appraisal June 2009 (CAA) identifies buildings throughout the FCA as being generally 1.5 or 2 stories in height, with a few 2.5 storey buildings, such as WF. The CAA also refers to large buildings contained within farmyards off North Lane. Some examples of these 2 or 2.5 storey dwellings front onto roads, and so differ from the proposal. However, others such as Sycamore House and 4 Shepherds Close are set away from road frontages. Therefore, tall dwellings, set deep within plots, already form part of the semi-rural character of the FCA and CA.
8. I saw that there would be limited glimpses of Plots 1 and 2 from the public realm through the gaps and spaces between dwellings, but that the site would be largely screened by buildings and trees. As such, taller dwellings on those plots would not be overly prominent or result in an overdeveloped appearance when viewed from the wider public realm.
9. There is limited visibility between the site and WF, with indicative Plots 1 and 2 being located around the corner from it, and behind 4 Shepherds Close. The garden at the appeal site has a domestic use and so does not give the appearance of having once formed part of a wider farm complex. Its subdivision from WF by hedging and a high stone wall reinforces this, as does the separate access arrangements. As such, I found that WF was not particularly prominent from within the site and any historic association between the site and WF does not justify the restriction imposed by condition 11.

10. 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.
11. The appeal site is screened from Westfield Farm Cottage by tall trees and fencing with little inter-visibility between the two. Plots 1 and 2 would be located some distance from it, far enough away to accommodate Plot 3 and its garden. The appeal site reads as being separate from Westfield Farm Cottage because of this division and separation distance. As a result of this and the screening available, taller dwellings than those envisaged by condition 11 on Plots 1 and 2 would preserve the listed building and its setting.
12. As such, given the site's limited visibility and the pattern of building heights locally, a proposal that does not accord with the restriction imposed by condition 11 could have a neutral effect that would not harm the semi-rural nature of the CA. I therefore conclude that the disputed condition is not necessary to preserve or enhance the character or appearance of the area, including the CA as a whole and the Grade II listed Westfield Farm Cottage and its setting.
13. Without the disputed condition, the proposal would comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (adopted July 2015) and Policies E1 and H4 of the Weston On The Green Neighbourhood Plan 2018-2031, made May 2021 (NP) and the CAA, all of which in summary require that development should conserve designated heritage assets, respect the scale of neighbouring buildings and recognise rural character. For similar reasons, it would comply with the National Planning Policy Framework by conserving the historic environment and only imposing planning conditions where they are necessary.

Other Matters

14. Matters relating to footprint and the detailed design of the dwellings are for any future Reserved Matters application(s). Reference has been made to the targets within the NP for bedroom numbers, and other matters such as loss of light and privacy. However, my decision has focused on condition 11 and the reasons for the condition.

Conditions

15. The Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. The PPG also indicates that a grant of planning permission under section 73 should not extend the time period for implementation. For these reasons, I have repeated the previous conditions, but amended conditions 2 and 3.

Conclusion

16. I therefore conclude that the appeal should be allowed and a new planning permission granted without the disputed condition but retaining those non-disputed conditions from the previous permission.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) No development shall commence until full details of the access, layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
- 2) In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of 23 August 2021.
- 3) Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of 23 August 2021 and the development hereby permitted shall be begun either before the expiration of five years from the date of 23 August 2021 or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
- 4) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form and Site Location Plan.
- 5) As part of any reserved matters for layout and prior to the development commencing, detailed designs of the proposed surface water drainage scheme including details of implementation, maintenance and management shall be submitted to and approved in writing by the local planning authority. Those details shall include:
 - (a) Information about the design storm period and intensity, critical storm duration (1 in 30 & 1 in 100 (+40% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
 - (b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
 - (c) Flood water exceedance routes, both on and off site;
 - (d) A timetable for implementation;
 - (e) Site investigation and test results to confirm infiltrations rates; and
 - (f) A management and maintenance plan, in perpetuity, for the lifetime of the development which shall include the arrangements for adoption by an

appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

- 6) No building hereby permitted shall be occupied until the sustainable drainage scheme for this site has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 7) Prior any groundworks associated with the development hereby approved, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.
- 8) Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.
- 9) Prior to the first occupation of the dwelling hereby approved, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the dwelling and shall be retained as such thereafter.
- 10) Prior to the first occupation of the development hereby approved, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

End of Schedule