



Appeal Decision

Site visit made on 8 February 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023

Appeal Ref: APP/D3125/W/22/3302591

Tiverton Cottage/Vicks Garage, Guildenford, Burford OX18 4SE

- 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 M Strutt of B & S Ventures Ltd against the decision of West Oxfordshire District Council.
 - The application Ref 22/00135/FUL, dated 6 January 2022, was refused by notice dated 26 May 2022.
 - The development proposed is demolition of the existing garage building and the erection of a detached dwelling with access, parking and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Burford Conservation Area, including the setting of nearby listed buildings;
 - The effect of the proposed development on the provision of employment sites in the area; and
 - Whether the proposed development would provide acceptable living conditions for the occupants of the existing and proposed dwellings, with regard to amenity space.

Reasons

Character and appearance

3. The site consists of a traditional stone cottage known as Tiverton Cottage, along with a garage, sheds, and an area of hard standing. It is located on Guildenford, in the centre of Burford, within the Burford Conservation Area. There are a range of Grade II listed buildings in close proximity, including 1 and 2 Guildenford opposite the site, and the former alms houses known as Vicks Close, adjacent to the northern end of the site.
4. The Conservation Area is characterised by traditional residential development, primarily in stone and tile with stone boundary walls. Many of the dwellings front directly onto the road, creating an attractive intimacy and sense of

enclosure. However, there are a number of examples of streets¹ in the conservation area which feature sections of densely packed direct street frontage on one side, contrasted by setback buildings and open space bounded by stone walls on the other side. These areas create a sense of space and openness which provides variety and a pleasing contrast to the more enclosed areas. I consider the significance of the conservation area to be derived from both the traditional design and materials, as well as the varied layout, of the built form.

5. The garage building is primarily wood clad, with a felt roof and is currently in a poor state of repair. The design and materials are out of keeping with the surrounding traditional dwellings and so the garage is an incongruous element in the streetscene which does not make a positive contribution to the character or appearance of the Conservation Area.
6. With the exception of the garage, Guildenford is a residential street of traditional stone and tile dwellings. Along the western side of Guildenford, dwellings front directly onto the street, with any breaks in frontages largely filled by substantial stone boundary walls. On the eastern side, Tiverton Cottage and its adjoined neighbour at Weavers Cottage both have direct road frontage, with this southern section of Guildenford being quite narrow. Moving north along Guildenford the road widens and slopes downwards with the site largely bounded by a stone retaining wall. Despite its poor appearance and being set above the level of the road, the garage is of a modest scale, set back from the road and with substantial gaps between it and Tiverton Cottage and Vicks Close. The first of the listed dwellings in Vicks Close are set well back from the road behind gardens. This pattern and layout, which appears to be long standing, combined with the widening of the road, gives the middle section of Guildenford a pleasant open and spacious character. This contributes positively to the character and appearance of the street as a whole, and the significance of this part of the Conservation Area.
7. The site has extant permission to demolish the garage and construct an office building with the appearance of a modest stone cottage. Consequently, the principle of removing the garage and replacing it with a building more in keeping with the character and appearance of the area has been accepted. The proposal subject to this appeal is for a dwelling of a similar design and detailing to the approved office building. It would utilise materials, small gabled dormers and front window proportions in keeping with the rest of the street and therefore its general design, form and materials would be acceptable.
8. However, the proposal subject to this appeal would be significantly wider at first floor than the approved office building, to provide a third bedroom, with an open parking area beneath it at ground floor level. The footprint and scale of the proposal would be significantly greater than the previously approved office, and the gaps between it and Tiverton Cottage and Vicks Close would be less. As a result of the reduction in openness and gaps between buildings, the proposal would appear cramped and would have a detrimental impact on the character and appearance of the site and its surroundings, over and above the impact the office building would have. This reduction in openness would be harmful to the character and appearance of the area and hence the significance of the Conservation Area.

¹ Including Guildenford, Church Lane, Sylvester Close, Pytts lane.

9. Guildenford is the setting within which the nearby listed buildings are viewed and appreciated. However, their significance derives primarily from a combination of their age, architectural composition and form, so the setting is not of primary importance. Nevertheless, any harm to the character and appearance of Guildenford will inevitably impact on the setting, albeit resulting in only limited harm to the significance of the listed buildings themselves.
10. The statutory duties in Section 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, relate to the preservation of designated heritage assets, and are a matter of considerable importance and weight. The National Planning Policy Framework (the Framework) states that harm to a heritage asset might be defined as 'substantial' or 'less than substantial'. Due to the scale and nature of the proposal I would quantify the harm to the Conservation Area and the setting of listed buildings as 'less than substantial'. Nonetheless, in finding harm, special attention must be paid to the desirability of preserving the heritage assets, so I must attach considerable importance and weight to the identified harm.
11. The Framework, along with Policy EH9 of the LP, requires that where less than substantial harm is found, the harm should be weighed against any public benefits. The proposal would provide economic benefits arising from the construction phase and future spend of occupants, along with the social benefits of providing a family home, while contributing to the overall supply of housing. However, for a single dwelling, these benefits would be minimal. Consequently, I have been presented with no information to suggest there would be sufficient public benefit to outweigh the identified harm.
12. I conclude that the proposed development would fail to preserve or enhance the character or appearance of the Burford Conservation Area and would fail to preserve the setting of the Grade II Listed Buildings on Guildenford. Consequently, the development would not comply with Policies OS2, OS4, EH9, EH10 and EH11 of the West Oxfordshire Local Plan 2031 (LP). Together, amongst other things, these seek to ensure that development is well designed, respects local character and distinctiveness, and conserves or enhances heritage assets. Policy H2 sets the spatial context for the delivery of new housing and requires proposals to comply with other relevant policies in the plan. As set out above the proposal conflicts with other policies, so also fails to comply with Policy H2. In addition, the proposal fails to comply with paragraphs 199 to 202 of the Framework which seek to protect designated heritage assets.

Provision of employment sites

13. The garage and hardstanding has been used as a car repair business and it is common ground that this part of the site is classed as having an established employment use, though it has been vacant since June 2020. Policy E1 of the LP states that non-employment uses on employment sites will be refused except where one of the specified circumstances apply. The circumstances include where a site is not reasonably capable of being used or redeveloped for employment purposes, and where a site is unsuitable for an employment use on amenity, environmental and highway safety grounds.

14. I have considered the information provided by the appellant² regarding the marketing of the site. I acknowledge that the existing garage lacks basic facilities, and the site has constraints and limitations, including its location in a dense, predominantly residential area. The submitted marketing details are limited, and I note it was marketed as a whole site (Tiverton Cottage and the garage, rather than specifically focusing on the employment use), for less than a year, and with no specified price. In this regard, I share the concerns set out by the Council about the shortcomings of the marketing exercise.
15. On balance, while acknowledging the challenges of the site and the economic climate, I have been presented with no substantive evidence which would lead me to conclude that the site is incapable of being upgraded and viably reused, or redeveloped for another employment use, such as an office for which it already has permission. It could be considered that the garage use is unsuitable and incompatible with the surrounding residential uses, but it is an established use. Parking on site and the street is limited, but the town car park is close and the central location would enable and encourage active travel, so an office use would be compatible with the surrounding residential uses. Therefore, it has not been sufficiently demonstrated that the site meets any of the criteria of Policy E1 of the LP which would be necessary to allow a non-employment use at the site.
16. Vibrant rural communities need commercial space for businesses, as well as houses. The loss of an employment site is therefore detrimental to Burford in terms of both jobs and service provision for residents. This is regardless of the overall supply of employment land across the wider Council area.
17. I conclude that the proposed development would cause unacceptable harm to the provision of employment sites in the area, through the unjustified loss of an employment site. Consequently, the development would not comply with Policy E1 of the LP, which seeks to protect employment sites.

Living conditions – Amenity space

18. The existing dwelling at Tiverton Cottage does not currently have adjoining outside amenity space, although it has been indicated that the area beyond the garage has been used as domestic garden. The proposal would provide a modest area of outside amenity space next to Tiverton Cottage. Given the existing situation and the surrounding context, the size of the proposed amenity space is acceptable and its location next to the dwelling is an improvement on the current location. However, in addition to adjoining the road, as would have been the case previously, the amenity space would be directly overlooked, at relatively close quarters, by two windows at first floor in the facing side elevation of the proposed new dwelling. These two windows serve a bedroom which is also served by a window of similar size to the front and a rooflight. Despite this, I would not consider it reasonable to apply a condition requiring two large windows serving a habitable room to be fixed and obscure glazed to protect neighbour privacy. Such matters are more appropriately dealt with by good design. Consequently, the proposed alterations and subdivision of the site and the addition of a new dwelling, would mean that the existing dwelling at Tiverton Cottage had amenity space lacking adequate privacy.

² Including a Commercial Report prepared by Conways Commercial and correspondence from Butler Sherborn LLP.

19. The proposed new dwelling would have a disproportionately small area of outside amenity space, even by the standards of the area where many of the surrounding dwellings have modest gardens. The LP does not specify the expected size of outside amenity space but it is not unreasonable to expect a 3 bedroom dwelling to have a garden of a size suitable to serve the needs of a family. Amongst other things, the space needs to provide for private sitting out and playing, drying washing, storage of waste and recycling bins, as well as some landscaping. I do not consider the proposed outside space to be of an adequate size to serve the reasonable needs of a family sized dwelling. In addition, the space would adjoin the road. Although the garden would be above the road, it would be bounded only by a low wall when measured from garden level. This means that privacy would be inadequate. While privacy could be improved through planting, this would take time to establish, and any increase in boundary height would have visual implications.
20. I note reference to planning permission³ granted for a site elsewhere in Burford without outside amenity space. However, this permission related to the development of flats, where expectations of private outside amenity space would be different to a detached 3 bed dwelling.
21. I conclude that the proposed development would not provide acceptable living conditions for the occupants of the existing and proposed dwellings, with regard to the provision of amenity space of adequate size and levels of privacy. Consequently, the development would not comply with Policies OS2 and H6, and therefore also H2 of the LP. Together, amongst other things, these seek to ensure that development does not have a harmful impact on amenity or unacceptably affect the environment people live in. In addition, the proposal fails to comply with paragraph 130 of the Framework which states that developments should provide a high standard of amenity for existing and future users.

Planning balance

22. It is common ground that the Council cannot demonstrate the deliverable supply of housing sites as required by the Framework. However, as set out above, the unacceptable impact of the proposal on designated heritage assets provides a clear reason for refusing the development. Therefore, in accordance with the provisions of paragraph 11d and footnotes 7 and 8 of the Framework, the proposal does not benefit from the presumption in favour of sustainable development.

Other Matters

23. I note there is some support from neighbours, primarily based on an improvement to the visual condition of the site through the removal of the garage. I also acknowledge that the site is brownfield land, the use of which is encouraged in the Framework. Neither of these factors outweigh the harm and policy conflict set out above.
24. The Council statement of case expands upon the reason for refusal regarding why it considered the proposal to be cramped and an overdevelopment of the site. I therefore do not consider the discussion of openness to represent post-decision rationalisation or to introduce a new reason for refusal.

³ Reference 16/04255/FUL, granted August 2017.

Conclusion

25. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

Helen Davies

INSPECTOR