



Appeal Decision

Site visit made on 20 September 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 May 2023

Appeal Ref: APP/P0119/W/22/3295430

Holly Tree Cottage, 3 Lower Street, Dyrham, SN14 8EU

- 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 Jeremy Johnson against the decision of South Gloucestershire Council.
 - The application Ref P19/14354/F, dated 7 October 2019, was refused by notice dated 24 September 2021.
 - The development proposed is the erection of a single dwelling with driveway, parking, turn circle and landscaping.
-

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 Dyrham Conservation Area, and the effect of the proposal on the Grade II* registered park and garden, and Grade I listed buildings (Dyrham House, stables, orangery and Church of St Peter);
 - The effect of the proposed development on the significance of non-designated heritage assets; and
 - The effect of the proposed development on the Cotswolds Area of Outstanding Natural Beauty.

Reasons

Designated Heritage Assets

3. The appeal site is located in the Dyrham Conservation Area (CA). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the 1990 Act) requires that, in making decisions on planning applications and appeals within a CA, special attention is paid to the desirability of preserving or enhancing the character or appearance of the area. Paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

4. The significance of the CA is derived, in part, from the quality of its buildings, winding lanes, small open spaces and sense of rural openness. The appeal site is an open space, currently a side garden, that punctuates existing development along Lower Street. Its openness contributes positively to character and appearance of the CA. Although the frontage is screened with vegetation, the boundary fronting the drive to Holly Tree Cottage is not and is therefore visible from Lower Street in oblique views. The importance of the appeal site to the character of the CA is also in the way that it informs the historic evolution of the village. The appellant's submission details that the appeal site has been free from development on a number of historic maps.
5. The proposal by virtue of the size of the proposed buildings and the proportion of the appeal site that development would cover, would result in the unacceptable erosion of this important open space. It would, as a result of the scale, bulk and layout of the proposed development appear as an incongruous addition to the CA and would harm its character and appearance. As such, the proposal would fail to preserve or enhance the character or appearance of the CA.
6. Dyrham Park is a Grade II* registered park and garden and is located to the east and northeast of the appeal site. Dyrham Park is separated from the appeal site by Upper Street, its associated dwelling and buildings, agricultural fields and a belt of trees.
7. I consider that the significance of Dyrham Park largely derives from its historical and aesthetic value, including its historic links to nearby settlements, such as Dyrham, as an example of a 18th/19th century landscaped park originating from a 17th century park and garden. According to the list description the park and garden have been designed and altered by a number of renowned individuals including Sir William Denys, Sir George Wynter and Henry Repton.
8. At its closest location to the appeal site Dyrham Park is well contained behind a stone wall, which clearly mark the extent of the park and garden. Dyrham Park is not visible from nearby highways through the appeal site. The appeal site is screened from views from Dyrham Park by intervening land, vegetation and buildings. As such, the introduction of a dwelling on to the appeal site would not have a harmful impact on the setting of Dyrham Park.
9. However, due to the historic links between the park and the surrounding area, including the settlement of Dyrham and its associated historic buildings, the CA is an important feature in the setting of Dyrham Park. As such, any erosion of its character would have a harmful impact on the park and garden.
10. Dyrham Park also contains a number of listed buildings, including a Grade I listed house and church, the significance of which is derived from their historical connection with each other and Dyrham Park. These buildings are located some distance from the proposed development and are surrounded by the registered park and garden. The proposed development would not be intervisible with these listed buildings and due to their distance from the listed buildings would not harm the significance of these assets.
11. In light of the above, the proposed development would fail to preserve or enhance the character or appearance of the Dyrham Conservation Area, and has a harmful on the Grade II* registered park and garden. The harm that

would arise would be localised and therefore the impact on the CA and Dyrham Park as a whole would be less than substantial within the meaning of paragraph 202 of the Framework. In weighing the public benefits of the proposal against the harm identified, the appellant has suggested that the proposal would improve the appearance of the frontage of the site, provide construction jobs and increase expenditure in the local economy from future residents.

12. I have already found harm with regards to the impact of the proposal on the character and appearance of the CA. As the erection of a single dwelling, the scale of the scheme would accordingly limit its associated socio-economic benefits. As such, the public benefits of the scheme are of no more than limited weight. I find in relation to paragraph 202 of the Framework that whilst the harm to the significance of the CA and Dyrham Park would be less than substantial, there are no public benefits that would outweigh that harm, giving great weight to the conservation of the designated heritage assets.
13. Whilst I have found that the proposal would preserve the setting of the Grade I listed buildings this is neutral in my consideration as it does not add further harm. The proposal would however, cause less than substantial harm to the CA and the Grade I registered park and garden which would not be outweighed by the public benefits. Accordingly, the proposal would therefore conflict to Policies CS1, CS5 and CS9 of the South Gloucestershire Local Plan Core Strategy (2013) (CS) and Policies PSP1, PSP2, and PSP38 of the PSPP which seek, amongst other things, to ensure that developments conserve, respect and enhance heritage assets and respects the surrounding area. The appeal scheme would also be contrary to paragraph 199 of the Framework which seeks to protect heritage assets.

Non-Designated Heritage Assets

14. The Council has locally listed a number of buildings close to the appeal site, notably Holly Tree Cottage and Dyrham Cottage, a pair of semi-detached dwellings that adjoin the site to the east, Laburnham Cottage that adjoin the site to the west, and Hillside Cottage and Old Post Office Cottage that are located opposite the appeal site.
15. Paragraph 203 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale and harm or loss and the significance of the heritage asset.
16. These buildings derive their significance from their architectural interest and their historic connection with the development of Dyrham as a settlement. In reviewing the appellant's submission, the appeal site provides an important open space in between Holly Tree and Dyrham Cottage and Laburnham Cottage, an area that has remained free from development over the course of the development of Dyrham.
17. The construction of a dwelling within this important gap in development would erode the rural character and appearance of the area which contributes to the significance of the non-designated heritage assets. As such, the proposal would

have a harmful impact on the significance of these non-designated heritage asset.

18. The proposal would therefore conflict with the CS Policy CS9 and PSPP Policy PSP1 which seek, amongst other things, to ensure that developments conserve, respect and enhance heritage assets.

Cotswolds Area of Outstanding Natural Beauty

19. The site lies within the Cotswolds Area of Outstanding Natural Beauty (AONB) and as described above is an important open space in Dyrham. The existing buildings along Lower Street do not appear to have a consistent building line and the proposed development would be set further back into the site than the adjoining properties. The rural character of the area contributes positively to the scenic beauty of the AONB.
20. The proposal would introduce built form into an undeveloped area of the land detracting from the rural character of the site harming the landscape and scenic beauty of the AONB.
21. I conclude that the proposal would be contrary PSPP Policy PSP2 which seeks to the quality, amenity, distinctiveness and special character of the landscape.

Other Matters

22. The evidence refers to a potential fallback option in the form of extensions or outbuildings that could be erected by exercising the appellant's permitted development rights. However, I have not been provided with any details of an alternative scheme and cannot therefore be sure that it would be a realistic or probable alternative. I therefore give little weight to this as a fallback option.
23. I have had regard to previous appeals¹ at the site, however these were enforcement appeals that relate to the construction of a fence. These considered whether certain works required planning permission, the Inspector concluded that they were permitted development. As such, no consideration of the planning merits of the development, including impact on the surrounding area and heritage assets, in this location was undertaken.
24. The Council have found harm in relation to openness with regards to the site's location within the Green Belt. However, Dyrham is a village and the proposed development, being located in a gap between dwellings, would represent limited infill in line with Paragraph 149 of the Framework. As such the proposal would not be inappropriate development as defined by the Framework. Consequently, and having regard to case law², where development is not inappropriate it should not be regarded as harmful to the openness of the Green Belt. As such, I have not considered the appeal against Policy PSP7 of the South Gloucestershire Local Plan Policies, Sites and Places Plan (2017) (PSPP) as this relates specifically to development in the Green Belt.
25. The appellant has provided information detailing that the Council can no longer demonstrate the supply of housing sites required by the Framework. As such, I am taken to paragraph 11 of the Framework. The most important policies would be out of date. As the one dwelling, the proposal would make a very

¹ APP/P0119/C/21/3285087 and APP/P0119/C/21/3285088

² Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

limited contribution to any housing undersupply. The scale of the scheme would accordingly limit its associated socio-economic benefits. I have found that the proposal would cause unacceptable harm on both designated and non-designated heritage assets. I ascribe significant weight to these harms which would be long lasting. With reference to footnote 7 of the Framework, my findings in relation to heritage and the AONB, policy provides a clear reason for refusing planning permission. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

26. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR