



Appeal Decision

Site visit made on 20 November 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/P0119/W/23/3320081

Shire Horse Barn, Doynton Lane, Dyrham, South Gloucestershire, SN14 8EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stephen Wells against the decision of South Gloucestershire Council.
 - The application Ref P23/00260/O, dated 23 January 2023, was refused by notice dated 22 March 2023.
 - The development proposed is to build 1 x three bedroom house in the garden of Shire Horse Barn, Dyrham.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved for future consideration. I note that the Council requested details of layout, scale and access but 'no substantive details were provided' and the application was not formally amended. Therefore, the Council determined the application with all matters reserved. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.
3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB's) in England and Wales became 'National Landscapes' (NLs). I have therefore made reference to NLs in my Decision and specifically referred to the Cotswold AONB as the Cotswolds National Landscape. However, for the avoidance of doubt, the legal designation and policy status of these areas are unchanged, and I have proceeded on this basis, continuing to refer to the AONB where relevant.

Main Issues

4. There are 5 main issues. These are:
 - whether the proposed development would harm the character and appearance of the area, having particular regard to the Dyrham Conservation Area;
 - whether it would conserve or enhance the scenic beauty of the landscape within the Cotswolds National Landscape;
 - whether the proposed development would preserve the setting of the nearby Grade II listed building known as Bay Tree Cottage;

- the effect of the proposal on the potential for buried archaeology; and
- the effect of the proposal on trees.

Reasons

Character and Appearance

5. The appeal site consists of a parcel of land, which currently forms part of the garden of Shire Horse Barn. The site is enclosed by a stone boundary wall and a high hedge on the west side and a fence along the boundary with the garden and parking area of the Grade II Listed Bay Tree Cottage to the north. The undeveloped nature of the site currently forms a visual break between the slightly more built up and formal residential properties to the north, which front Lower Street, and the former agricultural buildings, converted to residential use, which lie to the south. The village retains a distinctly rural character. In particular, Doynton Lane, including the appeal site, is a looser, more rural, open edge along the south of the village, which contributes positively to the character and appearance of the area.
6. The site is also within the Dyrham Conservation Area (CA). The significance of the CA for the purpose of this appeal derives from its loose-knit rural character, the quality and age of its buildings, and small open spaces by way of fields and gardens. Consequently, the undeveloped nature of the appeal site contributes positively to the special character and appearance of the CA, retaining the spaciousness of its rural village location and reinforcing the loose, informal edge to the settlement.
7. Although all matters have been reserved for future consideration, the proposed development would introduce a 3 bedroomed residential dwelling on to the appeal site. The proposal would erode the spaciousness of the site, eliminating the visual break between Lower Street and Doynton Lane. The development would cause harm to the character and appearance of the area, including the CA, permanently eroding the positive contribution the site makes to its rural character. I appreciate the layout shown is indicative only, but I have not been presented with any evidence to suggest a dwelling could be accommodated in a manner to respect the character and appearance of the area.
8. The scale of the barn conversions to the south are noted. However, these are read as appropriate adaptations of former agricultural buildings, rather than as 'imposing structures'. They would not be comparable to the proposal for a new build dwelling before me now, and I am not convinced that the proposal would be appropriate in 'form, scale and proportions', as alleged by the appellant.
9. Therefore, the development would fail to preserve the character and appearance of the CA. The harm to the significance of the CA would be less than substantial. I am obliged to attach considerable importance and weight to the desirability of avoiding any harmful effect in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Paragraph 202 of the National Planning Policy Framework (the Framework) (2021) states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
10. Whilst the development would provide some moderate economic and social benefits associated with the provision of an additional residential unit, these

public benefits would not be significant enough to outweigh the harm to the CA identified.

11. Taking the above matters in to consideration, I conclude that the development would fail to preserve the character and appearance of the CA and would not meet the requirements of Section 72 of the Act. The proposal would conflict with Policy PSP17 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (PSP Plan) (adopted 2017), Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Core Strategy) (adopted 2013). These policies, in combination, seek to ensure that development within a conservation area preserve or enhance those elements which contribute to their special character or appearance, as well ensuring that heritage assets are conserved, respected, and enhanced in a manner appropriate to their significance.

Cotswolds National Landscape

12. The appeal site lies within the Cotswold National Landscape (CNL). As set out above, the undeveloped nature of the appeal site retains the character and spaciousness of its rural village location. This also contributes positively to the scenic beauty of the CNL.
13. Due to the introduction of built form on to the undeveloped site, this would permanently harm the positive contribution the appeal site makes to the scenic beauty of the CNL. The proposal would fail to respond constructively to the characteristics of the village that make a positive contribution to its local distinctiveness.
14. The proposal would therefore fail to conserve and enhance the scenic beauty of the landscape within the CNL. It would be contrary to Policies PSP1, PSP2 and the relevant part of PSP38 of the PSP Plan and Policies CS1 and CS34 of the Core Strategy. These policies, in combination, seek to protect, conserve and enhance the rural areas' distinctive character, beauty and landscape of both the site and its context. Development should respond constructively to the characteristics that make a particularly positive contribution to the distinctiveness of the area. The proposal would also conflict with the principles within Chapter 15 of the Framework in regard to the conservation and enhancement of the natural environment, in particular paragraph 176 in regard to conserving and enhancing landscape and scenic beauty within the AONB.

Setting of the Listed Building

15. As noted above, Bay Tree Cottage to the north of the appeal site is Grade II Listed. The cottage dates from circa 1700 and is constructed of limestone rubble with stone dressings. Its significance for the purposes of this appeal lies primarily from its age, historic built form, materials, and architectural details.
16. I note that the appeal site historically served as a garden to Bay Tree Cottage and later to both Bay Tree Cottage and the neighbouring Grade II Listed Lower Ledge Cottages and Honeysuckle Cottage, which date from 1863. Due to the undeveloped nature of the appeal site, it provides an important open space around the listed building, allowing for an appreciation of the designated heritage asset. Whilst the hedgerow along the western boundary minimises views directly into the site, when viewed from the south, the chimneys and roofscape of Bay Tree Cottage is visible over the hedgerow. The appeal site,

therefore, due to its openness and proximity, influences the rural setting of Bay Tree Cottage, and thus its significance.

17. Given the relationship of the appeal site with the listed building, there would be a clear intervisibility between the listed building and the appeal site. Due to the harm to the character and appearance of the area that I have identified above, this would consequently harm the spacious, rural setting that Bay Tree Cottage currently sits within, harmfully eroding the contribution it makes to its significance.
18. Therefore, in view of the above, the proposal would fail to preserve the setting of the Grade II Listed Building known as Bay Tree Cottage. The harm to the significance of the listed building would be less than substantial. Therefore, under the terms of Paragraph 202 of the Framework, I must weigh the less than substantial harm to the significance of the heritage asset against the public benefits of the proposal.
19. The harm to the significance of the Grade II listed building is something to which I have given considerable importance and weight to. The Framework also requires that great weight should be given to heritage assets' conservation. Therefore, whilst there would be some social and economic public benefits arising from the proposal which I have already acknowledged above, these would not be sufficient to outweigh the harm that the proposal would cause to the significance of the designated heritage asset.
20. I conclude that the development would fail to preserve the setting of Bay Tree Cottage. It would not meet the requirements of Section 66 of the Act. It would be contrary to Policies PSP17 of the PSP Plan and Policy CS9 of the Core Strategy. In combination, these policies seek to ensure that new development conserves, respects and enhances heritage assets in a manner appropriate to their significance and that development within the setting of a listed building will be expected to preserve and, where appropriate, enhance those elements which contribute to their special architectural or historic interest.

Buried Archaeology

21. The site is situated in the medieval settlement of Dyrham and therefore, has archaeological potential. The Council's Archaeology Officer states that due to the lack of clarity on what is proposed, the sizeable nature of the development and because the site has archaeological potential, a pre-determination assessment would be required, in the form of an archaeological desk-based assessment. Further work in the form of a trial trench evaluation may also be required prior to determination after the desk-based assessment.
22. It is noted that the appellant would be content to undertake a desk-based assessment in relation to the archaeology matter and suggests that this could be covered by a condition. However, if there is any reasonable prospect of archaeological remains within the site that could be adversely affected by development, then assessment and, if necessary, evaluation should take place before a planning application is determined. This is in order to be able to predict the presence of any remains and assess their potential significance. Based on what I have before me, I cannot therefore conclude with any certainty what potential impacts there might be or whether appropriate mitigation would be achievable. As such, it would not be appropriate in this case to impose a condition.

23. Accordingly, I have insufficient evidence to be satisfied that the development would not result in unacceptable harm to buried archaeology. There would therefore be conflict with Policy PSP17 of the PSP Plan and Policy CS9 of the Core Strategy which together seek, amongst other things, to ensure development preserves non-designated archaeological sites in situ. Any impact on the setting of archaeological heritage assets (both designated and non-designated) will need to be assessed to determine how and to what degree these settings make a contribution to the significance of those heritage assets. Proposals will be expected to preserve and where appropriate, enhance the setting of archaeological heritage assets, and those elements which contribute to their significance.

Trees

24. The site is bounded by several trees and is within a conservation area meaning all trees are protected by default. As submitted, no arboricultural information is provided, and it is not clear whether any tree removal is required.
25. Given that the proposal has been submitted in outline form, it is not possible at this stage to foresee the precise nature of future tree works. However, due to the number of trees on site, it is acknowledged that some trees would have to be lost. Based on the evidence before me, and as a result of my observations on my site visit, the majority of the trees are around the site boundaries and there appears to be a clearing on the appeal site. Therefore, there would be scope for some works to be undertaken and there is an opportunity to utilise this existing clearing to limit the scope of tree work to be undertaken.
26. Therefore, I am satisfied that further matters in regard to the effect on trees, including details of trees to be lost or retained, relevant protection measures and additional planting, are matters that can reasonably be conditioned and addressed further at reserved matters stage.
27. Therefore, the relevant arboricultural information can be reasonably considered at reserved matters stage, and I am satisfied that the proposal would not result in unacceptable harm to trees. It would be in accordance with Policy PSP3 of the PSP Plan which requires development to, where appropriate, include the protection of trees.

Other Matters

28. The site lies within the Bristol/Bath Green Belt. The Council have concluded that the development would not be inappropriate development in the Green Belt as it would amount to limited infilling in villages. I have no reason to come to a different conclusion. For this reason and having had regard to the Lee Valley judgments¹ which the appellant heavily relies on in support of their case, there is no requirement for me to go on to consider the effect of the proposed development on the openness of the Green Belt or the purposes of including land within it. I also acknowledge the reference to the further case law in regard to the 'preservation' of openness of the Green Belt². However, given that I consider the proposal to not be inappropriate development in the Green Belt, this does not affect my assessment.

¹ Lee Valley Regional Park Authority v Epping Forest District Council [2015] EWHC 1471 (Admin) and Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

² Samuel Smith Old Brewery (Tadcaster) v North Yorkshire CC [2018] EWCA (Civ) 489

29. Nonetheless, just because the proposal is not inappropriate development, whilst the proposal cannot offend openness, insofar as the Green Belt is concerned, it does not mean that the development is acceptable in terms of other planning issues, including visual effects and the protection of the countryside or the character of the landscape. This is set out in paragraph 26 of the Lee Valley Court of Appeal judgment. It therefore remains necessary for me to make an assessment of the proposed development against the main issues set out above. The proposal, despite not being inappropriate development in the Green Belt, is still contrary to the objectives of the Framework in regard to the conservation and enhancement of landscape and scenic beauty in AONB's, as well as the conservation of designated heritage assets, including their setting. Furthermore, the proposal would not escape having to comply with other policies within the development plan, aside from the Green Belt policies.
30. The appellant challenges the weight to be afforded to the local development plan policies, stating that 'National Policy trumps local policy when they are found to be contrary to each other'. However, due weight should be given to local policies, according to their degree of consistency with the Framework. Therefore, the amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. It is considered that the relevant policies are broadly consistent with the Framework in terms of conserving heritage assets, including those with an archaeological interest, recognising the intrinsic character and beauty of the countryside as well as conserving and enhancing landscape and scenic beauty in AONB's. They remain part of the development plan. I therefore still afford the relevant local policies a significant amount of weight.
31. Both parties refer to another appeal decision in the village³. There are some similarities with the proposal before me, as this earlier proposal related to a new dwelling on the side garden of a dwelling in the Dyrham CA. However, the appellant considers that it does not add to the Council's case as they did not raise the same legal precedents that the appellant has now raised. Nevertheless, I have considered this appeal on its own merits, taking in to account the relevant case law, and concluded that it would cause harm for the reasons set out above.

Conclusion

32. Overall, although acceptable in some regards, the development would conflict with the development plan as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR

³ APP/P0119/W/22/3295430