



Appeal Decision

Site visit made on 10 January 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2024

Appeal Ref: APP/C3105/D/23/3332331

Ash Berry Cottage, Main Street, Duns Tew, Oxfordshire, OX25 6JS

- 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 Dr A Speight against the decision of Cherwell District Council.
 - The application Ref 23/01634/F dated 14 June 2023, was refused by notice dated 10 August 2023.
 - The development proposed is front porch with associated internal and external works.
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Decision

1. The appeal is allowed, and planning permission is granted for front porch with associated internal and external works at Ash Berry Cottage, Main Street, Duns Tew, Oxfordshire, OX25 6JS in accordance with the terms of the application ref: 23/01634/F dated 14 June 2023 subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P-23-126-001 and P-23-126-003;
 - 3) The external finishes of the development hereby permitted shall be as set out within the details stated within the application form with the timber cladding for the walls being of a natural finish and at no point shall the timber cladding be painted or subject to heavy preservative treatments.

Procedural Matters

2. Since the determination of the application a revised National Planning Policy Framework 2023 (the Framework) was adopted on 5 September 2023. The appeal was, however, submitted nearly two months after this date. In addition the National Planning Policy Framework was again revised in response to the Levelling-Up and Regeneration Bill: reforms to national planning policy consultation on 19 December 2023. The refusal reason generically references the Framework however, it is not considered that this latest revision impacts upon the determination of this appeal given the main changes to the Framework.
3. The proposal before me is submitted as a householder application for planning permission and the appeal will be determined as a planning application in accordance with the Local Plan, taking into account relevance material considerations, in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 taking into account all material considerations. It is not within the scope of this appeal to specifically determine whether the proposal

within this appeal would fall within the scope of permitted development. For a determination of this nature to be made an application for a Certificate of (proposed) Lawfulness should have been submitted for consideration and confirmation, as appropriate, against the relevant legislation. Despite this I have acknowledged, as have both the Council and the appellant, the potential for a porch to be constructed under permitted development as a material consideration within this appeal. I no evidence of matters which could impact upon this, such as the presence of an Article 4 Direction, before me.

Main Issue

4. The main issue is the impact of the proposal upon the character and appearance and significance of the Duns Tew Conservation Area with regard to design and materials.

Reasons

5. The appeal site is a two-storey terraced dwelling located within Duns Tew. The appeal site itself is not a listed building, however, the appeal site is noted to be located within the Duns Tew Conservation Area (CA) as well as adjoining a Grade II Listed Building, Daisy Hill Farmhouse with listed buildings within the vicinity. Section 72 of the Planning (Listed Buildings in Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the CA.
6. At the time of my site visit I noted that a porch had already been constructed at the appeal site. The Council state that the proposed plans do not accurately reflect what has been constructed with particular regard to the proposal's height, however, from the submissions it is evident that the proposal is for the scheme as per the submitted plans under reference P/23/126/003 – not what has been built. It is upon this basis that I have determined the proposal regardless of that which has already been constructed on site.
7. I note, from my site visit, that the proposal would be visible from the public domain, both from outside the appeal site itself as well as further down the main street towards the White Horse Inn Public House (the hedge boundary had, at the time of my site visit, been trimmed allowing such views of the front elevation of the appeal site). The proposed porch would therefore be visible within general views from the public domain within the CA. Despite this I find that the proposed porch would be subservient in scale by virtue of being single storey on the front of a two-storey dwelling. It would be of a pitched roof design with roof tiles which I find to be sympathetic to the character of the original dwelling as noted by the Council within their appraisal relating to design and impact on the character of the area. I find no issue with the general design of the proposal in terms of character or appearance.
8. The Councils appraisal, within their delegated report, supports that the refusal reason is largely based upon the choice of facing materials being timber cladding. This is stated by the Council, to be at odds with the character of the original dwelling and with the CA. I noted, during my site visit, a couple of examples of timber cladding within the vicinity of the appeal site though these were limited. The predominant materials within the vicinity of the appeal site were tile and stone but I do not find that the presence of timber cladding, similar to that already on site, is entirely uncharacteristic nor that it resulted in such a visual contrast or intrusion that it would adversely impact upon the

character and appearance of the area nor the significance of the CA. I find that the proposal would have a neutral impact upon the CA as a designated heritage asset.

9. In addition to this, as a material consideration, the Council acknowledge that the appeal site benefits from permitted development rights which allow for fallback for a porch to be constructed which could stand at a total height of 3 metres. The plans before me, and the Council's description of the proposed development, confirm that the proposed dimensions of the front porch, would result in a height of 3.1 metres. This is, therefore, only 100mm (0.1 metres) over that allowed under permitted development. I do not, therefore, find that the proposal before me is significantly taller than 3 metres compared to the fallback position which the Council have outlined.
10. If this appeal were to fail, and a scheme consistent with that allowed for under Class D¹ was constructed it would only be subject to the restrictions as set out with that legislation. Such restrictions relate to the ground area, overall height, and proximity to the boundary with a highway. There are no restrictions as to the materials or conditions as with some of the other classes within part 1. It is therefore notable that in exercising their permitted development rights, the appellant could likely construct something which is broadly consistent with the appeal proposal, with similar visual impact.
11. The proposal before me is submitted as a householder application and it does fall to consider the proposal against the relevant Local Plan Policies and guidance as set out within the refusal reason and, on this occasion, based upon its own merits I find that the design of the proposal and the proposed materials would not adversely impact upon the character and appearance of the area nor the significance of the CA. In addition, in the event the appeal failed I have no doubt that the appellant would seek to implement their permitted development rights in a manner which would look essentially the same to the proposal before me. Whilst I have found the proposal acceptable on its own merits I also I attribute great weight to the presence of this fallback position in the determination of this appeal.
12. The proposal would be consistent with Cherwell Local Plan 2011 – 2031 (2015) Policy ESD15 which seeks to ensure new development proposals should contribute positively to an area's character and identity and Cherwell Local Plan 1996 Policy C28 which seeks to exercise control over development, including conversion's extensions, to ensure that the choice of external finish materials are sympathetic to the character of the rural context of that development. Policy C28 is noted to also require that in sensitive areas, such as CA's, development will be required to use traditional local building materials.
13. The proposal would be contrary to guidance contained within the Home Alterations and Extensions Design Guide (2007) which outlines that extensions should normally match the original building in materials, however, on this occasion I find the timber cladding and small scale of the proposal appropriate for the site context. The Council's refusal reason also references the Cherwell Residential Design Guide, however, there is no evidence of reasoned assessment against the objectives of this supplementary planning document.

¹ Of the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 2, Class D

These documents are ultimately guidance, which seek to ensure high quality and appropriate development which I find the proposal is consistent with.

14. The Council's refusal reason references guidance contained within the Framework, but no reference has been made as to any specific paragraphs of Framework relating to impact upon designated heritage assets nor has any harm identified been quantified to allow this to be weighed against public benefits as required by the Framework.

Other Matters

15. I note the comments of the Duns Tew Parish Council and their objection to the proposal that is before me. Despite this, as clarified within this decision letter, the proposal is not seeking retrospective planning permission for the existing porch as has currently been constructed. The proposal before me has been assessed upon the plans which are submitted as outlined.
16. I have given full consideration as to the proposal for timber cladding in the context of the CA as noted above, however, as I have outlined, both parties to this appeal also acknowledge a fallback position for a porch to be able to be constructed utilising permitted development rights which would be outside the scope of control for the Council in terms of materials. Such a proposal, if constructed, I find would likely have essentially the same implications as the proposal before me which I find further supports that the proposal should, on this occasion, be allowed.

Conditions

17. The Council, and appellant, have both suggested conditions which I have considered. A time condition is attached to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent.
18. In relation to materials the Council have suggested the materials should match the existing dwelling, however, for the reasons I have outlined I do not find this is required. The appellant has suggested that the condition should be required to match the original porch, but I have only limited details (a partial photograph) of that structure before me. I have therefore applied a condition requiring materials to match those noted on the application form but subject to the caveat that the timber is of a natural finish to ensure an appropriate within its context (i.e. no heavy timber treatments or painting of which would be visually contrasting to a more natural timber finish).

Conclusion

19. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR