



Appeal Decision

Site visit made on 17 January 2024

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Appeal Ref: APP/Q3115/W/23/3325773

Grove Hill Farm, Manor Road, Towersey, Thame, Oxfordshire OX9 3QT

- 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 Ciro Paradiso against the decision of South Oxfordshire District Council.
 - The application Ref P22/S3602/S73, dated 3 October 2022, was refused by notice dated 14 February 2023.
 - The application sought planning permission for the erection of replacement dwelling with associated parking and landscaping. Erection of a replacement pool house, machinery store and gates (as amended by plans received 2022-05-25 to reduce height of the proposed dwelling and to set proposed dwelling into the ground to further reduce height & as amplified by additional information received 25 May 2022 without complying with a condition attached to planning permission Ref P22/S0537/FUL, dated 24 June 2022.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the details shown on the following approved plans, A1 4487 SCH 4.00, A1 4487 SCH 3.03 D, A1 4487 SCH 4.50 A, A1 4487 SCH 3.06, A1 4487 SCH 3.05 G, A1 4487 SCH 3.04 E and A1 4487 SCH 5.00 B, except as controlled or modified by conditions of this permission.
 - The reason given for the condition is: To secure the proper planning of the area in accordance with Development Plan policies.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed at the site visit that the development has commenced. However, the appellant has confirmed that construction has been paused awaiting the outcome of this appeal and a separate planning application under s73 of the Town and Country Planning Act 1990, which has now been determined.

Background and Main Issue

3. The appellant seeks to amend the design of the replacement dwelling so that rather than being set below ground level as approved (the approved scheme) it would be set at ground level and although the height of the replacement dwelling would be slightly reduced the overall height above ground level would be increased.
4. The main issue is the effect of the revised design upon the character and appearance of the area.

Reasons

5. The appeal site is located within the open countryside in a relatively isolated location. Unlike the appellant, I consider the appeal site is located in a prominent location with clear views of the existing dwelling and partially built replacement dwelling possible from surrounding vantage points, particularly from the Phoenix Trail.
6. Although clear views of the existing dwelling are possible, particularly from the Phoenix Trail, due to its scale, height and mass this building fits harmoniously into the spacious open rural landscape. Moreover, the appropriate scale of the existing dwelling ensures that it appears compatible with the character and distinctiveness of this countryside setting.
7. Among other things, policies DES1 and DES2 of the South Oxfordshire Local Plan 2011-2035 adopted in December 2020 (SOLP) seek to ensure development respects the existing landscape character, should physically and visually enhance and complement the surroundings. Policy H18 sets out that proposals for the replacement of an existing dwelling will be permitted subject to meeting certain criteria. The explanatory text sets out that the replacement dwelling should not have a greater impact on the character of the site and its surroundings than the existing dwelling due to among other things scale and form.
8. The approved scheme would be about 8.78 metres in height but because it would be sunken into the ground by about 1.37m it would only be about 900mm higher than the existing dwelling. As a result, I consider that the approved scheme would respect the rural character and appearance of the area and would comply with policies DES1 and DES2 of the SOLP. Further, it would not conflict with any of the criteria set out in Policy H18 of the SOLP. In granting planning permission, the Council also reached the same view.
9. However, the same cannot be said for the proposal before me. As the replacement dwelling would not be sunken into the ground it would increase the overall building height above ground level so that it would be about 2.27 metres above the existing dwelling and would be noticeably higher than the approved scheme. As a result, the replacement dwelling subject of this appeal would be an unacceptably dominant and discordant feature that would be incompatible with the character and distinctiveness of this countryside setting and would therefore not respect the existing landscape character nor visually enhance or complement the surroundings.
10. I have taken account of the appellant's Landscape and Visual Technical Note. To a certain extent, the proposal would be screened by the proposed landscaping scheme. However, although vegetation and landform does restrict views of the appeal site at certain points, clear views would still be possible from many vantage points, including from the Phoenix Trail. As a result, the harm caused by the increase in height would be apparent and would result in an unacceptable visual impact on its surroundings.
11. Consequently, the proposal to increase the overall height of the building above ground floor level would be at odds with Policies DES1, DES2 and H18 of the SOLP as it would not respect the existing landscape character, would not physically and visually enhance and complement the surroundings and would

have a greater impact on the character of its surroundings than the existing dwelling.

12. Further, the proposal would be at odds with the National Planning Policy Framework which seeks to ensure development is sympathetic to local character and that the quality of approved development is not materially diminished as a result of changes being made to a permitted scheme.
13. I therefore conclude that the proposal to amend the design of the replacement dwelling scheme and therefore not to comply with existing condition 2 would have an unacceptable impact upon the character and appearance of the area. As a result, the proposal subject of this appeal would conflict with Policies DES1, DES2 and H18 of the SOLP and the associated policies of the Framework.
14. It follows from the above that the existing condition is necessary to ensure the proposal does not have an adverse impact on the character and appearance of the area. As such it is necessary to make the development acceptable, relevant to planning and the development permitted, enforceable and precise in relating to the approved plans submitted with the application that are identifiable, and reasonable in all other respects.

Other Matters

15. During the planning process, the appellant has been granted planning permission for an alternative scheme which would result in a 30cm difference in the overall height of the building in comparison to the proposal before me. I am satisfied that there is a greater than theoretical possibility that the alternative scheme might take place and therefore it is necessary to consider whether the alternative scheme or the proposed replacement building subject of this appeal would have a greater impact on the character and appearance of the area.
16. Although I accept that the height difference is not significant, nevertheless the recently permitted alternative scheme would not be as high as the proposed dwelling subject of this appeal. Given the harm I have identified, which is directly linked to the overall height of the proposal, any scheme which would have a lower overall building height above the existing ground level would be less harmful, albeit marginally. As a result, I consider that the proposed replacement dwelling subject of this appeal would have a marginally greater impact on the character and appearance of the area, and this lessens the weight I give the fallback position. It follows that its existence does not outweigh the harm I have identified above or justify harmful development at the appeal site.
17. I have also taken account of the fact that the relevant officer's report recommended approval of the application. However, I have determined this appeal on its individual merits and the fact that the officer's report supported the proposal does not justify harmful development.

Conclusion

18. For the reasons given above I conclude that the proposal to amend the design of the proposed replacement dwelling by increasing the overall height of the building above ground level is contrary to the development plan and there are

no material considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal is dismissed.

S Rawle

INSPECTOR