



Appeal Decision

Site visit made on 11 January 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2024

Appeal Ref: APP/F1610/W/23/3324023

Church Cottage, Church Westcote, Chipping Norton OX7 6SF

- 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 Michael McIntyre against the decision of Cotswold District Council.
 - The application Ref 22/03517/FUL, dated 6 October 2022, was refused by notice dated 13 December 2022.
 - The development proposed is described as 'Proposed new dwelling on land adjacent to Church Cottage'.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed new dwelling on land adjacent to Church Cottage at Church Cottage, Church Westcote, Chipping Norton OX7 6SF in accordance with the terms of the application, Ref 22/03517/FUL, dated 6 October 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. Main parties have been given an opportunity to comment on the new Framework and I have considered any subsequent comments received in arriving at my decision.
3. On 22 November 2023, all areas in England and Wales designated as an Area of Outstanding Natural Beauty (AONB) were retitled National Landscapes. There has been no change to the legal designation and policy status of these areas. As such references in my decision will be to the National Landscape. For the avoidance of doubt this will apply to the Cotswolds AONB.

Main Issues

4. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Church Westcote Conservation Area;
 - whether the proposed development would preserve the setting of nearby listed buildings; and
 - the effect of the proposed development on the special qualities of the Cotswolds National Landscape.

Reasons

Conservation area

5. The appeal site comprises part of the front garden to Church Cottage, the existing hardstanding parking area, and an adjoining area of agricultural land behind it, which slopes away towards the rear boundary of the site. The appeal would see the construction of a detached dwelling to the side of Church Cottage. The accommodation would be arranged over 2 floors, with natural stone to the walls and a Cotswold stone or a blue slate roof. It is intended that the dwelling would be occupied by the appellant, who currently resides in Church Cottage, as the layout of the existing dwelling has become impractical due to the appellant's mobility issues after a recent illness.
6. The appeal proposal would include accommodation for a carer as well as a waiting/reception area and treatment room to be used in association with the appellant's herbalist and acupuncture business which currently operates from Church Cottage. Vehicular access to the new dwelling would be via the existing vehicular access to Church Cottage, which would be used to serve both properties, with an extended parking area to the front of Church Cottage.
7. The site straddles the boundary of the Church Westcote Conservation Area (the CA). The significance of the CA is derived from the age and architectural interest of the many historic buildings within the village, which sits within an attractive rural setting, with far-reaching views outwards towards the wider rural landscape. The appeal site is located on the edge of the settlement, where there are open views towards the agricultural land and valley beyond. Whilst the undeveloped and spacious nature of the site is part of the present character and appearance of the area, features including the external materials, informal arrangement of the buildings, and the relationship of the settlement as a whole to the landscape are more informative.
8. The siting and orientation of the proposed dwelling would reflect the loosely spaced built form on the edge of the village. Moreover, the resulting plot sizes would not appear cramped or at odds with the surrounding residential development. The topography of the site is such that the dwelling would be set into the slope of the land. As such, the proposed dwelling would appear as a single storey building when viewed from the front, with a greater bulk of built form to the rear elevation. The scale of the proposed dwelling would be modest, with a simple, traditional form and appearance, including a projecting element to the front with a hipped roof. Consequently, the proposed built form would be visually subordinate to the main dwelling.
9. The proposal would be visible from localised vantage points, including from the track, bridleway and neighbouring properties. However, it would sit below the houses in the group on this side of the road and would be set back a similar distance from the highway as Church Cottage. Its visual presence would therefore be less pronounced in medium and longer distance views towards the site from within the village. Whilst the development would give rise to a degree of encroachment into the views of the open countryside beyond the site, given the height and scale of the development, together with the remaining gap between the built form, the proposal would not lead to an undue sense of enclosure and would retain the rural quality to the edge of the settlement.

10. Due to the scale and design of the dwelling it would not be an anomalous feature when viewed within the immediate context of the site, nor would it be unduly prominent in the street scape or wider landscape setting. For these reasons the proposal would not be an overbearing or discordant feature and would harmonise with the prevailing pattern of the surrounding development. In that regard it would not detract from the character and appearance of the area, or diminish the rural character of this edge of the village, nor would it undermine the contribution the site makes to the significance of the CA.
11. The Council has brought my attention to an earlier appeal decision in relation to the erection of a dwelling on the site¹. However, I do not have full details in respect of the proposed development in that case. Moreover, given the time that has lapsed, I cannot be sure of the circumstances and the context in which the appeal was considered. In any case, I have determined the appeal on its own merits, based on the evidence before me.
12. In light of the above considerations, I conclude that the proposal would not harm the character and appearance of the area. Accordingly, it would preserve or enhance the character or appearance of the CA and its setting and would not undermine its significance as a designated heritage asset. The proposal would therefore comply with Policy DS3 of the Cotswold District Local Plan adopted 2018 (CDLP) in so far as it requires small-scale residential development in such areas to complement the form and character of the settlement, Policy EN1 of the CDLP which seeks to protect and enhance historic assets and their settings in proportion with the significance of the asset, and Policy EN2 of the CDLP which seeks design quality that respects the character and distinctive appearance of the locality, in accordance with the Cotswold Design Code.
13. The proposal would also accord with Policy EN10 of the CDLP which requires great weight to be given to the conservation of a designated heritage asset or its setting and Policy EN11 of the CDLP which requires development, among other things, to preserve and where appropriate enhance the special character and appearance of conservation areas and their settings. It would also accord with the aims and objectives of the Framework in respect of the historic environment.

Setting of listed buildings

14. Church Cottage is an attractive Grade II listed building. The significance of the detached cottage is informed by its architectural and historic interest as a building dating back to the early 19th century. It sits between the existing development on the edge of the settlement and has a close relationship with the surrounding properties, including the cottages set forward of it.
15. Given its proximity to and close association to Church Cottage, the appeal site is important to the setting of the listed building. Whilst the proposal would result in a reduction in the space in which the listed building sits, the appeal submissions indicate that Church Cottage historically did not exist in the current open setting. Even so, the proposal would create a functionally separate building and garden, which would differ from any previous relationship between Church Cottage and an outbuilding, even with the provision of a shared access.

¹ T/APP/5224/A/76/3607-3608-3630/G7

16. The proposed dwelling would be a significant feature and its introduction in the immediate environs, including in the foreground in views towards Church Cottage from some directions, would inevitably change the appreciation of the listed building. Nonetheless, despite the visual presence of the proposed building, given its siting and overall modest scale and sympathetic design, it would appear as a subservient feature in relation to the listed building. Furthermore, the remaining garden area, particularly to the rear, would retain a degree of spaciousness to the immediate context of the building, which would also preserve its rural setting on the edge of the settlement.
17. The proposal includes the provision of a new area of hardstanding to the front of Church Cottage in lieu of that which currently occupies the appeal site. The siting of the proposed parking spaces would be such so as not to obscure views of the features of the listed building from the highway or the track and would also allow for the retention of the front part of the garden.
18. As such the proposed development would not visually compete with the asset or affect the ability to appreciate its significance. Therefore, while the appeal proposal would have an effect on the setting of Church Cottage, given its position within the informal loose knit residential development, it would not harm the significance of the listed building.
19. The appeal site also lies close to a group of Grade II listed buildings including The Dower House Cottage, The Dower House and The Manor House (Westcote Manor). Although the primary special interest of the buildings is their age and architectural interest, their setting contributes to their significance as designated heritage assets. Given the separation distance and intervening buildings, together with the absence of a visual, functional and/or historic relationship between The Dower House and Westcote Manor (Manor House) and the appeal site, the proposed development would not affect the setting of these listed buildings. Given the siting and orientation of The Dower House Cottage there is a visual relationship between the listed building and appeal site due to the high degree of intervisibility between them. However, given the overall scale of the development and that it would be sympathetic to the layout of the built form on the edge of the village, it would not harm the setting of the listed building.
20. Considering the above I conclude that, whilst the proposal would affect the setting of Church Cottage, it would not undermine its significance or that of the nearby listed buildings. In these regards it would accord with the collective aims of Policies EN1 and EN11 of the CDLP, in so far as they seek to protect and conserve the historic environment and require great weight to be given to the conservation of designated heritage assets and their settings and Section 16 of the Framework in relation to conserving and enhancing the historic environment.

Cotswolds National Landscape

21. The appeal site is located within the Cotswolds National Landscape (CNL), where, as set out in paragraph 182 of the Framework, great weight should be given to conserving and enhancing landscape and scenic beauty. Policy EN5 of the CDLP sets out that in determining development proposals within the CNL or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.

22. There are far reaching views from the village outwards towards the CNL between the existing built form. The proposal would introduce physical development into the visual gap that currently exists. Nonetheless, the relatively low profile of the proposed building and the remaining gap between it and the Dower House Cottage, would allow views towards the open countryside, particularly from the higher ground opposite the site.
23. By virtue of its rear garden, the proposal would extend into land which is currently open countryside in both physical and visual terms. However, the appeal site, which is in part domestic in character, is distinct from the surrounding larger agricultural fields which contribute to the scenic beauty of the CNL. Furthermore, the development, including the rear part of the site, would be somewhat enclosed by existing residential properties and gardens to either side, as well as the access track and vegetation which runs along the side boundary to the site. Thus, the scale of incursion of development into the countryside would be limited. Moreover, this could be controlled by a planning condition to remove permitted development rights to ensure the construction of future outbuildings and boundary treatment would preserve the openness of the area.
24. Furthermore, in longer distant views towards the site, despite the greater bulk to the rear elevation, the proposal would be viewed in the context of the nearby residential properties and would not be dissimilar in terms of domestic scale, design, and appearance and consequently would not appear unduly dominant. As such, given the relationship with the existing dwellings, the proposed dwelling would therefore not have a significant impact on the wider rural landscape.
25. For the foregoing reasons the proposal would not give rise to harm to the visual qualities and essential characteristics of the CNL in terms of its landscape and scenic beauty. In that regard it would accord with the combined aims of Policies EN1 and EN4 of the CDLP which require new development to protect and enhance natural and historic environmental assets and their settings and safeguard the natural and historic landscape, Policy EN5 of the CDLP, and the aims and objectives of the Framework in respect of conserving areas within a NL.

Other Matters

26. Concerns have been raised by interested parties regarding highway safety and the increase in traffic movements which may conflict with other users of the track, including farm traffic and horse riders. The Council has not raised an objection on highway safety grounds, considering the scale and operation of the business and given the proposed parking provision to serve both Church Cottage and the new development, as well as the availability of on-street provision in the vicinity. Having regard to these considerations and given the likely modest uplift in vehicular traffic associated with the proposed development, which includes the relocation of the appellant's business, together with the visibility at the existing access, I have no reason to disagree with this view.
27. It is asserted that the development would result in the loss of views across the site from the neighbouring property. However, the fact that a view would change is itself not harmful.

28. The specific circumstances that apply in this case are unlikely to be repeated elsewhere, concerns that the proposal would set a precedent for similar development elsewhere are therefore not a significant consideration.
29. Given the modest scale of the development and context within the existing built form, the proposal would not have a significant effect on the wider landscape or nocturnal wildlife in terms of light pollution, subject to a condition to secure an appropriate lighting scheme.
30. Any noise and disturbance associated with construction work would be for a temporary period only. Moreover, there is no evidence to indicate the proposed development when occupied, would lead to activities that would generate an unusual level or type of noise disturbance to neighbouring residents.

Conditions

31. I have considered the conditions put forward by the Council in the event that I were to allow the appeal in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. I have amended those I find to be necessary in accordance with advice in the PPG. In addition to the standard timescale condition, a condition specifying the relevant plans is necessary to provide certainty. Conditions requiring details of the proposed external materials, including a sample panel of the wall, as well as fenestration, eaves and verge details, and landscaping of the site are necessary to ensure the satisfactory appearance of the development and in the interests of the heritage assets.
32. Whilst there are some limitations in relation to development that can be carried out without planning permission in a NL and CA, a condition to remove permitted development rights pertaining to outbuildings, extensions and boundary treatment, other than that approved, is necessary to safeguard the countryside from encroachment and to ensure there would be no meaningful loss of openness of the site in the future so as to preserve the character or appearance of the designated heritage assets and their settings and conserve the NL.
33. A condition to secure a scheme of lighting is necessary to safeguard the character and appearance of the site and in the interests of biodiversity. A condition is also necessary to ensure the provision of off-street parking provision to serve both Church Cottage and the proposed dwelling, in the interests of highway safety. As the parking for Church Cottage is beyond the appeal site the condition cannot require its ongoing maintenance, however, I can see no reason as to why the parking spaces would be taken away, given they would be provided for the existing dwelling.

Conclusion

34. For the foregoing reasons, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out in the attached schedule.

E Worley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 243-P201, 243-P203, 243-P205, 243-P206, 243-P207, 243-P208, 243-P209.
- 3) Prior to the construction of any external wall of the development hereby approved, samples of the proposed external wall and roof materials shall be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter in perpetuity.
- 4) Prior to the construction of any external wall of the development hereby approved, a sample panel of walling of at least one metre square in size showing the proposed stone colour, coursing, bonding, treatment of corners, method of pointing and mix and colour of mortar shall be erected on the site and subsequently approved in writing by the local planning authority. The approved panel shall be retained on site until the completion of the development. Development shall be carried out in accordance with the approved details and retained as such thereafter in perpetuity.
- 5) Prior to the installation of any windows, external doors, head and cill treatments, eaves and verge details and rooflights, details of their design and construction shall be submitted to and approved in writing by the local planning authority. The design and details shall be accompanied by drawings to a minimum scale of 1:5 with cross section profiles, elevations and sections. Development shall be carried out in accordance with the approved details and retained as such thereafter in perpetuity.
- 6) Within one month of their installation, the windows and external doors shall be finished in a colour that has first been approved in writing by the local planning authority and retained as such thereafter in perpetuity.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development in Schedule 2, Part 1 Class A and Class E and Part 2, Class A shall be carried out without express planning permission first being obtained from the local planning authority.
- 8) Prior to the installation of any external lighting at the site, a scheme shall be submitted to and agreed in writing by the local planning authority which specifies the provisions to be made for the level of illumination of the site and the control of light pollution. The scheme shall be implemented and retained in perpetuity in accordance with the approved details. No other external lighting shall be installed on the site other than that agreed as part of the approved lighting scheme.
- 9) Prior to the first occupation of the dwelling hereby approved, a scheme of landscaping of the site shall be submitted to and approved in writing by the

local planning authority. The scheme shall include details of all planting areas, tree and plant species, numbers and planting sizes; means of enclosure; details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development. The approved scheme, including all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 10) Prior to the first occupation of the new dwelling hereby permitted space shall be provided and made available for the parking of vehicles on the site, and on the adjoining land at Church Cottage, in accordance with the 'Site plan as proposed' drawing no. 243-P203. The parking to serve the new dwelling shall be retained for such purposes in perpetuity.

*******end of conditions*******