



Appeal Decision

Site visit made on 6 April 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/J3720/W/23/3331582

**Churchbank House Church Bank Binton Road Welford on Avon
Warwickshire CV37 8PS**

- 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 Ian Lyall against the decision of Stratford-on-Avon District Council.
 - The application Ref: 23/00235/FUL dated 27 January 2023 was refused by notice dated 21 April 2023.
 - The development sought to be approved is Proposed new dwelling and detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed new dwelling and detached garage at Churchbank House Church Bank Binton Road Welford on Avon Warwickshire CV37 8PS in accordance with application Ref: 23/00235/FUL dated 27 January 2023 and the plans submitted with it, subject to the 7 conditions appearing on the schedule attached.

Main Issue

2. The main issues are:
 - Whether proposal would be suitably located having regard to the relevant policies of the development plan and, if not
 - Whether other considerations exist to outweigh any harms identified.

Reasons

Principle of development

3. The appeal site is located within the perimeter of extensive garden of Church Bank House (CBH) which itself is accessed from Church Bank, a road that connects CBH and a number of recently built large detached houses with Binton Road that runs through the village in a generally north-south direction. The appeal site is a large rectangular parcel of land at the southern edge of the garden to CBH that slopes in an easterly direction, down to the River Avon from its access point which is from a track¹ running outside the property perimeter.
4. Welford-on-Avon is a Category 2 Local Service Village (LSV) which is identified as a suitable location for housing² subject to policies which include AS10 and

¹ The description appearing on the site location plan

² As the proposal is for a single dwelling numeric distribution is not material

CS15 of the Stratford-on-Avon Core Strategy (2016) (SoACS) and the Welford-on-Avon Neighbourhood Development Plan (WNDP) which was 'made' in 2017. Policy AS10, at (b) specifies small scale residential development would be appropriate '*within the Built-Up Area Boundary (BUAB) of an LSV (where defined), or otherwise within the physical confines*'. There is no express provision in Policy CS.15 for residential development in open countryside other than certain exceptions which do not apply to what is proposed and at (j) which allows '*a new single dwelling in open countryside which is of exceptional quality and design and makes a positive contribution to the character of the local area*'.

5. The WNDP has a defined BUAB which excludes the appeal site but includes the western section of Church Bank. The appellant refers to the potential for the site to be 'within physical confines' and suggests a review of the BUAB would include the appeal site by reference to guidance provided by the emerging Site Allocations Plan Revised Preferred Options Consultation Version (June 2022) (SAP). This requires the inclusion of sites with extant planning permission, and follows earlier guidance in 2016 to the same effect. However, it seems to me that 'physical confines' applies in the alternative only where there is no BUAB. Notwithstanding these arguments, I have nothing to indicate a review of the WNDP or other parts of the development plan has progressed to a point where a redefined BUAB might include the appeal site.
6. The current BUAB for Welford is comprised in the development plan and although there is a prospect of a revision in time, nothing before me directs other than that, in principle, the proposal should be determined in accordance with the policies which apply the BUAB³. I therefore conclude the proposal would be within open countryside and therefore in conflict with Policies AS10 and CS15 of the SoACS and HLU1 of the WNDP and therefore unacceptable in principle. However, the weight to be attached to that conflict may be affected by other considerations which I will address in my conclusions.

Other considerations

7. The appellant points to previous permissions granted for single dwellings on the appeal site⁴, the earlier of these having been lawfully implemented⁵, the later still available for implementation. Given the self-evident desirability of the location I consider there is a substantial prospect that one of the permissions would be completed and as such, a consideration of significant weight. The Council acknowledge these permissions present a fallback consideration but argue the planning harm of what is being appealed ('the Proposal') would exceed those of these extant permissions, such that the 'fallback'⁶ should carry no weight; it is to that consideration I now turn.
8. The dwellings in these fallback permissions sit, both, in a similar location at the top of the appeal site but are more modest in size and less adventurous in design than that which is here appealed. The Proposal is set lower than the fallback schemes, such that, according to the appellant, its highest point would

³ Policy CS15 of the SoACS

⁴ Ref: 14/00886/FUL and 21/0415/FUL

⁵ According to the Council

⁶ Meaning the implementation or completion of either extant permission

be approximately the same level as ground level at CBH⁷. However, the Proposal would be significantly larger than either of the 'fallback' permissions and due to the southerly fall in ground levels across the width of garden of CBH it would still be visible above the ground level from the site entrance to a significant extent.

9. The parties dispute the impacts of what is proposed. The Council describe the proposal as 'over engineered', and 'set further back behind CBH' (meaning closer to the river) thereby causing landscape harm. They suggest the ground modelling which would be a consequence of the inset positioning of the Proposal is harmful in comparison with the fallback developments. However what is proposed is plainly an individual 'statement' design and although the appellant does not seek to argue it would meet the 'exceptional' threshold of Policy CS15(j) it is a consideration to which modest weight should be attached in that against the background of fallback alternatives, the development plan identifies a benefit may accrue to an individual new dwelling which 'makes a positive contribution to the character of the local area'.
10. For their part the Appellant has produced evidence that the Proposal would not be widely visible from the east, however given the scale and open aspect of river frontage my observations indicate that this cannot be conclusively argued and there would likely be some wider impacts albeit from other viewpoints including the river itself. Although exhibiting a more conventional pitched and gabled roof form than the proposal either Fallback would, notwithstanding their relatively modest scale, also tend to be prominent, likely appearing at the crest of the rising ground when viewed from some positions such as the river and lower ground to the east.
11. CBH and its northerly neighbours are very large properties that by their position and size exercise a powerful visual influence over the river frontage in that they sit prominently within very substantial largely open plots. The Council report a Landscape Sensitivity Assessment⁸ which can be said, to the extent it is relevant, to share some aspects of this analysis and acknowledges '*there may be limited opportunities for a few houses in this area (WE02) but these should be set in large plots with strong planting to integrate them into the landscape*'. Although having the status of 'open countryside' by definition of policy, the character of the open setting of CBH and its neighbours arranged along the bank of the River Avon is distinctive, but lacking typical rural informality. This stands in contrast with recent development along Church Bank where large dwellings mostly fill the width of their plots with a ribboning effect and, notwithstanding the methodology for defining the BUAB as including residential gardens, to extend such an approach near to CBH would undermine the distinctive character I have identified.
12. The Council suggest the Proposal 'would not have a rural appearance' and indicate the large scale of the proposal would present a visual harm, however, such association between scale and harm is not immutable. My preceding assessment leads me to conclude that the relatively modest size of the fallback schemes, spaced at some distance from CBH would not accord with the general pattern of development in the setting of the appeal site, and although the plot

⁷ According to the drawings provided

⁸ In Officer report section headed 'Design Impact on Landscape etc'.

size of the Proposal is not as large as its neighbours, as a distinctive individual dwelling fronting the river it would appropriately displace fallback schemes which have a more restrained suburban form that is less compatible. Such would not serve the objective of protecting the countryside or support the retention of a distinctive open character along the river frontage in this location.

13. My reasoning directs that the benefits of the proposal that I have identified should attract significant weight and on that basis I conclude there would be no conflict with the objectives of Policies CS5, CS9 and AS10 of the SoACS, nor with HLU2 of the WNDP which, taken together, seek to maintain landscape character and high design quality.

Other matters

14. There have been representations on the issue of access to the site. The appellant has completed certificate A consequently such concerns are matters of civil law. The Parish Council have referred to flood risk. This issue is addressed by the response of the relevant consultee and conditions pursuant.

Conclusion and Conditions

15. I have concluded that there is an in-principle conflict with the development plan as to the location of the proposal. I have also concluded that, these conflicts should attract little weight due to my overriding conclusion as to the benefits of a grant of a permission which would better accord with my assessment of the site and its distinctive setting than the extant (fallback) consents.
16. The appellant has provided a signed Unilateral Undertaking (UU) which I understand has been provided to the local planning authority. The UU will ensure a grant of permission would only result in the completion of one dwelling on the application site. Whilst this could result in one of the fallback schemes and not the matter here appealed, I consider, at this stage, that such would be the least likely outcome of granting permission which therefore supports my decision.
17. Consequently, for the reasons stated and having regard to all matters raised, the appeal succeeds subject to usual plans and timing conditions. The Council have suggested a number of conditions which I have considered in the light of the 'six tests' set out in the Framework, and accordingly made adjustments.

Andrew Boughton

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: 21-075/01; 21-075/02; 21-075/03; 21-075/04.
- 3) Prior to progression above slab level of any building which forms part of the development hereby permitted, a schedule of materials and finishes (including samples and trade descriptions/brochure details where appropriate) of materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and completed before the development is first occupied and thereafter shall be retained and maintained in that form, unless the Local Planning Authority gives prior written approval to any subsequent variation.
- 4) Notwithstanding plans identified in Condition (2) attached to this permission, prior to progression of any part of the development hereby permitted above slab level, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include:
 - planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting.
 - existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted (where appropriate);
 - location, type and materials to be used for hard surfacing where applicable for permeable paving,
 - the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;
 - car parking layout and any other vehicular and pedestrian access and circulation areas;
 - a timetable for implementation of the soft and hard landscaping scheme.
- 5) The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.
- 6) Prior to first occupation of the development hereby permitted, the sustainability measures set out within the supporting 'Climate Change Checklist' shall be incorporated into the design of the development and/or site layout as relevant. Thereafter, the approved sustainability measures shall be retained and maintained.
- 7) There will be no ground level raising of the site where it is at or below 34.24m AOD without appropriate assessment of the flood risk and mitigation measures implemented in accordance with a scheme for such measures being implemented in accordance with details that have previously been submitted to, and approved in writing by, the local planning authority.