



Appeal Decisions

Site visit made on 9 May 2024

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal A Ref: APP/K0425/W/23/3330471

2 Sycamore Cottages, Church Road, Lane End, Buckinghamshire HP14 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr James Ansell against the decision of Buckinghamshire Council.
- The application Ref 23/05932/ADRC sought approval of details pursuant to condition No 2 of a planning permission Ref 22/05263/FUL, granted on 16 February 2023.
- The application was refused by notice dated 31 May 2023.
- The development proposed is construction of ancillary residential outbuilding, including external alterations.
- The details for which approval is sought is condition No 2, which is set out as follows:
The building hereby permitted shall be demolished in its entirety and all materials removed from site within 60 days of the date of failure to meet any of the requirements set out in i) to iii) below:
 - i. Within two months of the date of the permission a scheme, to include plans and timetable, for the removal of:*
 - all fenestration at first floor level and above to include roof-lights and windows, with the exception of the gable end window in the south side elevation.*
 - 2 x full height ground floor windows in the east side elevation*
 - all solar panels,*
 - the roof chimney*
 - all bathroom facilities.**shall have been submitted for the written approval of the local planning authority.*
 - ii. If within eight months of the date of this decision the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as valid by the Secretary of State.*
 - iii. The approved scheme shall have been carried out and completed in accordance with the approved timetable.*
 - iv. Upon implementation of the approved scheme, specified in this condition, that scheme shall thereafter be maintained for the life of the development.**In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.*
- The reason given for the condition is:
To ensure a satisfactory standard of development within the Conservation Area and Area of Outstanding Natural Beauty.

Appeal B Ref: APP/K0425/W/23/3330476

2 Sycamore Cottages, Church Road, Lane End, Buckinghamshire HP14 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr James Ansell against the decision of Buckinghamshire Council.
 - The application Ref 23/06471/ADRC sought approval of details pursuant to condition No 2 of a planning permission Ref 22/05263/FUL, granted on 16 February 2023.
 - The application was refused by notice dated 30 August 2023.
 - The development proposed is construction of ancillary residential outbuilding, including external alterations.
 - The details for which approval is sought is condition No 2, the detail of which has previously been set out in relation to Appeal A.
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Appeal C Ref: APP/K0425/W/23/3332022

2 Sycamore Cottages, Church Road, Lane End, Buckinghamshire HP14 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr James Ansell against the decision of Buckinghamshire Council.
 - The application Ref is 23/06200/VCDN.
 - The application sought planning permission for construction of ancillary residential outbuilding, including external alterations, without complying with conditions attached to planning permission Ref 22/05263/FUL, dated 16 February 2023.
 - The conditions in dispute are Nos 1 and 2 which state that:
Condition No 1:
The development hereby permitted shall be completed and retained in accordance with the details contained in the planning application hereby approved and plan number BC1, BC2, (P21 received 26.01.2023) unless the Local Planning Authority otherwise first agrees in writing.
Condition No 2:
As previously set out under Appeal A.
 - The reasons given for the conditions are:
Condition No 1:
In the interest of proper planning and to ensure a satisfactory development of the site.
Condition No 2:
As previously set out under Appeal A.
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Decisions

1. Appeals A, B and C are dismissed.

Preliminary Matters

2. As set out in the banner headings above, this decision letter relates to 3 appeals at the same site. I have determined each appeal on its own merits. However, in the interests of conciseness and to avoid duplication, I have dealt with common issues together.
 3. The development described in the banner headings above was granted planning permission (the PP) having already been substantially completed. The descriptions used in the banner headings reflect that on the PP decision notice, although wording unrelated to the act of development has been removed.
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Condition No 1 of the PP specified the approved plans and condition No 2 required the submission of a scheme to remove various elements of the as-built development within prescribed timescales.

4. The details submitted in relation to all 3 appeals propose to retain various elements that were required to be removed under condition No 2: specifically solar panels to the roof of the building, internal bathroom facilities, and a first-floor window serving the bathroom.
5. Appeals A and B relate to the Council's refusal to approve details pursuant to condition No 2.
6. Appeal C relates to the Council's refusal to approve an application to vary condition No 1 to substitute the approved plans, and to vary condition No 2 to revise the wording relating to the elements of the building requiring removal.
7. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. Other than changes to paragraph numbering, there are no material changes relevant to the substance of the appeal.

Main Issues

8. The main issue in Appeals A and B is whether the submitted details meet the requirements of condition No 2.
9. The main issue in Appeal C is whether the proposed variation to condition Nos 1 and 2 would be acceptable in terms of the effect on the character and appearance of the area, having regard to the effect on the Chilterns National Landscape (the CNL), the non-designated heritage asset of No 2 Sycamore Cottages (the NDHA), and whether the character or appearance of the Lane End Conservation Area (the CA) would be preserved or enhanced.

Reasons

Appeals A and B

10. In determining these appeals, I am only able to consider whether the requirements of condition No 2 have been met. I am not able to reconsider the PP or discuss the merits of the condition.
11. By proposing the retention of elements of the development explicitly sought for removal by condition No 2, the schemes in Appeals A and B conflict with the details required by the condition.
12. Procedurally, if I was to agree to a flexible approach in respect of the requirements set out in the condition, this would effectively vary the condition. Separate legislation and a separate application process exists for this, as is applicable to Appeal C. However, given my findings above and with respect to Appeals A and B only, the condition cannot be complied with. I therefore have no option other than to dismiss Appeals A and B.

Appeal C

13. The appeal site is within the CA. Accordingly, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) applies, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area.

14. The Council identifies the appeal site and its adjoining dwelling of No 1 Sycamore Cottages as NDHAs. Although I am provided with limited evidence to substantiate their status as NDHAs, the plan contained within the CA Character Study (the CACS) identifies Nos 1 and 2 Sycamore Cottages as 'Important Buildings'.
15. The appeal site lies within the CNL, known at the time the application relevant to the appeal was determined, as the Chilterns Area of Outstanding Natural Beauty (the AONB). Nevertheless, the provisions of the development plan and the Framework in respect of this issue have not materially changed in the intervening period.
16. The CA includes the historic centre of the village of Lane End, which has a traditional village character centred around public and civic buildings including churches, schools and public houses, some of which are listed and of historic value. Leading out from the village centre, the CA generally follows a ribbon pattern along the 4 main routes outwards to the north, south, east and west. These areas contain several listed buildings in use as private dwellings, as well as other buildings identified as important by the CACS. Buildings in the CA generally use characteristic locally sourced materials and display traditional architectural styles.
17. The NDHAs comprise a pair of semi-detached dwellings built using typical local materials of brick and flint. The site lies at the southern edge of the CA to the east of Church Road, which provides the main route out of the village to the south. Although the site does not lie close to any of the listed buildings identified by the CACS, it identifies the terraced cottages on the opposite side of Church Road as 'Important Buildings'.
18. Given the above, the significance of the CA is predominantly derived from the historic character of the village centre and the traditional character and appearance of the buildings that have developed along the main routes leading out of it.
19. The plan submitted with the appeal illustrates the solar panels that are proposed for retention, which I observed at my visit as projecting from the roof slope. In the case of the solar panel on the west-facing roof slope, it covers a substantial portion of the roof slope visible from Church Road. Although the south-facing panel is smaller, it is of a similar profile to the west-facing item and is also visible from Church Road, as well as facing the NDHAs.
20. The appellant states that the panels seek to integrate with the colour of the roofing materials and the surrounding context. However, by virtue of their scale, reflective appearance and projection from the roof slopes, the solar panels appear as substantial, alien and obtrusive features on a building that otherwise appears generally compatible with the local vernacular and character of the CA. Moreover, the solar panels are prominently visible from public vantage points in the CA and from the NDHA.
21. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting, and that this should have a clear and convincing justification. Given my findings above, the harm to

the CA is less than substantial in this instance but nevertheless of considerable importance and weight.

22. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
23. The appellant notes the solar panels would deliver sustainability benefits through reducing CO2 emissions and being environmentally friendly, including by providing hot water to the building. Whilst such sustainability benefits could comprise public benefits in terms of their contribution to wider environmental objectives, such contributions would be modest given the limited scale of development. Accordingly, these considerations carry only limited weight in favour of the proposal.
24. The statutory duty set out in the Act directs that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Given my previous findings, I do not find evidence of sufficient public benefits to outweigh the harm to the CA, given the great weight that must be given to its conservation.
25. Turning to issues other than the solar panels, the PP decision notice stipulates the reason for condition No 2 was to ensure a satisfactory standard of development within the CA and the CNL. However, the officer report relating to Appeal C elaborates that the reason for removal of the specified elements is that, when combined, they gave the appearance of a building having a greater assertive appearance more consistent with the use as primary living accommodation, and this is something that the Council could not support or would like to encourage.
26. The development granted through the PP is described as a residential ancillary outbuilding. I have been provided details of the planning history of the site including enforcement notices and appeals relating to the unauthorised use as a separate dwelling. However, this appeal is not the forum to revisit any allegations of unauthorised use or the potential for such use in the future.
27. The bathroom provides the building with facilities akin to that of a standalone dwelling. However, such facilities are common in buildings effectively permitted for use as an extension to the living accommodation of a main dwelling, as has been granted by the PP. Whilst the first-floor window serving the bathroom clearly illustrates the building being set over 2 floors when viewed externally, so too does the general scale of the building and the expanse of glazing on the southern elevation, as approved by the PP. Accordingly, I am not persuaded that the first floor bathroom window or the retention of the bathroom facilities would generate specific harm.
28. Nevertheless, I have determined the appeal against the details given in the submitted plans and the proposed condition wording as a whole. The lack of harm in respect of some features of the proposal would be a neutral factor that would not overcome the previously identified harm in respect of other issues.
29. Accordingly, for the reasons given above, the overall effect of the proposal would fail to preserve or enhance the character or appearance of the CA and would fail to conserve and enhance the landscape and scenic beauty of the CNL. The proposal would therefore conflict with Policies CP9, CP11, DM30,

DM31 and DM35 of the Wycombe District Local Plan – Adopted August 2019 (the LP), which together seek, in respect of this issue, to conserve the natural and historic environment, for development to achieve a high quality of design, to conserve and where possible enhance the significance, special interest, character and appearance of designated and non-designated heritage assets, to conserve and where possible enhance the natural beauty of the CNL, and for all development to improve the character of the area and the way it functions. The proposal would also conflict with the provisions of the Framework, which have similar aims.

Conclusion

30. For the reasons given above I conclude that Appeals A, B and C should be dismissed.

P Storey

INSPECTOR