



Appeal Decision

Site visit made on 21 January 2025

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/C1625/W/24/3347823

Grange Cottage, Upper Barton End Lane, Horsley, Gloucestershire GL6 0QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Mayne against the decision of Stroud District Council.
 - The application Ref is S.24/0536/FUL.
 - The development proposed is a replacement dwelling including associated amenity space, landscaping, access and parking, following demolition of existing dwelling and existing single storey detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling including associated amenity space, landscaping, access and parking, following demolition of existing dwelling and existing single storey detached garage at Grange Cottage, Upper Barton End Lane, Horsley, Gloucestershire GL6 0QF in accordance with the terms of the application, Ref S.24/0536/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs has been made by Mr & Mrs Charlie Mayne against Stroud District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, and
 - protected species and biodiversity.

Reasons

Character and appearance

4. The appeal site is a small parcel of land which contains an unoccupied dwelling. The site is elevated and accessed by an unmade pathway that steeply rises past the appeal site and is also a byway which leads to a farm complex. There is also a small garage which occupies a separate parcel of land a short distance away from the dwelling. The surrounding area consists of mostly open fields and dense areas of vegetation which results in an open and verdant character and appearance.

5. Policy HC5 of the Stroud District Local Plan Adopted November 2015 (LP) concerns replacement dwellings outside development limits and amongst other things, requires that the scale, form and footprint of the replacement dwelling is smaller than, or of a similar size to the existing dwelling (including any extensions), and the design does not detract from the character or appearance of its surroundings. Policy HC5 of the LP does allow a minor enlargement, but only to allow the dwelling to achieve a basic living standard and where the design does not detract from the character and appearance of the area.
6. The Council have calculated the proposed development would result in a significant increase in volume above the original dwelling. However, Policy HC5 of the LP states that in determining what constitutes "similar size", account will be taken of the extent to which the dwelling has been previously extended, or could be extended under permitted development rights.
7. In this regard, the appellant has put forward a fallback position which relates to a combination of extant planning permissions and permitted development rights which would result in a large single storey rear extension and outbuildings. I accept that the fallback position is available.
8. I also accept that there is a greater than theoretical possibility that the fallback would be implemented should the appeal scheme be dismissed. It is therefore a material consideration in the assessment of the proposal.
9. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme.
10. The fallback position would occupy a significant footprint of the appeal site when compared to the appeal scheme and therefore, while the volume may be less it would have the visual appearance of being much larger than the appeal scheme. The appeal scheme would be a single, large building which would be much less intrusive than the extensions and outbuildings proposed through the fallback position which would occupy a greater footprint. I therefore consider that the fallback position would result in a more harmful development when compared to the appeal scheme.
11. The design of the proposed dwelling is a simple pitched building which would generally mirror a barn structure which is characteristic of the wider rural area. There are no dwellings nearby so there is very limited scope for the proposal to be designed to match dwellings close by albeit the simple design will match the unassuming appearance of the previous dwelling. I find that the simple design of the dwelling would sit well within the plot. A suitably worded planning condition could be imposed to require further details of external materials.
12. For the reasons already outlined there would be no conflict with Policy HC5. Nonetheless, the proposed dwelling would be large and occupy a sizable portion of the plot. The proposal includes garden areas that would surround the building which would help to reduce the bulk of the dwelling, combined with landscaping that could be secured by an appropriately worded condition would therefore not result in a cramped development. The dense areas of vegetation that surround the appeal site would also provide screening and limit views to predominantly only those that are using the pathway which would not be harmful.

13. I therefore conclude that the proposed development would not harm the character and appearance of the area. I find no conflict with Policies HC5, CP14, CP15, ES7 and ES12 of the LP. Amongst other things, these seek to ensure that development is high quality, protects, conserves and enhances the built and natural environment and the location, materials, scale and use are sympathetic and complement the landscape character.

Protected species and biodiversity

14. The application was accompanied by a GCN update which found that the presence of Great Crested Newts within the site is not considered likely due to the absence of potential breeding habitat and presence of significant barriers to dispersal from ponds identified to the west. On the basis of the unlikely presence of Great Crested Newts I am therefore satisfied that the proposed development could be carried out without harming protected species.
15. The Council consider that the proposed development is required to show a biodiversity net gain. However, the application was submitted prior to the deadline that requires a biodiversity net gain and as such, there is no requirement for this to be demonstrated.
16. I therefore conclude that the proposed development would not harm protected species or biodiversity. I find no conflict with Policy ES6 of the LP which amongst other things, requires that European protected species are not harmed and that proposals conserve and enhance the natural environment.

Other Matter

17. I am aware that the site is proximate to the Grade II listed building Barton End Farmhouse. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving its setting. The verdant backdrop of the appeal site positively contributes to its significance. Nevertheless, given the location and extent of the proposed development, I consider that it would preserve the setting of this listed building and the contribution it makes to its significance. I note the Council had no concerns in this regard either.

Conditions

18. I have considered the Council's suggested conditions in the event I were to allow the appeal. Where necessary, and in the interests of clarity and precision, I have slightly altered them to more closely reflect the advice in the Framework and the Planning Practice Guidance.
19. Condition 1 is the standard condition which relates to the commencement of development and condition 2 specifies the approved plans for the avoidance of doubt.
20. Condition 3 requires details of a construction/demolition management plan in order to manage the impacts of the development. Condition 4 is required in order to manage the risks of asbestos containing materials in order to ensure the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21. Condition 5 requires details of external materials in order to ensure a satisfactory appearance. Conditions 6, 7 and 8 require parking, visibility splays and the access to be constructed prior to occupation in order to ensure that in the interests of highway safety. Condition 9 requires cycle storage facilities in order to encourage sustainable means of transport for future occupiers. Condition 10 requires new trees and hedgerows to be planted in accordance with the details to protect the character and appearance of the area.
22. The Council have suggested the removal of all permitted development rights under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. The Council have provided very limited reasoning to support the removal of all of these permitted development rights and I have therefore not found it I have found it exceptionally necessary or reasonable to remove them all.
23. Notwithstanding the above, I have found it exceptionally necessary and reasonable to remove some permitted development rights which include the enlargement, improvement or other alteration of the dwellinghouse as well as buildings incidental to the enjoyment of the dwellinghouse. This is in order to protect the character and appearance of the area.
24. I have not imposed a condition for electric vehicle charging points because this is a requirement of building regulations so is not necessary.

Conclusion

25. For the reasons given above the appeal should be allowed.

D Wilson

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in all respects in strict accordance with the plans listed below:

Block & Location Plan For Grange Cottage: Ref - CG.01A submitted 20.03.2024
Existing & Proposed Site Plans For Grange Cottage: Ref - GC.04C submitted 20.03.2024

Proposed Floor Plans For Grange Cottage: Ref - GC.03A submitted 20.03.2024

Proposed Elevations For Grange Cottage: Ref - GC.04B submitted 20.03.2024

Landscape Proposals: Ref - 23268.101A submitted 20.03.2024

3. Prior to commencement of the development hereby permitted details of a construction/demolition management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the demolition/construction period. The details shall include but not be restricted to: Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction); Advisory routes for construction traffic; Any temporary access to the site; Locations for loading/unloading and storage of plant, waste and construction materials; Method of preventing mud and dust being carried onto the highway; Arrangements for turning vehicles; Arrangements to receive abnormal loads or unusually large vehicles; Highway Condition survey; Methods of communicating the Construction Management Plan to visitors and neighbouring residents and businesses.
4. No demolition works shall commence (to include the garage) unless and until a plan detailing methods, controls and management procedures relating to removal of Asbestos Containing Materials associated with the development site has been submitted and approved by the Local Planning Authority. The approved details shall be adhered to throughout the demolition period.
5. No works shall take place on the external surfaces of the building(s) hereby permitted until samples of the materials to be used in the construction works have been submitted to and approved in writing by the Local Planning Authority. Development shall then only be carried out in accordance with the approved details.
6. The development hereby approved shall not be occupied or be brought into first use until the parking facilities have been provided as shown on drawing number GC.04C (Proposed Site Plan for Replacement Dwelling).

7. The development hereby approved shall not be occupied/brought into use until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), to the extremities of the site in each direction. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level from the splays to the carriageway.
8. Prior to the occupation of the development hereby permitted, the vehicular access shall be laid out and constructed in accordance with the submitted plan drawing no. GC.04C with the area of driveway within at least 5.0m of the carriageway edge of the public road surfaced in bound material, and shall be maintained and drained thereafter.
9. The development hereby permitted shall not be occupied until the cycle storage facilities have been made available for use in accordance with the submitted plan drawing no. GC.04C and those facilities shall be maintained for the duration of the development.
10. The new trees/hedgerows are to be in accordance with the details submitted within drawing 23268.101 Rev A by MHP Design Ltd. Dated 15/02/2024. All planting shall be carried out in accordance with the approved details in the first planting season following the completion or first occupation/use of the development, whichever is the sooner. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
11. 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 permitted by virtue of Classes A and E of Part 1 of Schedule 2 to the Order shall be undertaken.