



Appeal Decision

Site visit made on 27 January 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/Y3940/W/19/3239783

Thicket Cottage, Malthouse Lane, Upper Chute SP11 9EG

- 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 P Lelliott against the decision of Wiltshire Council.
 - The application Ref 19/06565/FUL, dated 9 July 2019, was refused by notice dated 3 September 2019.
 - The development proposed is demolition of existing dwelling and erection of replacement dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of replacement dwelling at Thicket Cottage, Malthouse Lane, Upper Chute SP11 9EG in accordance with the terms of the application, Ref 19/06565/FUL, dated 9 July 2019, subject to the conditions in the attached schedule.

Procedural matters

2. The site address is spelled 'Thickett Cottage' on the application form and the Council's decision notice. I have used the spelling on the appeal form, which appears to have been consistently used throughout the appeal process, and accords with the plans.
3. The description of development on the application form includes words to the effect that the proposal follows the withdrawal of an earlier application. As this is not an act of development, I have not included it within my description.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The site is a short distance outside the main built up area of Upper Chute, a settlement that sits subserviently in the rolling landscape that is evident in this part of the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The landscape contains a mix of agricultural fields and areas of woodland and there is notable tree planting around parts of the site. This wider landscape setting can be appreciated from the edge of the village and some places within its conservation area which has an intimate, informal character and appearance of organic, piecemeal development in a strong landscape setting.

6. The existing dwelling at the site is relatively small in scale, with its first floor accommodation within the roof space. Therefore, although it can be seen in views from the village edge and above the roadside hedgerow, it is recessive in the landscape. The proposed dwelling, described by some local residents as 'pseudo Georgian', would be a far grander structure, a full two-storeys in height with the roof structure concealed behind a parapet. The classical proportions and rectangular composition of the elevations would make more of a statement of presence compared to the existing cottage.
7. The appellants Landscape and Visual Appraisal (LVA) noted the prominence of some recently constructed dwellings outside the village and the Chutes Village Design Statement (VDS) notes that a disproportionate number of very large houses has begun to erode the intimate rural character of the area. It goes on to say that any more very large houses would exacerbate the problem and that many of the new ones are in very prominent positions in the landscape where they also harm the appearance of the area.
8. The increased scale compared to the existing dwelling would make the proposal more prominent. Notwithstanding the appellant's submitted photomontages, there is no doubt in my mind that the building would be more visible than the existing when viewed from Malthouse Lane immediately alongside the dwelling and looking back toward the site from the village. However, the backdrop of trees around the site access would prevent it being an isolated prominent feature in the landscape.
9. The LVA indicates that some landscaping is necessary to improve its integration into the landscape and the Council has suggested that landscaping should not be used to hide visually unacceptable development. However, such concealment from view would not be the case here as, even once the planting had established, some views of the dwelling would be likely. Instead, it would ensure that views were filtered so as to soften the effect of the increased scale, reduce any light spill, and assimilate it comfortably into the landscape.
10. Turning to the detailed design, the National Design Guide (2019) indicates that context and local identity are important when considering new development. It may well be that dwellings with an architectural style similar to that proposed are more typically found on larger country estates, and that there is little, if any, historic basis for the design put forward at this site.
11. However, the site is outside the conservation area. Although it may be within its setting, it is sufficiently distanced from it that the proposal would not compete with or harm the intimate, informal character and appearance of this designated heritage asset. The VDS indicates that there only a limited number of flint faced buildings in Upper Chute, and I am told in the various representations that those that are, are not of a Georgian style. However, despite the unprecedented design solution, the choice of finishes would reflect local building materials and be appropriate in this context, disjointed from the historic core of the village. Moreover, whilst the site is within a generally open part of the landscape, heading towards Upper Chute along Malthouse Lane, the existing tree cover and alignment of the access would do much to screen significant views such that it would not harm the approach to the village.
12. Therefore, I find that overall it would have a neutral effect on the landscape character of the area, appearance of the locality, and the scenic beauty of the AONB. Accordingly, there would be no conflict with the aims of Core Policies 51

and 57 of the Wiltshire Core Strategy 2015 (CS) which require development to protect, conserve and where possible enhance landscape character, and to be complimentary to the locality, including through responding to local context.

13. Nevertheless, the Council's objection, in part, relates to the increase in size of the dwelling. Policy HC25 of the Kennet Local Plan 2011 (LP) relates specifically to the replacement of existing dwellings. Whilst permitting replacement dwellings generally, it contains a specific clause that the scale of the replacement dwelling should not be significantly larger than the original structure. Furthermore, the North Wessex Downs AONB Position Statement (PS) on housing states that replacement dwellings should be of a scale and location that does not result in the new dwelling being particularly larger or higher than the existing, and the VDS includes a general guideline that new and replacement dwellings should be limited to family dwellings of a moderate size.
14. The replacement dwelling, largely due to its more imposing design would appear significantly larger than the existing. This would result in a technical conflict with Policy HC25. It would also appear to run counter to the advice in the PS and VDS. However, neither the PS nor VDS give any clear justification for these requirements where there would be no demonstrable harm to the character and appearance of the area. In light of my earlier findings in that regard, I, therefore, give that advice only limited weight.
15. Likewise, I have not been provided with any compelling justification for the size restrictions placed in Policy HC25. If it is to protect the character and appearance of the area, then I have already found no conflict with those aims. Therefore, whilst acknowledging a conflict with this policy, no harm would arise from it. Considering the clearly stated aims of the development plan in terms of protection of the character and appearance of the area and landscape character, and my findings in respect of CS Core Policies 51 and 57, I find that there would be no conflict with the development plan when considered as a whole.

Other matters

16. There is suggestion in the representations of local residents that the existing dwelling should be considered a non-designated heritage asset. However, whilst it may be a traditional building of local vernacular and some age that maintains much of its original form, and is part of the spacious approach to Upper Chute, there is no compelling evidence that the building itself is particularly significant. Although the appellant has not investigated the potential for any heritage significance, the Council has not indicated that the building should be treated as a non-designated heritage asset. As Planning Practice Guidance (PPG) indicates that the identification of assets should be based on sound evidence, I see no reason to consider it as such.
17. It has been suggested that the proposal would remove a relatively affordable dwelling and replace it with one beyond the means of many local workers. However, even if this were another aim of LP Policy HC25, I have little information about local housing needs or any particular compelling need to retain smaller properties. I, therefore, attribute minimal weight to these concerns.

18. The representations indicate that nearby St Nicholas' Church supports a bat roost and that, consequently, the existing building could support bats. If protected species are likely to be present, it is important to understand the potential effect on them before deciding to grant planning permission. However, there is no clear evidence that the site itself is used by protected species and the matter has not been raised by the Council throughout the consideration of the two recent planning applications for redevelopment at the site. Circular 06/2005 indicates that protected species surveys should only be required where there is a reasonable likelihood of protected species being present and affected by the development. With regard to the foregoing, I have no basis to conclude that they would be.
19. The Council's officer report indicates that in order to avoid adverse effects upon the integrity of the River Avon Special Area of Conservation all new dwellings should be phosphate neutral. However, it goes on to indicate that such requirements only extend to net increases in dwellings. As this proposal would involve the replacement of an existing dwelling, I find that there would be no pathways to significant adverse effects on this European nature conservation site.

Conditions

20. A plans condition is required in the interests of certainty. In the interests of the character and appearance of the area, details are required of external facing materials, and landscaping.
21. The Council's suggested condition in respect of wall finishes requires a sample panel to be constructed, which is reasonable given the sensitive landscape context. However, it goes on to specify that certain finishes such as pre-formed panels would not be appropriate. Whilst that may ultimately prove to be the case, in the absence of detailed information about such finishes, it would be unreasonable for me to rule out certain design solutions at this stage. The Council would retain sufficient control through the simple need to approve the details.
22. The Council's suggested condition in respect of roof materials required approval of details prior to any work above ground-floor slab, but there is no reason given for this timing which would more appropriately be linked to construction of the roof. I have made other minor revisions to the Council's suggested conditions in the interests of clarity.
23. The Council has also suggested a condition to remove permitted development rights for extensions and additions. However, whilst I understand that the Council is concerned about the size of the building, given my findings in respect of the main issue, there is no compelling reason to withhold permitted development rights. Planning Practice Guidance indicates that such conditions should only be used in exceptional circumstances and, with regard to the foregoing, I find that they do not exist in this case.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 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: MFthicketEL; MFthicketGFFF; MFthicketTOPO; 181041-01; 181041-05 C; and 181041-06.
- 3) No brick or flintwork shall be constructed to walls on site until a sample panel of brick and flintwork, not less than 1 metre square, to demonstrate the type of bricks, the type of flint, style of flintwork, laying pattern, mortar mix and finish, and pointing style has been erected on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample panel.
- 4) No development in connection with the roof of the dwelling shall take place until the exact details and samples of the slates to be used on the external roofs has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) All soft landscaping comprised in the approved details of landscaping (Landscape and Visual Appraisal (19.881 Rev: B) Figure 5 Rev B: Mitigation Strategy) shall be carried out in the first planting and seeding season following the first occupation of the buildings hereby permitted or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.
- 6) All hard landscaping, including boundary treatment, shall be carried out in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority and shall thereafter be maintained as such.