

Pins Ref 3172110	Noakes Hill Cottage, Noakes Hill, Ashampstead,	Removal of existing outbuilding and the erection of a detached annex and extension to existing store with associated hard and soft landscaping.	Dele. Refusal	Dismissed. 13.06.2017
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Application for costs

An application for costs was made by Mrs M Calvert against West Berkshire Council. This application is the subject of a separate Decision.

Procedural matters

During the appeal the Council has adopted the West Berkshire Housing Site Allocations Development Plan Document (DPD). The parties have been given the opportunity to make further representations concerning the DPD and these considerations have been taken into account in this decision. The Inspector did not consider that either party was prejudiced by this additional information.

Main Issues

The main issue in this appeal is whether the proposed development would represent the overdevelopment of the plot and thereby have a significantly harmful effect on the character and appearance of the area including the North Wessex Downs Area of Outstanding Natural Beauty.

Reasons

The appeal site comprises an existing single storey outbuilding within the grounds of Noakes Hill Cottage, a Grade II Listed Building and itself, located on the western side of Noakes Hill some 100 metres north of the junction with Holly Lane, on the eastern side of the village of Ashampstead. The site falls within the open countryside for planning purposes and within the Wessex Downs Area of Outstanding Natural Beauty (AONB). A public footpath runs in an east-west direction immediately to the north of the blue line boundary.

The application is clear that it proposes a residential annex and it was submitted to the Council as a householder development. The Council validated the application on this basis.

The Framework at paragraph 115 states that “great weight should be given to conserving landscape and scenic beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.” West Berkshire Core Strategy (CS) Area Delivery Plan Policy (ADPP) 5 seeks to protect the landscape qualities of the AONB and ensure that new developments are of a high design quality that contributes to local distinctiveness.

The proposal would see the demolition of the existing outbuilding situated to the east of the garage/workshop and its replacement by a timber clad 'L' shaped structure that would sit slightly below the ridge of the garage/workshop. The Council's reasons for refusal and evidence assert that the size of the building would exceed its policies and guidance directed at limiting the size of extensions and that it would also represent a significant increase in built form that would appear overbearing from the public footpath and out of context within the AONB.

The Council's officer report sought to justify a refusal of permission partly on the basis of a calculation based on the increased floorspace of the extension to Noakes Hill Cottage. However Policy C6 of the DPD is a more nuanced policy for the purposes of extensions to existing dwellings in the countryside and no longer includes the formulaic methodology advocated in the Council's previous now superseded policy and guidance. Amongst other things, the new policy tests require extensions to be subservient to the main dwelling and designed to reflect the existing dwelling using materials appropriate within the local context and having no adverse effect on the setting, the space occupied within the plot boundary, on rural character and historic interest of the building (this is dealt with further in the next section of this decision) and its setting in the wider landscape.

The accommodation is sizeable. It would provide two bedrooms, two bathrooms, a living studio area and a "study". However it is well designed and would occupy an area of under-used garden and replace an existing outbuilding. There would be no felling of any trees of significance and those that exist would be protected during construction works. In this context, the new building would preserve the area's character when viewed from the public footpath. Changes to the building's surroundings would lead to a degree of enhancement compared to the somewhat neglected outbuilding and other space around this structure.

The Council appears to accept that the appeal proposal would not result in a new dwelling in the countryside. However, in accepting the status of the proposal as an annex, it then expresses concern with regards to a lack of curtilage and the range of facilities that are proposed. In these respects, the annex would provide facilities for independent day-to-day living but sharing some of the facilities of the main dwelling house, the extensive grounds and the communal parking. The Inspector was satisfied that the proposed development would provide an annex that would be ancillary to the existing dwelling. Moreover, it would share what are extensive grounds associated with the main dwelling.

Consequently, he did not consider that the proposed development would harm the natural beauty of the AONB as it would preserve the rural character of the locality and in turn the natural beauty of the area. It would therefore comply with CS Policy ADPP 5. Moreover in terms of design, the proposal would comply with CS Policies CS14 and CS19 that together seek to ensure that new developments demonstrate high quality design that respect and enhance the character and appearance of the area whilst contributing positively to local distinctiveness and landscape character. Importantly, it would satisfy the criteria of DPD Policy C6 and therefore comply with this policy.

Given his findings, the Inspector did not consider that CS Policy ADPP 1 is relevant to this appeal as these policies relates to the Council's settlement strategy.

Other matters

The Inspector was required to consider the effects of the proposed development on the setting of Noakes Hill Cottage, a heritage asset. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. Paragraph 132 of the Framework establishes that the significance of a heritage asset can be harmed or lost through development within its setting. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.

The site lies within the boundary of Noakes Hill Cottage. The Council concedes that the site lies outside the curtilage of the listed building and the existing structure is not therefore a curtilage building as such. The Inspector agreed with this conclusion. The significance of this particular listed building is derived from its traditional materials palette and construction techniques, its restrained vernacular detailing and prominent siting that sits close to and above Noakes Hill within extensive grounds containing mature trees.

The effect of the proposed development would be to replace an existing structure that is not particularly attractive, given its condition. This would be limited to a somewhat larger area than the footprint of the existing outbuilding but where the immediate surroundings contain mature trees that would be retained. It would not result in the loss of any buildings or landscape features which contribute to the special historic interest of the heritage asset and there is no evidence to suggest that the proposal would harm the significance of Noakes Hill Cottage. In giving great weight to the asset's conservation, the Inspector considered that the proposal would not erode the setting of the listed building to a harmful degree or cause harm to its significance.

Thus for the above reasons, and mindful of his duty arising from Section 66, the Inspector considered that the proposed development would preserve the setting of the listed building and also with DPD Policy C6. This policy seeks to ensure that an extension has no adverse impact on the historic interest of any particular building. It would also comply with section 12 of the Framework.

Conditions

The Council has suggested a single condition that seeks to restrict the use of the property as an annex to the main dwelling. This is consistent with the advice on the use of conditions in the Planning Practice Guidance and is necessary to ensure that a new dwelling is not created in this open countryside location. In addition to the standard time period for commencement of development, a condition specifying approved drawings is necessary to provide certainty. A condition is also necessary to ensure that details of external materials are submitted for prior approval in the interests of character and appearance. For similar reasons a condition is also necessary to ensure that the soft planting scheme is carried out and that the tree protection measures shown on the drawings are implemented.

Conclusion

For the reasons set out above and having regard to the all other matters raised, the Inspector concluded that this appeal should be allowed.

Decision

The appeal is allowed and planning permission is granted for the removal of existing outbuilding and the erection of a detached annex and extension to existing store; with associated hard and soft landscaping at Noakes Hill Cottage, Noakes Hill, Ashamstead, Reading RG8 8RY in accordance with the terms of the application, Ref 16/03600/HOUSE, dated 22 December 2016, subject to the following 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:

175 PL 001 Existing Location Plan; 175 PL 002 Proposed Block Plan; 175 PL 003 Existing Plans; 175 PL 004 Existing Elevations; 175 PL 005 Proposed Plans; 175 PL 006 Proposed Elevations; 175 PL 007 Proposed Site Section A; 175 PL 008 Proposed Visualisations; 175 PL 009 Proposed Visualisations; 175 PL 0010 Proposed Visualisations ;175 PL 0011 Proposed Visualisations; 175 PL 0012 Proposed NE Elevation; 175 PL 0013 Existing Site Plan; 175 PL 0014 Proposed Site Plan; 175 PL 0015 Proposed Landscape Plan; 175 PL 0016 Proposed Visualisations, and; 175 PL 0017 Proposed Visualisations

3) The detached annexe and the extension to the existing store building hereby approved shall only be used for ancillary residential purposes and shall remain in use as such associated with the residential dwelling known as Noakes Hill Cottage and associated buildings.

4) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

5) The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

6) All the trees shown on the existing site plan 175 PL 013 to be retained shall be protected by strong fencing in accordance with the line marked proposed tree protection and BS5837:2012. The fencing shall be erected in accordance before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

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Application for Costs.

Decision

The application for an award of costs was refused.

Reasons

Paragraph 030 of the Appeals Section of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. A substantive award is sought on the basis that there were no reasonable grounds for refusal of the application.

The applicant asserts that the Council has acted unreasonably in that it has caused an appeal to have been made when in fact development ought to have been approved. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.

It is alleged that insufficient evidence has been submitted to substantiate each of the two reasons for refusal and that in coming to its decision, the Council made vague, generalised and inaccurate assertions about the proposal's impact, which are unsupported by any objective assessment.

The Council rejects such allegations relying on the case officer's assessment and the clear evidence in the form of detailed drawings supplied by the applicant's architect. Simply, the Council consider that the scale etc. of the proposal would be detrimental to the established character of the area. Both reasons of refusal related to issues of character and appearance and involve a reasonable degree of inter-twining.

As can be gleaned from his appeal decision, the Inspector found that the size of the proposed new annex was acceptable in the context of a well screened site that offered further landscaping opportunities. The Council sought to introduce a mathematical calculation that was based on the premise that the increase in size of floorspace (168%) related to the increase over the existing outbuilding rather than a percentage increase of the host dwelling Noakes Hill Cottage, which in the applicant's view would have been the correct approach as verified by the officer report when it was stated "SPG guidance indicates that extensions in the countryside should seek to be approximately 50% increase in floorspace...". However, the Council's main approach was that the net increase in size of the new building by comparison with what was proposed to be removed amounted to a substantial increase. The Inspector did not believe this calculation and the resulting view were unreasonable.

The source for this calculation was however difficult to ascertain given that the evidence submitted by the Council was in the form of a 2006 Supplementary Planning Document – Quality Design that appeared to have little relevance to the appeal proposal. The appellant did however refer to the correct document, a SPG that has only recently been superseded along with Saved Local Plan policies following the recent adoption of new policies of the West Berkshire Housing Site Allocations DPD.

However, design considerations are often subjective; the Council was entitled to take the view it did and did not necessarily have to undertake any complex assessment as the likely impact was localised. Whilst the Council's assessment of the application did include some simple and broad assertions of harm, the applicant did not produce any substantial evidence of her own, such as for instance, a landscape impact assessment. For the Inspector's part, he simply considered the proposal against local and national policies having regard to what he found on site. There was no substantial weight of evidence from either party and a balanced decision in favour was reached based on his findings as set out in the appeal decision. This was somewhat different to the costs decision at an appeal that was drawn to his attention by the applicant where the appellant produced substantial evidence to counter the claims of the Council.

In conclusion, although the Inspector could understand the applicant's frustration having produced a worthy scheme that also responded to objections raised by the Council to an earlier proposal, he found that on the substantive grounds, the Council did not act unreasonably.

The Inspector therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance had not been demonstrated.

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