

Appeal Decision

Site visit made on 10 May 2016

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 May 2016

Appeal Ref: APP/L3245/D/16/3144528

Castle Hill House, Harley, Shrewsbury, Shropshire, SY5 6LX

- 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 Roger Millward against the decision of Shropshire Council.
 - The application Ref 15/03793/FUL, dated 28 August 2015, was refused by notice dated 3 February 2016.
 - The development proposed is a detached oak framed garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - the living conditions of the neighbouring occupiers;
 - the character and appearance of the Conservation Area in terms of the effect on trees.

Reasons

Living conditions

3. The proposed four bay garage block would be sited within the large front garden of Castle Hill House. It would be sited to the rear of the neighbouring property at Castle Hill Barns, some 1m from the rear wall of a detached outbuilding in the rear garden of that property.
4. Although the neighbouring occupiers consider that the existing ground level of the appeal site is some 1.5 to 2.0m higher than their own, the plans were based on a land survey and show the difference to be around 1.0m. The proposal includes the raising of the ground level on which the garage would sit by some 450mm in order to accommodate access to the garage. The plans show that the proposed building would have a ridge height of some 6.5m which, together with the raised ground level, would make it some 1.9m taller than the neighbouring outbuilding. The ridge height would match that of a dormer window in another outbuilding which forms part of Castle Hill Barns and would sit below the ridge height of both that building and the main part of the dwelling.

5. As the BRE daylight and sunlight tests referred to by the objectors are for guidance only and I have not been referred to any standards in the Council's development plan, I have based my findings on my own assessment using some of those principles where relevant. The design includes a hipped roof whose ridge would be set back some 8.5m from that of the neighbouring outbuilding and some 18m from the nearest facing occupied habitable room window in Castle Hill Barns. The proposed building would lie within a vertical line of 25° taken from that window which is acceptable. Another window, a first floor dormer window to a potential bedroom which is in an unused outbuilding would look towards the proposal obliquely at a distance of some 6m but this would be outside a horizontal line of 45° and also acceptable. Whilst I have noted that the windows on this side of Castle Hill Barns provide most of the light to the property, from what I saw at my visit and on the basis of the plans, I am satisfied that the relationship between the proposal and the neighbouring windows would not result in a significant loss of sunlight or daylight to that property.
6. For the same reasons, the proposed garage would not be unduly overbearing either when seen from the house or the garden of Castle Hill Barns. Although the garden area between the dwelling and the outbuilding is modest, it is likely that the existing outbuilding and the tall trees at the appeal site already cause some loss of light to the garden and the proposed height and set back of the new garage would not significantly worsen this to an unacceptable degree. No windows are proposed in the garage other than a small round high level window in the front elevation and acceptable levels of privacy would be maintained.
7. Any noise arising from the use of the garage would be mitigated by the intervening outbuilding and I see no reason to assume that this would be any different to the use of any domestic garage in a residential area. However, given the size of the garage block, the condition suggested by the Council restricting its use for domestic purposes only in connection with the existing dwelling would be necessary and would seek to safeguard the living conditions of the neighbours in terms of noise if the proposal were acceptable in other respects.
8. I conclude then that the proposal would not cause undue harm to the living conditions of the neighbouring occupiers at Castle Hill Barns. Other dwellings at Castleholm Stables are sited further away from the proposed building and it would have no significantly harmful effect on the living conditions of those occupiers. It would accord with the Council's policies CS6 in its Adopted Core Strategy 2011(CS) and MD2 in the SAMDEV Plan which are broadly compatible with the National Planning Policy Framework (the Framework) in seeking to ensure that proposals safeguard residential amenity and respond appropriately to the layout of existing development.

Conservation Area and trees

9. The appeal site lies within the Harley Conservation Area. I have noted that the Council's Conservation Officer raised no objection to the proposal albeit prior to the submission of the amended ground levels. The Council has not raised any objection in terms of the effect on the trees and the Conservation Area. The matter has, however, been raised by a third party and I must take into account the duty imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special attention shall be

paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 132 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through development within its setting and that any harm should require clear and convincing justification. CS policies CS6 and CS17 and policies MD13 and MD2 in the SAMDEV Plan are broadly compatible with the Framework in seeking to ensure that proposals protect the historic environment.

10. The significance of the Harley Conservation Area derives from its loose knit pattern of development, which is typical of a historic rural village with buildings scattered along winding, narrow lanes leading from the central Church of St Mary. There is a variety of ages and styles of buildings including C19th farmhouses and workers cottages, timber framed cottages, modern C20th dwellings and barn conversions. Castle Hill House, an undesignated heritage asset, is an attractive and imposing, large double fronted, two storey detached house, probably a former estate or land owner's dwelling, set back from a narrow leafy lane on the edge of the village.
11. The plans show that the proposed siting of the building falls within the root protection areas (RPA) of two very tall, mature trees. These appear to be a Scots Pine and a sycamore which, together with other large trees within the grounds, make an important contribution to both the setting of Castle Hill House and to the character and appearance of the Conservation Area, being clearly seen from the lane.
12. Whilst no objection has been raised by the Council in these terms it has asked that an arboricultural method statement is considered as part of the appeal. I have had regard to the advice in BS 5837:2012 '*Trees in relation to design, demolition and construction: Recommendations*' which advises in paragraph 7.1.3 that '*where alternative design solutions are not available such that construction is proposed within the RPA, the potential impact of the proposals on the tree should be assessed and a tree protection plan and arboricultural method statement produced.*' It goes on to say that '*in order to demonstrate that the proposals are technically feasible such details should be included within planning applications*'. A condition requiring an arboricultural method statement would not, therefore, be appropriate. Whilst it is unfortunate that this matter was not considered at an earlier stage and it may be that special engineering solutions such as piling could minimise root damage in the area, I cannot, at this stage and without further information, be certain that this would be the case. If severance of the roots were to lead to the loss of the trees, this would have a significantly harmful impact on the character and appearance of the Conservation Area and the setting of Castle Hill House.
13. Although the harm I have identified would be less than substantial in terms of the significance of the Conservation Area, it gives rise to a statutory presumption against permission and I must give it considerable importance and weight. I must now weigh this harm against the public benefits of the proposal as required by paragraphs 132 and 134 of the Framework.
14. I have noted that the appellant has attempted to locate the building as discreetly as possible and followed the Council's pre-application advice in terms of the proposed siting. I have also had regard to the fact that the Conservation Officer's comments were favourable and I agree that the appearance of the

building has been sensitively designed. However, this does not provide the clear and convincing justification necessary to outweigh the harm that would be caused to the trees and in turn the Conservation Area in terms of its siting.

15. For these reasons I must conclude that in regard to this matter the proposal does not accord with the Council's policies referred to above or the Framework and would cause significant harm to the character and appearance of the Harley Conservation Area in terms of the effect on trees.

Conclusion

16. Notwithstanding my findings that the proposal would be acceptable in terms of the effect on the living conditions of neighbouring occupiers, my findings regarding the impact on trees and the Conservation Area are significant and overriding. As such it would not accord with the environmental dimension of sustainability required in the Framework and would not constitute sustainable development. It would, therefore, be contrary to the Council's development plan and to national policy in the Framework as a whole. I have taken into account all other matters raised but none is sufficient to alter the outcome of my findings. The appeal should be dismissed.

Sarah Colebourne

Inspector