

Appeal Decision

Site visit made on 24 January 2017

by **R C Kirby BA(Hons) DipTP MRTPI**

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

Decision date: 31 March 2017

Appeal Ref: APP/L3245/W/16/3160708

Long Meadow Drive, Abbey Foregate, Shrewsbury, Shropshire SY2 6NA

- 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 and Mrs C Goode against the decision of Shropshire Council.
 - The application Ref 15/04653/FUL, dated 16 October 2015, was refused by notice dated 12 April 2016.
 - The development proposed is the erection of 3 dwellings and garages.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs C Goode against Shropshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the planning application, the proposal was amended from 4 dwellings to 3. It is on this basis that the Council determined the planning application and I have considered the appeal proposal accordingly.
4. The appellants have requested that I consider revised drawings which were not considered by the Council when it determined the planning application. These drawings show the scheme in relation to retained trees and vegetation which were not indicated in the drawing that the Council determined, and a drawing showing the accurate siting of the existing swimming pool. A Heritage Impact Assessment (HIA), a Landscape and Visual Appraisal (LVA) and revised Arboricultural Assessment were also submitted with the appeal, which the Council did not consider when it determined the planning application.
5. I have considered the revised drawings and reports under the principles established by the Courts in *Wheatcroft*¹. I am satisfied that they do not change the development to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application, the revised drawings and submitted reports.
6. The Council's decision notice made reference to Policy CS16 of the Shropshire Local Development Framework: Adopted Core Strategy (CS). The Council has

¹ *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

however indicated that this this policy was included in error. Accordingly, CS Policy CS16 has not formed part of my consideration of this appeal.

Main Issue

7. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Shrewsbury Conservation Area, having particular regard to the siting of the new dwellings and the design of the new access.

Reasons

8. The proposal is to construct 3 detached dwellings to the rear of Millrace Cottage on part of its rear garden. The appeal site is at a lower level than the retained garden to this property and slopes away steeply from it, down to the Rea Brook Valley Local Nature Reserve. The dwellings would provide accommodation on 3 floors and plot 1 would also provide accommodation within the roof space. The existing access to the side of Millrace Cottage would be widened and extended to provide access to the new dwellings.
9. The appeal site is located within an established, attractive residential area, characterised by individually designed dwellings of various ages, laid out in a loose form. Mature landscaping is a feature of the area, particularly to the rear of the built form of this part of the town, leading down to the nature reserve. The special character of the area has been recognised and the appeal site and its environs are designated as a conservation area. The conservation area is the Shrewsbury Conservation Area. The conservation area has a number of character areas, including the Abbey Foregate Special Character Area, within which the appeal site is located.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 131 of the National Planning Framework (the Framework) sets out matters which should be taken into account when determining planning applications, including sustaining and enhancing the significance of heritage assets (which includes conservation areas) and the desirability of new development making a positive contribution to local character and distinctiveness.
11. Amongst other matters, Policy CS6 of the CS requires development to protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design, taking into account the local context and character. Policy MD2 of the Site Allocations and Management of Development Plan (SAMDev) has a similar purpose and requires development to contribute to and respect locally distinctive or valued character and existing amenity value by, amongst other things, protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting.
12. CS Policy CS17 requires development to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Policy MD13 sets out a number of criteria which will be sought to protect, conserve, enhance and restore heritage assets including ensuring that proposals avoid harm or loss of significance to designated or non-designated heritage assets.

13. The Abbey Foregate Special Character Area, includes Abbey Foregate from which Longmeadow Drive leads off, and the nature reserve to the rear of the site. The nature reserve forms part of a long green corridor along the Rea Brook from the River Severn, and makes a significant contribution to the setting of this historic town.
14. Within the vicinity of the appeal site, development is largely concentrated on the higher ground above the nature reserve, and set back from its boundary. Given the extensive mature landscaping in the area, such development is largely screened from the nature reserve. The exception to this is a building to the rear of The Lord Hill hotel which is located adjacent the nature reserve and prominent in view from it, close to Bage Way.
15. Although not specifically referred to within the Special Character Area Assessment for Abbey Foregate, I consider that the mature landscaping within the gardens of properties accessed off Abbey Foregate makes an important contribution to the character and appearance of this part of the conservation area and the landscaped setting of the town.
16. The appeal proposal would introduce new dwellings into part of this landscaped area. A number of trees and shrubs upon the site would need to be removed to accommodate the new dwellings, however the appellants have indicated that the trees along the boundary of the site would be largely retained, as well as a number of mature trees within the proposed garden of plots 1 and 2.
17. The appellants' LVA assessed the potential visual impact of the proposed scheme and found that the new dwellings would be unlikely to be visible, apart from their roofs, from the Rea Valley, as a result of the screening that would be afforded by the mature landscaping within and surrounding the site. This concurs with the observations that I made on my site visit in the winter.
18. However, the new dwellings would be sited beyond the existing built form of this part of the conservation area. I share the Council's concern that the physical presence of the new dwellings, particularly plots 1 and 2 which would be built into the slope, close to the nature reserve, would not reflect the established character of the area. The new dwellings would intrude into an area that is not characterised by built development. They would result in an alien form of development in this area, at odds with the prevailing character. The character or appearance of the conservation area would not be preserved or enhanced in this regard.
19. Whilst the proposal would not be prominent in public views, glimpses of the scheme would be seen from neighbouring gardens, as recognised in the appellants' LVA. The siting of the dwellings would stand out as a discordant element which would detract from the special qualities of the area. Furthermore, there is no guarantee that the dwellings would be screened in perpetuity. Trees may die, become diseased or may fall down. The intended future occupants may wish to undertake work to the trees to allow more light to the rear of their properties and gardens. As a consequence the new dwellings would be more obvious from the nature reserve which would compound the harm that I have identified.

20. The Council is concerned about the impact of the new driveway on the character and appearance of the area. The submitted Arboricultural Assessment has set out a number of measures to protect trees upon the site and upon adjoining land, and I note that the Council's tree officer made no objections to the proposal in this regard. On the basis of the evidence before me, I consider that the construction of the access would not result in harm to important trees within the vicinity of the site.
21. The increase in width of the access to the side of Millrace Cottage and its neighbour would not be significant and whilst the length of driveway would increase, this would not in itself be harmful to the character or appearance of the conservation area. The fence that the Council refers to is in situ and forms the side boundary to the host property. It does not appear to form part of the appeal proposal and it does not therefore form part of my considerations.
22. Notwithstanding my findings in respect of the proposed access, I find that the siting of the dwellings, particularly on plots 1 and 2 would result in a form of development that would not respect the local context. I do not concur with the appellants' HIA that the proposal would have a neutral impact on the character and appearance of the conservation area. The proposal would neither preserve nor enhance the character or appearance of the area. Whilst this harm would be less than substantial, it needs to be weighed against the public benefits of the proposal, as required by paragraph 133 of the Framework.
23. The provision of 3 new energy efficient, family sized dwellings would make a contribution, albeit small, to the supply of new homes in the area, in a sustainable location, close to the services and facilities within the town. New jobs would be likely to be created during the construction phase and the intended future occupiers of the new homes would be likely to support local services. Such matters amount to public benefits in support of the proposal. However, I consider that given the number of dwellings proposed, such benefits would be limited and would not outweigh the harm that would be caused to the character and appearance of the conservation area.
24. My attention has been drawn to a dwelling that has been constructed at No 129a. I observed that this property does not extend beyond the existing built form of the host property, or nearby development. Its siting therefore reflects the character and appearance of the area. It is not directly comparable to the appeal scheme.
25. I have also been referred to other areas of the town including Mill Meadow, Mill Lane and The Cedars which are visible from the Rea Valley. The properties in Mill Meadow are located on the opposite side of Haycock Way; Mill Road is located on the opposite side of Bage Way, as is The Cedars. Each of these examples is located some distance from the appeal site; they are not viewed in the same context. The presence of such development is not directly comparable to that before me, and I attach limited weight to the examples quoted in my overall Decision. Each planning application and appeal must be determined on its individual merits and this is the approach that I have taken in my consideration of the appeal proposal.
26. For the above reasons, I conclude that the proposal would not preserve or enhance the character or appearance of the Shrewsbury Conservation Area. The proposal would result in conflict with CS Policies CS6 and CS17, SAMDev Policies

MD2 and MD13, the statutory test and the Framework. This harm is not outweighed by the public benefits of the proposal.

Other Matters

27. The appellants submit that following the refusal of the planning application they have had positive pre-application discussions with the Council in respect of new dwellings within the grounds of Millrace Cottage. Whilst noting this, it appears that the scheme that the Council considered was for 2 dwellings. The scheme before me is for 3 dwellings and for the reasons given I find that harm would be caused. The proposal for 2 dwellings on the site would in the first instance be the subject of a planning application to the Council. This matter is not before me.
28. Adjoining the appeal site is a grade II listed former barn which has been converted into residential use (Long Meadow Pear Tree Cottage). Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. The Council has not raised concern about the effect of the proposal on the setting of the listed building. Having regard to the characteristics of the area and the relationship of the appeal proposal to the listed building, I have no reason to reach a different view to the Council in this regard. The significance of this heritage asset would not be affected by the proposal.
29. I have considered the Council's and interested party's argument that the grant of planning permission would set a precedent for other similar developments. However, no directly similar or comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
30. The appellants assert that the proposal would comprise sustainable development. Whilst the principle of residential development is acceptable in this location, this is on the basis that harm is not caused to amongst other things, the character and appearance of the area or the significance of heritage assets. For the reasons given, I have found that harm would result which would be in conflict with local and national planning policies. I therefore find that the scheme would not comprise sustainable development for which the Framework indicates there is a presumption in favour.

Conclusion

31. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR