



## Appeal Decision

Site visit made on 4 April 2014

**by G Powys Jones MSc FRTPI**

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

**Decision date: 17 April 2014**

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**Appeal Ref: APP/L3245/D/14/2214826**

**Oaklea, 96 Damson Lane, Weston Heath, Shifnal, Shropshire, TF11 8RU**

- 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 R Pemberton against the decision of Shropshire Council.
  - The application Ref 13/04207/FUL, dated 16 October 2013, was refused by notice dated 13 December 2013.
  - The development proposed is a garage and store with ancillary accommodation above.
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### Decision

1. The appeal is allowed and planning permission is granted for a garage and store with ancillary accommodation above at Oaklea, 96 Damson Lane, Weston Heath, Shifnal, Shropshire, TF11 8RU in accordance with the terms of the application Ref 13/04207/FUL, dated 16 October 2013, subject to the conditions set out in the attached Schedule.

### Main issue

2. The main issue is the effect of the proposal on the character and appearance of the surrounding countryside.

### Reasons

3. The appeal property lies in open countryside characterised by sporadic development where local and national policies are generally inimical to new development, other than in defined circumstances.
4. However, the Council granted planning permission on 13 September 2013 for '*The erection of a detached garage and store with ancillary accommodation above*'. The two-storey building was to be sited roughly midway along the relatively long curtilage of the appeal property. The extant planning permission is a weighty material consideration in the determination of this appeal.
5. I am given to understand that the plans of the building before me are identical to those granted planning permission last year, siting excepted. The appellant ostensibly proposes re-siting the building almost at the end of the garden on part of a lawn currently occupied by children's play equipment and other garden furniture.
6. The Council asserts that the proposed building does not demonstrate an appropriate level of subservience to the main dwelling for its intended use due to the increased separation distance between them resulting in a disassociated

- relationship, and would result in it being more prominent within the surrounding countryside as an isolated and disassociated building.
7. Neither of the two main parties has provided a full explanation as to the '*intended use*' of the residential accommodation. However, I have been made aware that a condition in the following terms was imposed on the previous planning permission:  
  
*'The development hereby permitted shall only be used as an integral part and incidental to the enjoyment of the existing dwelling and shall not at any time be sold, let or occupied as a separate unit of residential accommodation.'*
  8. However, the appellant in his grounds of appeal says that "*for the avoidance of doubt the living accommodation in the first floor annex is self contained, is not reliant on facilities in the main house and has been accepted as such.*"
  9. The appellant's point is understandable since the floor plans of the approved residential accommodation include space for a bedroom, bathroom including shower, a lounge/diner and a sizeable kitchen area. Taken together, the space and the facilities on the first floor appear capable of providing an independent residential unit, but notwithstanding the appellant's point, the permission is regulated by a condition as to the required incidental nature of its proposed use.
  10. The residential accommodation and the proposed garaging, used for their designed purposes, would entail a slightly longer walk from the main house than would be the case with the approved scheme, insufficient to make a material difference.
  11. In these circumstances, I find that the Council's linkage between subservience and intended use has not been adequately explained or justified.
  12. As to the effect on the surrounding countryside, I note that the approved building was sited close to the main vehicular entrance to the house from Damson Lane, from where it would be exposed to view from the highway.
  13. A tall, luxuriant hedge would substantially screen much of the building on the site currently proposed, making it less conspicuous than the approved scheme. Judged purely in terms of its impact on the surrounding area, the current scheme, on balance, has less of a visual impact than that already approved.
  14. I conclude that the revised siting of the building originally approved by the Council on 13 September 2013 under Ref 13/02843/FUL would have less of a visual impact and therefore no greater effect on the character and appearance of the countryside than the approved scheme. Accordingly, no conflict arises with those provisions of policy CS6 of Shropshire Council's Adopted Core Strategy designed to protect the natural and built environment.

### **Clarification**

15. The officer report on the original application says that it was treated as '*...an amendment to planning permission ref: 13/02843/FUL granted on 13<sup>th</sup> September 2013.*' But the description of the proposed development in both the application form and decision notice make no reference to '*an amendment*' but indicate clearly that permission is sought for a '*garage and store with ancillary accommodation above*'.

16. Accordingly, if this appeal were allowed in the terms described by the appellant in the application, a second, fresh permission would come into existence, and two schemes would be physically and lawfully capable of being built unless a relevant mechanism was in place to clarify matters.
17. In this light the parties were contacted following my visit and the appellant has since confirmed that what was sought was a re-siting of the previously approved scheme. In these circumstances, I am satisfied that the imposition of an appropriate condition would obviate any doubt as to the precise nature of the permission granted as a result of this appeal.

### **Conditions**

18. The Council suggests, in effect, the imposition of the same conditions as those imposed on the previous permission. I shall do so, with minor variations, for the same reasons as provided by the Council. An additional condition is imposed for the avoidance of doubt as to the nature of the permission hereby granted.

### **Other matters**

19. The Parish Council has no objection to the proposal but a local resident has raised doubt as to the appellant's intentions. Any proposal to change the nature of the approved scheme would need a fresh planning application, the merits of which would be considered at that time, should one be pursued.
20. The new national *Planning Practice Guidance* has been published recently, but having regard to the facts in this case and the main issues identified at the outset, it has no material bearing on my conclusions.
21. All other representations have been taken into account but none are of such strength or significance as to outweigh the considerations that led me to my conclusions.

*G Powys Jones*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall consist of those described in the original planning application form.
3. The development hereby permitted shall only be used as an integral part and incidental to the enjoyment of the existing dwelling at Oaklea, 96 Damson Lane, Weston Heath, Shifnal and shall not at any time be sold, let or occupied as a separate unit of residential accommodation.
4. The garage and store at ground floor level hereby approved shall not be used for any purpose other than those incidental to the enjoyment of Oaklea, 96 Damson Lane, Weston Heath, Shifnal and for the

accommodation of private cars only, and not for the accommodation of commercial vehicles, for business use or for living accommodation.

5. The permission subject of this decision relates solely to the re-siting of the development previously permitted under the terms of planning permission Ref 13/02843/FUL granted by the Council on 12 September 2013.
6. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 1949/1a & 1949/2.