



Appeal Decision

Site visit made on 20 April 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2021

Appeal Ref: APP/L3245/W/20/3265872

Fairfield, Burgs Lane, Bayston Hill, Shrewsbury, SY3 0EF

- 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 Mrs Emma Dalton against the decision of Shropshire Council.
 - The application Ref 19/03560/FUL, dated 8 August 2019, was refused by notice dated 1 October 2020.
 - The development proposed is erection of 1 No dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development given above is taken from the Council's Decision Notice rather than the planning application form, as this provides a more concise description of the proposal.

Main Issues

3. The main issues are:
 - (a) Whether Fairfield should be regarded as a non-designated heritage asset, and if so, the effect of the development on its significance;
 - (b) The effect of the development on the character and appearance of the area;
 - (c) The effect of the development on the living conditions of neighbouring and future occupiers of the development with regard to outlook and privacy;
 - (d) The effect of the development on protected trees within the site; and
 - (e) Whether the development would result in a harmful over provision of housing relative to the settlement housing guideline for Bayston Hill.

Reasons

Non-designated heritage asset

4. Paragraph 197 of the National Planning Policy Framework ('the Framework') states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining applications. It further states that in weighing applications that affect non-designated heritage

assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

5. Fairfield is an attractive historic property, finished in render and clad with tiles above ground floor level. It includes a decorative porch, prominent chimneys, bay windows and other period detailing, and is flanked by a smaller traditional outbuilding. It occupies a prominent corner position and is set within a spacious plot overlooking open land to the south. Little information has been submitted regarding its age or history. However, its attractive traditional appearance has clear aesthetic and historical value, and I consider that it constitutes a non-designated heritage asset.
6. The development would introduce a new 2 storey dwelling to the rear of Fairfield, set at an angle to the host property. Its position, orientation, and modern design would result in an awkward visual relationship to Fairfield, and it would appear cramped and shoehorned into the site. In both near views and longer views from the south, it would contrast sharply with Fairfield and would detract from its pleasant contribution to the locality. It would also significantly erode the traditional spacious gardens that surround it.
7. For the above reasons, I conclude that the development would harm the significance of a non-designated heritage asset. It would therefore be contrary to the relevant sections of Policy CS6 of the Shropshire Core Strategy (2011) and Policy MD2 of the Shropshire Site Allocations and Management of Development ('SAMDev') Plan (2015). These policies seek to conserve the built and historic environment. It would also be at odds with the Framework in this regard.

Character and appearance

8. As set out above, the development would have an awkward visual relationship with the host property. Its position and orientation within the site would also result in a visually cramped and discordant appearance in a prominent position in the locality. The development would therefore significantly harm the character and appearance of the area and would be contrary to the relevant sections of Policy CS6 of the Shropshire Core Strategy (2011) and Policy MD2 of the Shropshire SAMDev Plan (2015) in this regard. These policies seek to ensure that new development is well designed and responds appropriately to the form and layout of the area. It would also be at odds with paragraph 130 of the Framework which states that permission should be refused for development of poor design.

Living conditions

9. At present, the western part of the garden to Fairfield is directly overlooked by a side bedroom window in Orchard House at first floor level. This is positioned in close proximity to the boundary and has uninterrupted views over this part of the garden area. Whilst this is an existing situation, Fairfield is currently set within a spacious plot and much of its rear garden is private and secluded. In this regard, the eastern part of the garden appeared to be far more intensively used at the time of my site visit. In contrast, the first floor window in Orchard House would overlook the vast majority of the garden area to the proposed dwelling. This would result in poor levels of privacy for future occupiers of the development.

10. In addition, a proposed first floor bedroom window would be positioned almost directly opposite the first floor window in Orchard House. This would serve the largest of the proposed bedrooms, which would be likely to be more intensively used. The Council state that the separation distance between these windows would be around 18-19 metres, which would be at odds with the more generous spacing along this side of Hereford Road. In my view, this would harmfully reduce the privacy of Orchard House and would result in a significant degree of mutual overlooking.
11. The proposed dwelling would be positioned close to the rear of Fairfield and would be set at an angle to it. In this regard, an existing first floor bedroom window would face onto the new property at relatively close quarters. Whilst this window is set at a higher level, anyone stood close to it would have clear views into the front bedroom of the proposed dwelling. Given the narrow separation distance between these windows, this would result in poor levels of privacy for future occupiers. Moreover, the side elevation of Fairfield itself, which is a three storey property, would dominate the frontage of the new dwelling and would have a significant overbearing effect in my view.
12. For the above reasons, I conclude that the development would significantly harm the living conditions of both neighbouring and future occupiers of the development with regard to privacy and outlook. It would therefore be contrary to the relevant sections of Policy CS6 of the Shropshire Core Strategy (2011), which seeks to safeguard residential and local amenity.

Protected trees

13. Two mature Atlantic Cedar trees (Refs T1 and T2) are positioned along the western boundary of the appeal site, both of which are subject to a Tree Preservation Order. These are attractive characterful trees that are prominent in longer views along Hereford Road, and positively contribute to the pleasant verdant character of the area.
14. A Tree Survey and Report¹ has been prepared in support of the development. This identifies the 2 protected Atlantic Cedar trees, and a Lawson Cypress tree (Ref T3) towards the north-western corner of the site, as being in Category A (high quality) and recommends that they be retained. Trees T2 and T3 are positioned away from the proposed development and are unlikely to be impacted by it. However, tree T1 is in close proximity to the proposed parking area. Given the level changes within the site, it is likely that significant excavations and/or grounds works would be required to construct this element of the scheme.
15. Tree T1 is positioned on raised ground at the corner of Burgs Lane and Hereford Road, on land above the height of both of these roads. In this regard, the submitted Tree Report states that Root Protection Areas ('RPAs') are "*generally depicted as a circle, but may be shown as a different shape, e.g. a rectangle or ellipse, if the indications are that the tree root disposition may have been impacted by external factors, such as buildings, roads or street work excavations etc*" (para 1.2). In this case, given the raised height of the land on which the tree sits, and the position of existing roads, the RPA to tree T1 is unlikely to follow a symmetrical distribution. However, the Tree Report shows its RPA as a standard circle, the majority of which extends out across the

¹ The Woodland Stewardship Company (28 April 2020)

adjoining roads that are set at a lower level. In my view, that is inappropriate in this case. Accordingly, it is likely that the proposed parking area would require a significant incursion into the RPA of tree T1, which could undermine its longer-term existence and visual contribution to the area.

16. Separately, the protected trees are set away from the main habitable room windows to the proposed dwelling. They are also located along the edge of the proposed garden area and their presence would not prevent the establishment of a traditional garden and lawn. Accordingly, these trees would not result in any significant loss of amenity to future occupiers that would be likely to lead to pressure for their removal. However, that does not alter my other concerns in relation to tree T1, as set out above.
17. For the above reasons, I conclude that the development would be likely to undermine the longer term existence and visual contribution of a protected tree within the site. It would therefore be contrary to the relevant sections of Policies CS6 and CS17 of the Shropshire Core Strategy (2011), and Policy MD12 of the SAMDev Plan (2015). These policies seek to ensure, amongst other things, that new development avoids harm to natural assets, and protects and enhances the natural environment.

Settlement housing guideline

18. Bayston Hill is a large village with a range of services and facilities including a convenience store, a primary school, and public transport connections. It is identified as a Community Hub under Policy S16.2 of the Shropshire Core Strategy (2011), which sets a housing guideline for the village of around 50-60 additional dwellings over the plan period to 2026.
19. The Council state that the development would contribute to a 30% oversupply against the housing guideline for Bayston Hill, taking into account recent completions and extant planning permissions. However, Policy S16.2 does not identify this figure as a cap to be applied once the guideline is reached, particularly in an accessible location such as this. Moreover, the provision of a single dwelling would also have only a minor additional impact in this regard.
20. For the above reasons, I conclude that the development would not result in a harmful over provision of housing relative to the settlement housing guideline. It would therefore accord with Policies S16 and S16.2 of the Shropshire Core Strategy (2011).

Other Matters

21. The Council has a duty under the Self Build and Custom Housing Act 2015² to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to grant enough permissions to meet this demand. However, the extent to which the Council is meeting demand for this type of housing is disputed. Moreover, it is asserted that the development plan is out of date as it does not refer specifically to the provision of self-build or custom-build housing. I return to these matters in my Overall Balance and Conclusion, below.
22. It is asserted that the development comprises an intermediate affordable dwelling. However, from the information before me, the proposal does not

² As amended by the Housing and Planning Act 2016.

appear to meet the definition of affordable housing set out at Annex 2 of the Framework. I therefore attach little weight to this contention.

23. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

Overall Balance and Conclusion

24. As set out above, I conclude that the development would harm the significance of a non-designated heritage asset, the character and appearance of the area, the living conditions of both neighbouring and future occupiers of the development, and the longer term existence and visual contribution of a protected tree. It would be contrary to the development plan in these respects.
25. Set against this, the development would provide a new self-build dwelling, in a relatively accessible location, and built to modern environmental standards with solar panels mounted on the roof. It would also generate some economic benefits through the creation of employment and the purchasing of materials and furnishings.
26. In these circumstances, even if the 'tilted balance' at paragraph 11 of the Framework were engaged, and the shortfall in self-build housing were as significant as is alleged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in my view. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
27. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR