



# Appeal Decision

Site visit made on 1 March 2022

**by Helen Smith BSc (Hons) MSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday 23 March 2022**

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**Appeal Ref: APP/L3245/W/21/3285091**

**Wingthorpe, Mount Drive, Oswestry SY11 1BQ**

- 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 Colin and Jenny Boswell against the decision of Shropshire Council.
  - The application Ref 20/04216/FUL, dated 13 October 2020, was refused by notice dated 19 April 2021.
  - The development proposed is described as 'the erection of 1No detached bungalow following the demolition of existing outbuilding adjacent to Wingthorpe, Mount Drive, Oswestry, Shropshire, SY11 1BQ.'
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## Decision

1. The appeal is dismissed.

## Applications for Costs

2. An application for costs has been made by Colin and Jenny Boswell against Shropshire Council. This application is the subject of a separate decision.

## Main Issues

3. The main issues are the effects of the proposal on the living conditions of the occupiers of Hafod Wynne, with regard to outlook and privacy; and the effects of the proposal on the character and appearance of the area, with specific regard to the setting of the Pant Glas and Brogyntyn and Oswestry Conservation Areas.

## Reasons

### *Living Conditions*

4. The appeal site is located on a parcel of land within the curtilage of a large dwelling known as Wingthorpe. It is situated in Mount Drive, which is an area characterised by large dwellings set within extensive plots. The dwelling known as Hafod Wynne is located to the east of the site.
5. Hafod Wynne occupies a site several metres below that of the appeal site. Its garden extends around its west elevation and hosts garden furniture, areas of planting, and greenhouses. The west elevation of Hafod Wynne also has several habitable rooms at ground and first floor level that face out towards the appeal site.
6. Due to the sloping nature of the appeal site, the proposal would require groundworks which would result in the development being elevated at the

- southern end. This, combined with the proposals close proximity to the neighbour's boundary, would result in the proposal having a dominant and overbearing impact on the occupants of Hafod Wynne.
7. There is a large hedge on the boundary that separates the two plots. However, it was evident at the time of my site visit that the hedge had been left to grow on the Wingthorpe side but had been maintained at a lower height on the Hafod Wynne side. Standing on the Hafod Wynne side, I could see that the height and thickness of the hedge varied in places. The hedge also drops in height from north to south as it follows the ground level changes.
  8. Although the hedge would offer some screening, due to the height of the proposal its structure and bulk would still be seen above the hedge from the neighbour's side at Hafod Wynne. The height of the proposal would be particularly evident above the hedge where the land slopes down from north to south and in places where the hedge has not grown so high.
  9. It is unlikely that the hedge would provide a solid screen throughout the year as inevitably it will vary in shape over time as it loses some of its foliage. If the existing hedge were to die off in places, be cut back, or be completely removed and replaced with an alternative boundary division (such as wooden fence panels of a lower height) then Hafod Wynne would be exposed to the proposed development. The hedge therefore cannot be relied upon to provide the solution to the issue of outlook.
  10. Consequently, due to the difference in ground levels, the proposal's height and depth would have an overbearing and harmful impact on the outlook for the occupiers of Hafod Wynne from both their garden and the habitable rooms fronting onto the proposed development.
  11. In terms of privacy, the proposed rooflight windows in the east elevation do have the potential to cause overlooking of Hafod Wynne. However, these could be conditioned to be obscure glazed. The two proposed windows on the ground floor and the porch entrance on the east elevation would be screened by the hedge at ground floor level. The proposed first floor round window on the southern elevation would overlook the rear garden at Hafod Wynne, but as it does not directly overlook the neighbour's patio area then the effects would be limited. Consequently, no harmful effects would arise from the proposal in terms of loss of privacy to the occupiers of Hafod Wynne.
  12. In contrast, the site level of Wingthorpe is slightly above that of the appeal site. The orientation and siting of the proposal in relation to Wingthorpe would not be unduly prominent in views from Wingthorpe and its garden space. The proposed side elevation facing Wingthorpe would include rooflights and a small kitchen window that could be obscure glazed. Consequently, no harmful effects would arise from the proposal in relation to outlook and privacy for the occupiers of Wingthorpe.
  13. That said, and for the reasons set out above, the proposal would still unacceptably harm the outlook for occupiers of Hafod Wynne. Consequently, it would not accord with Policy CS6 of Shropshire Council's Core Strategy (CS) (2011), and Policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan (2015), which seek to ensure new development respects the living conditions of current and future occupiers.

14. The proposal would also fail to accord with the National Planning Policy Framework (Para 130), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

#### *Character and Appearance*

15. The significance of the Pant Glas and Brogyntyn Conservation Area lies, in part, in its extensive views of agricultural landscape, which accentuates its rural character. The appeal site is also located outside but near to the Oswestry Conservation Area which is characterised by a mix of Victorian and Edwardian properties. Wingthorpe and Hafod Wynne are recognised as non-designated heritage assets. They are late Victorian villas constructed in buff brick with plain clay tiles, characterised by gables with overhanging eaves set within spacious plots.
16. The proposal would be of a traditional design which would follow the architectural style of Wingthorpe by incorporating some of its design features and use of materials. It would be set back from the main dwelling. Although the depth of the proposal would extend beyond the building line of Wingthorpe to the rear, it would be consistent with the rear building line of Hafod Wynne. There would be a variation in terms of the proposal's height and roof form compared to the main dwelling, but this, combined with its set back, means the proposal would appear subservient to the main dwelling of Wingthorpe.
17. The proposal would subdivide the garden area of Wingthorpe. However, due to the spacious grounds and sufficient space to the side of the main dwelling, the proposal would not appear unduly cramped in the context of the wider street-scene. As the proposal would be accessed off a private drive, and given the mature planting on the surrounding boundaries, public views of the proposal would be limited from the street-scene.
18. Although the proposal would result in the demolition of an outbuilding, as the outbuilding is contemporary in design its loss would be neutral. The garage unit to the north of the site that has historical significance would be retained.
19. With the above in mind, the appeal scheme would not be harmful to the character or appearance of the area. In addition, due in part to the limited visual influence of the proposed development, its scale, siting and design, the proposed development would not be harmful to the setting of either conservation areas or the significance of the two dwellings as non-designated heritage assets. The proposal would therefore accord with Policies CS6 and CS17 of the CS (2011), which seeks to protect, restore, conserve, and enhance the built and historic environment. The proposal would also accord with Policies MD2 and MD13 of the SAMDev (2015), which seeks to protect, conserve and enhance the historic context and character of heritage assets.

#### **Other Matters**

20. The bungalow would be self-build constructed and lived in by the owners. However, this is a small benefit and there is no suitably robust mechanism before me to ensure that the scheme would be self-build. These matters would not therefore outweigh the harm identified to the living conditions of the neighbouring occupants and the subsequent conflict with the development plan; to which I attach substantial weight.

21. Objection has been raised to the proposal in the respect of the effect it would have on the setting of the Grade II listed buildings at 1-5 Porkington Terrace, 13 Oak Street, and the White Lion Inn. This was not a contentious matter for the Council and taking into account my observations on site, the proposed development would have a neutral effect on the significance of the listed buildings, given its location, scale and design. It would therefore preserve their setting. This is a neutral effect and would not weigh in favour of the proposal.

### **Conclusion**

22. The lack of harm I have found in regard to the character and appearance of the area, including heritage assets, would be neutral and thus incapable of weighing against the harm and conflict with the development plan I have found in regard to the living conditions of neighbours. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

*Helen Smith*

INSPECTOR