



Appeal Decision

Site visit made on 24 May 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/L3245/W/22/3310846

Old Meadow Cottage, from B5063 Junction Horton Hall to B5063 Junction Wolverley Bridge, Newtown, Wem, Shropshire SY4 5NU

- 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 Dominic Maby against the decision of Shropshire Council.
 - The application Ref 22/03082/FUL, dated 1 July 2022, was refused by notice dated 9 September 2022.
 - The development proposed is erection of an ancillary domestic outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an ancillary domestic outbuilding at Old Meadow Cottage, Newton, Wem, Shropshire SY4 5NU in accordance with the terms of the application, Ref 22/03082/FUL, dated 1 July 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan (drawing no. 01)
 - Proposed Site Plan (drawing no. 02)
 - Proposed Floor Plan (drawing no. 03)
 - Proposed Elevations Plan (drawing no. 04)
 - 3) No above ground development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) The development hereby permitted shall only be used for purposes in connection with Old Meadow Cottage, Newtown, Wem, SY4 5NU and used as an ancillary domestic outbuilding to the dwelling concerned. At no time shall it be let out to anyone that is not associated to the occupation of Old Meadow Cottage, Newtown, Wem, SY4 5NU, sold as an independent dwelling or used as a business premises.

Preliminary Matters

2. The address in the banner above is taken from the Application Form. However, I have amended the site address within the Decision to reflect the appeal site's location more accurately.
3. A proposed site plan was submitted with the planning appeal which showed the proposed building directly behind Old Meadow Cottage and was not part of the plans before the Council when it was determining the planning application. It was subsequently clarified with both parties that the correct plan shows the proposed building sited directly behind 1 and 2 Brookside (Nos. 1 and 2). Both plans have the same titles and references.
4. My decision is based upon the plan that was before the Council during the determination of the application, showing the proposed building behind Nos. 1 and 2. For clarity, the Proposed Site Plan (drawing no. 02) referred to in Condition 2 is the plan which shows the proposed building behind Nos. 1 and 2.

Main Issues

5. The main issues of this appeal are
 - the effect of the proposed development on the character and appearance of the area;
 - whether the appeal site is an appropriate location for the proposed development, having regard to the development plan; and,
 - the effect of the proposed development on the living conditions of residents of 1 and 2 Brookside, having regard to outlook, noise and disturbance.

Reasons

Character and appearance

6. Old Meadow Cottage is a detached property set within spacious grounds that is sited in the middle of a group of properties. The grounds associated with the property are much larger than most of the neighbouring properties, with the area at the rear including two outbuildings. The outbuildings consist of a double garage, with a pitched roof, and the other is a store which contains garden and play equipment. A driveway adjoins the side of the property and runs from the front to the rear, in front of the garage. The remaining area is lawn with a small area of hardstanding immediately to the rear of the property.
7. The rear of the property is enclosed by a tall, dense vegetation along its boundaries with 1 and 2 Brookside (Nos. 1 and 2), shorter vegetation to the rear where the site opens to fields, and a large wall along its boundary with Springfields. These boundary treatments combine to create a private atmosphere in the rear garden. During my site visit I observed that there are a number of domestic outbuildings in neighbouring properties. However, those buildings are single storey and are largely screened by the boundary treatments of the properties.
8. The proposed development would replace the smaller of the two outbuildings, which is used as a store, and would be located to the rear of Nos. 1 and 2 and timber clad with a metal or felt sheeting roof. These materials would provide a domestic appearance and would be in keeping when viewed alongside Old Meadow Cottage.

9. Although the proposed building would appear to be relatively large, it would be sited within the private and spacious grounds associated with Old Meadow Cottage, which is much larger than neighbouring plots. It would also be shorter than the tall double garage. It would be more readily viewed alongside the double garage, would be of an appropriate contemporary design and would be in keeping with the domestic appearance of the area to the rear of Old Meadow Cottage.
10. I conclude that the proposed development would not harm the character and appearance of the area and would therefore comply with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (CS), March 2011 and Policy MD2 of the Shropshire Council, Site Allocations and Management Plan of Development (SAMDev) Plan, Adopted Plan, December 2015. These policies indicate that all developments should respect, restore, conserve, and enhance the natural, built, and historic environment, and for a development proposal to be considered acceptable it is required to contribute to and respect locally distinctive or valued character.

Appropriate Location

11. The appeal site, including the existing property and the land where the proposed outbuilding would be sited, are situated in the dispersed settlement of Newtown that is not identified as a hub or cluster settlement under Policy CS4 of the CS or Policy MD1 of SAMDev and is therefore considered to be within open countryside. Policy CS5 of the CS, amongst other things, seeks to control new development in accordance with national policies protecting the countryside. In that respect, I have already found that there is no harm to the character and appearance of the area and therefore, it follows that the proposal would not have an unacceptable impact on the intrinsic character and beauty of the countryside.
12. In the context of the above, the evidence accompanying the appeal has also sought to address the Council's concerns with respect to whether the land where the building is proposed to be located comprises garden or paddock land. In that respect, the appellants have identified that they have always used this area as a garden and have appended a Statement of Truth from the previous owners to their appeal statement which states that the land has been used as a garden since May 2004.
13. Further to the above, I observed that there is no demarcation between the land where the proposed outbuilding is to be sited and the land which the Council agrees is being used for residential purposes and, in fact, all the land is enclosed as one parcel. During my site visit, there was play equipment within the area, which also indicates that the land continues to be used as a garden area. From the evidence before me, all of the land is under the same ownership and as above it appears it is being used for residential purposes.
14. Planning permission ref. NS/99/10504/FUL was for "*erection of a dwelling house with detached garage and formation of vehicular access*", the approved plan shows a dwelling set within grounds with a detached garage and a driveway. As per *Barnett vs SSCLG & East Hampshire DC*¹, application plans are an essential part of any grant of planning permission, and it could not be

¹ *Barnett v Secretary of State for Communities and Local Government and Another* [2009] 1 P. & C.R. 24; [2009] J.P.L. 243

said that such a grant was to be interpreted without having regard to the plans that accompanied it. Whilst the plans were annotated with the word paddock, the area considered to be paddock was not identified on the plan. In line with the above caselaw, regard must be given to the plan when considering the grant of permission.

15. In that respect, I consider that the land within the red line of the plans associated with the previous planning permission has been identified as being used for residential purposes. It follows that I am satisfied, based on the evidence before me, that the proposed outbuilding would be sited on land that falls within the established garden area of Old Meadow Cottage. In reaching that view, I have taken into account that the Council contends that the proposed development is not within the curtilage of Old Meadow Cottage. However, my assessment is based on the appeal scheme before me and is not predicated on householder permitted development rights.
16. The proposed building would replace an existing outbuilding and would include an office/garden room, kitchenette, store, showers, and a gym. Taking into account the size of the host property as well as the garden itself, the use of an ancillary outbuilding as proposed is not an uncommon feature of domestic properties with gardens of this size. Although the Council have expressed concerns that the building has potential for business use, I am satisfied that based on the evidence before me, its use would be for purposes ancillary to the existing residential use. Furthermore, this matter can be satisfactorily addressed through an appropriately worded condition.
17. Having regard to all of the above, I conclude that the appeal site is therefore an appropriate location for the proposed development of a domestic outbuilding which would be ancillary to Old Meadow Cottage. It follows that I find that there would be no conflict with Policy CS5 of the CS in that respect, as factors concerning 'improving sustainability of the rural community by bringing local economic and community benefits' are not relevant to such a proposal.

Living conditions

18. The proposed development is sited some distance from the rear elevations of Nos. 1 and 2, therefore any effect of the proposed development, relating to noise and disturbance, would likely be experienced by neighbouring residents using their rear gardens. In that respect, it is reasonable that the building as proposed to be used as an office/garden room, kitchenette and gym with shower facilities would have the potential to increase the activity taking place within the garden area when compared with the use of the existing store which it would replace. However, given that the proposed development would be used for purposes ancillary to the existing residential use as secured by condition, I am satisfied that there would not be an increase in noise and disturbance beyond that reasonably expected from the domestic use of a dwelling and associated garden areas. It follows, that I find that the proposal would not result in an unacceptable increase in noise and disturbance and therefore, would not harm the living conditions of occupiers of neighbouring properties including enjoyment of the adjacent rear garden areas.
19. Views of the proposed development from Nos. 1 and 2 would be largely from the first floor rear windows, due to the tall, dense, evergreen hedge along the boundary with Old Meadow Cottage. The proposed development includes the replacement of an existing outbuilding, albeit with a larger building, and

therefore the outlook enjoyed by neighbouring residents would be similar to the existing outlook.

20. For the reasons given above, I conclude that the proposed development would not have a harmful effect on the living conditions of residents of Nos. 1 and 2, having regard to noise, disturbance and outlook. The proposed development would therefore comply with CS Policy CS6 which seeks to ensure that all development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity.

Other Matters

21. Whether Condition 08 attached to planning permission NS/99/10504/FUL is enforceable or not, is not considered within this appeal decision. The appeal decision concerns the planning application for the erection of an ancillary domestic outbuilding only. Likewise, I have assessed the appeal scheme on its own merits, the potential acceptability of alternative schemes does not weigh in favour or against the proposed development.

Conditions

22. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the guidance contained within the Planning Practice Guidance and paragraph 56 of the National Planning Policy Framework.
23. Conditions specifying a time limit to implement the permission and approved plans are necessary in the interest of certainty.
24. A condition requiring details of the materials of the external surfaces to be submitted to and approved by the local planning authority is necessary in order to ensure that the proposed development does not harm the character and appearance of the area.
25. A condition requiring the proposed development to be used for purposes ancillary to the residential use, and not sold as individual dwelling or let to someone not associated with Old Meadow Cottage is necessary to ensure that it is not used for alternative purposes which do not accord with the development plan.

Conclusion

26. The proposed development complies with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh this.
27. Therefore, for the reasons given above I conclude that the appeal is allowed, and planning permission is granted.

J Hobbs

INSPECTOR