
Appeal Decision

Site visit made on 11 November 2014

by Victoria Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 5 December 2014

Appeal Ref: APP/L3245/A/14/2224294

Spring Cottage, Lyth Hill, Lyth Bank, Shrewsbury, SY3 0BS

- 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 & Mrs J. Kwaterski against the decision of Shropshire Council.
 - The application Ref 13/03709/FUL, dated 12 September 2013, was refused by notice dated 1 July 2014.
 - The development proposed is new build six bedroom house following the demolition of an existing dwelling and garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development proposed on:
 - The character and appearance of the area; and
 - The living conditions of neighbouring occupants, with particular regard to outlook and privacy.

Reasons

Character and appearance

3. The appeal site is situated within Lyth Hill, which is a rural settlement approximately 6 miles from Shrewsbury. The site is accessed via an unclassified road and set within a small group of dwellings. There is an existing dwelling on the appeal site, Spring Cottage, which is a bungalow. There is also a detached garage situated towards the front of the appeal site.
4. The Cottage's external surfaces are rendered and painted white and there is some timber detailing around the eaves which adds some visual interest. Overall, its appearance is that of a modest cottage which is simple in form. Whilst there is some diversity in the streetscene in the surrounding area and some properties may have been extended, close to the appeal site the majority of dwellings are either bungalows or two storey dwellings with a simple cottage appearance.
5. Spring Cottage is set within a large plot with mature gardens and this gives the appeal site a spacious feel. Neighbouring dwellings are also set within relatively spacious grounds. The existing dwelling and the neighbouring

properties are situated in an elevated position and from the rear garden area of the property, there are commanding views of the surrounding countryside. This adds to the open and spacious feel of the area and enhances its rural setting. The character of the area is therefore defined by a small collection of simple, cottage style houses and bungalows set within spacious plots in a predominantly rural setting.

6. I understand that Spring Cottage itself has an association with the Shropshire author, Mary Webb, in that she built the property with her husband sometime after 1900 and wrote several pieces of work there. As such, many local residents and the Mary Webb Society value the cottage for its connections with her. Although an application was made to English Heritage to consider whether the property should be listed in recognition of this connection, they decided not to list the property at that time. This was because the cottage was extensively altered in the 1950s and as such only a small part of the original cottage can now be seen. Spring Cottage is therefore not statutorily listed and is not within a Conservation Area. Therefore, whilst I acknowledge the value which many people place on the historical and literary connections of the original dwelling to Mary Webb, based on the information before me, there is no specific policy or planning designation which would prevent the proposal to demolish Spring Cottage in principle. I also note that the appellant's would be willing to erect a plaque commemorating Mary Webb's connection with the site, were the appeal to succeed.
7. The appeal proposal would see the demolition of the existing cottage and garage at the appeal site and the construction of a new dwelling. The dwelling proposed would include a cinema in the basement. The proposed ground floor area would include a utility room, kitchen, family room, dining room, lounge, study, orangery, swimming pool and guest accommodation (including a bedroom, lounge and shower room) and a triple garage. The proposed first floor accommodation would include a master bedroom, a gym, storage rooms and a studio. There is also a proposed second floor element which would include a home office and loft space. The proposed dwelling would be situated more centrally within the appeal site and would form a 'U' shape around a central courtyard area.
8. For the purposes of the development plan, the appeal site is within the open countryside. The Council's 'Type and Affordability of Housing' Supplementary Planning Document (SPD) (Adopted September 2012) outlines the Council's approach to proposals for replacement dwellings in the countryside. These include several considerations which require the size of replacement dwellings in the countryside to be controlled for reasons which include which, the visual impact of large buildings in rural areas and the need to ensure the development is sympathetic to the character and appearance of the original building. The SPD goes on to specify that the bulk, height and external appearance of the resultant dwelling will be taken account of. There is also a requirement to be sympathetic to the size, mass, character and appearance of the original building.
9. The Council accepts that for the purposes of local policy, the existing dwelling on the appeal site is neither small nor low cost. However, in so far as it is relevant to this appeal proposal, the main thrust of the Council's approach is to seek to control the size of dwellings in the countryside in order to ensure that the visual impact of such dwellings is sympathetic to its context.

10. The existing floor area of Spring Cottage is approximately 220 metres². There is some dispute between the parties as to the floor area of the proposed dwelling. This is because, the appellant's position is that some of the areas of the proposed dwelling including the basement, swimming pool and orangery would be ancillary accommodation and should not therefore be considered as part of the habitable area of the dwelling.
11. There is no specific reference in the local policies before me or indeed national policy (specifically the National Planning Policy Framework) which states that when assessing the effect of a proposal on the character and appearance of the area, that only the 'habitable' part of a dwelling should be taken account of. The submitted plans show that the 'ancillary' accommodation proposed would be an integral and indivisible part of the proposed dwelling. As such, I consider that regard must be had to the proposal in its entirety which includes both the 'habitable' and 'ancillary' parts of the dwelling proposed as part of my consideration of the main issue which I have identified above. I shall therefore determine this appeal on that basis.
12. Amended plans were submitted during the Council's consideration of the proposal which reduced the floor area proposed by approximately 60 metres². However, even taking that into account, the total floor area proposed would be approximately 890 metres². In the interests of clarity, this figure takes account of both the 'habitable' and 'ancillary' accommodation for the reasons given above. This would represent an increase of approximately 335% when compared with the size of the existing dwelling on the appeal site.
13. The appeal proposal would therefore result in a significant and substantial increase in the scale of built development on the appeal site when compared with the existing situation. The maximum ridge height of the dwelling proposed would also be increased to approximately 9.8 metres which would be substantially higher than the 5.2 metres approximate ridge height of the existing cottage. The plans also show that the width and depth of the proposed dwelling would appear much larger in scale and mass when compared with the more modest proportions of the existing dwelling.
14. The proposed dwelling would therefore be significantly larger in scale, height and mass when compared with the existing dwelling on the appeal site. The proposal would also not reflect the predominant scale of built form in the area. It would also appear much grander in scale and design than the simple cottage style appearance of neighbouring properties. For these reasons, I consider that the development proposed would be seen as an incongruous feature that would neither relate to nor reflect the local context within which it would be situated.
15. Although there may be some diversity in the streetscene, I was not able to observe any dwellings in close proximity to the appeal site of a similar scale, design or mass as the development proposed. The appeal site may be of a large plot size such that sufficient space about the proposal could be retained. I also note that the proposal would be constructed using sustainable design principles. However, these matters do not outweigh the harm that I have identified.
16. The appeal site does benefit from screening along its boundaries. However, the site is visible from an access tracks to the south and west of the appeal site. As such, the appeal proposal would be seen from public viewpoints in the

highway by users of those tracks, including local residents accessing their properties and also passing pedestrians.

17. I appreciate that the appeal proposal has been designed to maximise views of the South Shropshire Hills from the site. However, this consideration does not outweigh the harm which I have identified above.
18. Accordingly, I conclude that the appeal proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policy CS6 of the Council's CS which seeks to ensure, among other things, that all development is appropriate in scale and design, taking account of the local context and character; and the Council's SPD (as set out above). The proposal would also conflict with paragraph 64 of the Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Living conditions

19. There are two neighbouring properties situated close to Spring Cottage, known as Middlemarch and Furze Cottage. Middlemarch shares an access with Spring Cottage and is located next to the existing dwelling at the front of the site. Furze Cottage is situated next to the back garden area of the site, towards the rear.
20. Spring Cottage is situated approximately 62 metres from the rear elevation of Furze Cottage and approximately 44 metres from the boundary of its rear garden area. The appeal proposal would be situated approximately 49 metres from the rear elevation of Furze Cottage and approximately 24 metres from the boundary of its rear garden area.
21. There is a difference in land levels between the two sites, with the appeal site being situated slightly higher than Furze Cottage. The submitted plans indicate that the proposed ridge height would be approximately 3.43 metres higher than Furze Cottage. However, the finished floor levels of the proposal would be approximately 1.1 metres lower than the existing appeal dwelling. This would have the effect of reducing the overall height of the proposed dwelling. However, it would still be taller than both Furze Cottage and Spring Cottage itself.
22. The appeal proposal would therefore be located closer to and higher than Furze Cottage when compared with the existing situation. There is a window in the rear elevation of Furze Cottage which serves a bedroom which looks directly towards the appeal site. From this window Spring Cottage is visible. However due to its modest scale, positioning within the site and the separation distance involved, it is not an obtrusive feature when viewed from this position. The outlook from this window is defined by the rear garden areas of both dwellings and has an open, spacious outlook with limited views of neighbouring dwellings in close proximity.
23. The proposed dwelling would be situated further to the west on the appeal site and therefore more centrally situated when viewed from the rear bedroom window of Furze Cottage. Taking into account the scale, mass, height and siting of the development proposed in combination with the difference in land levels; I consider that the appeal proposal would have a harmful overbearing

- effect on the living conditions of the occupants of Furze Cottage. This is because the appeal proposal would dominate the outlook when viewed from the rear bedroom window and this would substantially detract from the open and spacious outlook which the occupants of Furze Cottage currently enjoy.
24. I acknowledge that the separation distance proposed would still exceed the good practise distance of 21 metres between habitable room windows and 7 metres between first floor windows and boundaries. However, separation distances which may be appropriate in areas such as established housing estate may not always be appropriate in every situation. For these reasons, I have assessed this appeal proposal in relation to the particular circumstances of the site and its immediate surroundings. This includes the more spacious, rural setting within which the dwellings are situated.
 25. The submitted plans show that a first floor level balcony is proposed on the south elevation of the dwelling which would serve a master bedroom. There is also a Juliette Balcony proposed at second floor level on the south elevation which would serve a home office.
 26. These balconies would face towards the rear elevation of Furze Cottage and its rear garden area. The cottage has a sitting out area and the garden is well maintained with an area that appeared to be in use as a vegetable plot. Spring Cottage is currently largely screened from view by the existing boundary treatment in place and the garden area of Furze Cottage has a private, secluded feel as a result.
 27. Whilst I acknowledge the separation distances proposed, I also have concerns that both the proposed first floor balcony and second floor Juliet balcony would increase opportunities for overlooking to occur. This is because future occupants of the dwelling proposed would be in an elevated position when compared with Furze Cottage and they would be situated substantially closer when compared with the existing situation. As such, I am not satisfied that the existing vegetation would effectively screen the proposal when viewed from Furze Cottage.
 28. For these reasons, I consider that the proposal would lead to a loss of privacy for the occupants of Furze Cottage when using their garden area to sit out in and relax or to grow and cultivate plants. I also have concerns that the proposal would lead to a loss of privacy for the occupants when using their rear bedroom.
 29. The appeal proposal would be positioned slightly further into the plot when compared with the footprint of the existing dwelling on the site. As a result, the submitted plans show that the separation distance between the proposal and the neighbouring dwelling, Middlemarch, would increase from approximately 12 metres to 16 metres. This proposed increase in the separation distance between the two dwellings would be an improvement when compared with the existing situation.
 30. Spring Cottage has no first floor windows which face towards Middlemarch. The plans show a proposed balcony at first floor level which would serve a studio. The balcony would be approximately 16 metres from the side elevation of Middlemarch at its closest point and would have a finished floor level of approximately 3 metres.

31. The proposed balcony would therefore be in close proximity to Middlemarch and would be in an elevated position when compared with that dwelling. There is some dispute between the appellants and the neighbouring occupants as to the use of the curtilage around Middlemarch. However, based on the information before me, I understand that the occupants use that area for parking, an occasional seating area and for entertaining visiting relatives, including young children. As a result of the balcony proposed, I consider that opportunities for overlooking of this outdoor area would increase significantly when compared with the existing situation. This would lead to a loss of privacy which would be harmful to the living conditions of the occupants of Middlemarch when using their outdoor area to sit out in and relax or to entertain visitors.
32. Although the appellants have indicated that the proposed dwelling would be no higher than Spring Cottage, the submitted plans indicate that the element closest to Middlemarch would have a ridge height of approximately 7.5 metres. Based on the information before me, this would be higher than the existing ridge height of Spring Cottage at this point.
33. Whilst the proposed dwelling would be situated slightly further away than Middlemarch, it would be higher when compared with the existing situation. Taking the proposed scale, height and massing of the proposal, I consider that the development proposed would be seen as an overbearing feature that would be harmful to the living conditions of the occupants of Middlemarch when using their outdoor area.
34. I acknowledge that there is some mature vegetation in place along the shared boundary between Spring Cottage and Middlemarch. However, the majority of it is no higher than the existing boundary fence. Although there are some trees in place, these are deciduous birch trees and would not therefore effectively screen the development proposed during the entire year. Whilst there are also some conifer type trees, these are situated further to the side and would not therefore sufficiently screen the proposal when seen from viewpoints within the curtilage of Middlemarch. For these reasons, I consider that the existing boundary treatment in place would not overcome the harm that I have identified.
35. I note that the appellants have indicated that they would be willing to accept a condition to control any additional planting considered necessary along this shared boundary. However, this may increase shading to the curtilage area of Middlemarch, particularly given the height of the balcony proposed. This would in itself be harmful to the living conditions of its occupants, with regard to light and outlook.
36. Accordingly, the development proposed would be harmful to the living conditions of neighbouring occupants at Furze Cottage and Middlemarch, with particular regard to outlook and privacy. The proposal would therefore conflict with policy CS6 of the Council's CS which states, among other things, that all development should safeguard residential amenity. The proposal would also conflict with one of the core planning principles of the Framework which state, among other things, that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings (paragraph 17).

Other Matters

37. In my decision, I have had regard to paragraph 49 of the Framework which states that housing applications should be considered in the context of the presumption in favour of sustainable development. Although not specified as a reason for refusal in their decision notice, the Council officer's report does raise concerns that the appeal site is not a sustainable location for the construction of a dwelling due to limited access to services and facilities via sustainable transport modes.
38. Whilst future occupants of the dwelling proposed may be likely to choose to rely on a private car in order to access services and facilities, I must take account of the existing situation. Specifically, there is an existing dwelling on the site which this appeal proposal intends to replace. As such, existing occupants of the dwelling are likely to be reliant on the private car for the reasons described. Overall, there would therefore be likely to be no net increase in the amount of car journeys as a result of the appeal proposal. There are also neighbouring properties close by and so the appeal site is not within an isolated location. Given the circumstances I have described, I consider that the likely use of the private car by future occupants to access services and facilities is therefore a neutral consideration overall.
39. I acknowledge that the proposal would create jobs during its construction phase. However this would only be for a short duration and any economic benefit would therefore be limited as a result. The proposal would provide space for an extended family or elderly relative to stay in, which would be of limited social benefit. A large part of the existing garden would be retained and re-landscaped and designed with the intention of improving biodiversity which would be of limited environmental benefit, given the scale of the proposal.
40. However, the Framework does not adopt a narrow definition of sustainability, with paragraph 9 advising that pursuing sustainable development involves seeking positive improvements to the quality of the built and natural environment. In this case, the limited sustainability benefits which I have identified do not outweigh the harm that I have found would be a consequence of the development proposed. This is because the development proposed would be likely to have a detrimental effect on both the character and appearance of the area and the living conditions of neighbouring occupants.
41. I note the appellant's reference¹ to examples of schemes for replacement dwellings which have been allowed. However, there is little specific information before me as to the reasons why those schemes were granted permission on each occasion. Additionally, the main issues which I have identified in this case relate to the particular circumstances of the appeal site and its close context. I have therefore assessed this appeal proposal on that basis and on its own merits.
42. The occupants of Furze Cottage have submitted some additional measurements and calculations which seek to assess the effect of the proposal. However, I note that the appellants dispute some of these calculations. Therefore, whilst I have had regard to the relevant representations, in the interests of clarity, I

¹ 'Planning and Development Appraisal' submitted with the original application

have referred to the measurements and the calculations which the Council and appellants have used in the documents submitted with this appeal.

43. I note the concerns raised by a neighbouring occupant regarding use of an access which is shared with Spring Cottage. However, these are private matters and not planning considerations which would be relevant to my determination of this appeal.

Conclusion

44. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Victoria Lucas-Gosnold

INSPECTOR