
Appeal Decision

Site visit made on 15 September 2015

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 26 October 2015

Appeal Ref: APP/L3245/W/15/3035974

Rowley, All Stretton, Church Stretton SY6 6HE

- 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 Ben Heiron (R G Heiron and Son) against the decision of Shropshire Council.
 - The application Ref 14/03780/FUL, dated 14 August 2014, was refused by notice dated 20 March 2015
 - The development proposed is the erection of one detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An executed Unilateral Undertaking submitted under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted which would secure an affordable housing contribution. I will consider the obligation in more detail later in my decision.

Main Issues

3. The main issues are (a) the effect of the proposal on the character and appearance of the area, having regard to the All Stretton Conservation Area and the Shropshire Hills Area of Outstanding Natural Beauty, and (b) affordable housing provision.

Reasons

Character and appearance

4. The appeal site comprises a roughly rectangular plot with a single garage which is accessed off the B4577 Shrewsbury Road in All Stretton. The site also includes a narrow strip of land comprising steps up a slope. By reason of the topography of the area, the land rises up the appeal site and the plot of the neighbouring property from the road. Within the appeal plot, there are a few trees but there is a substantial group of trees, subject to a Tree Preservation Order (TPO), adjoining and overhanging it. Opposite the site on the other side of the road, there is open countryside. The appeal plot is at the end of a row of residential properties that are set back from the road in spacious surroundings.

5. The appeal site lies within the All Stretton Conservation Area, which includes most of the village and extends 200 metres south of the appeal site along Shrewsbury Road. As such, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
6. The appeal is part of a group of dwellings along Shrewsbury Road which vary in plot size, scale, age and design. However, the dwellings are set within spacious plots which are attractively landscaped and surrounded by trees and vegetation. Outside of this group of dwellings, dwellings within the core of the village are generally older but also mainly spacious in their surroundings. I therefore find that these spacious and verdant qualities are identifiable features which add positively to the character and appearance of the Conservation Area.
7. The proposal would result in a two-storey house partially set into the slope of the site at the ground floor. It would be set forward of the neighbouring dwelling at Rowley Cottage and behind the double garage of this property. However, there would be significant depth to the dwelling which would result in an extensive gable visible from the south above the front garden and garage of the neighbouring property. By reason of its siting, the dwelling would be closely sited to the south and west boundaries of the main part of the plot. The adjacent trees would overhang much of the garden area of the dwelling on the northern part of the plot. For these reasons, the dwelling would appear prominent and constrained within its plot adversely affecting the spacious character and appearance of the Conservation Area.
8. In his Arboricultural Report (AR) dated 7 August 2014, the appellant's arboriculturist is satisfied that the development will not cause foreseeable desires by the new occupiers to carry out tree work to the detriment of local amenity. In this regard, it is pointed out that most of the trees are unlikely to grow much further due to their maturity. However, although the Council would retain formal control over requests for tree works to the protected trees, in practice I consider that it is likely to be difficult to resist such pressure in the long term given that much of the garden would be overhung by tree branches. I appreciate future occupiers should be aware of the protected trees when deciding to purchase these properties and deciding for themselves whether the presence of them would be a problem. However, circumstances can change, especially when people live in a property, and therefore, this would not prevent requests from future occupiers.
9. The AR details that the proposal complies with BS5837:2012 Trees in relation to design, demolition and construction: Recommendations. In this regard, it has not been disputed that there would only be slight encroachment from the development into Root Protection Areas (RPAs). However, to ensure no encroachment during construction, the RPAs would need to be protected. There would be protective fencing. Nevertheless, the AR acknowledges that the development would take place in close proximity to the trees and that space is a limiting factor with little room for storage and parking on the site. As a consequence, the AR indicates material deliveries would need to be small and frequent with any storage to be outside of the RPA. This would require significant levels of planning and management. Given the practicalities of ensuring this throughout construction, I am not persuaded that this can be achieved without instances of some encroachment and possible undesirable

effects on trees, such as soil compaction. For these reasons, felling or cutting back of trees would be likely which would reduce the overall verdant qualities of the area. In summary, the proposal would fail to preserve the appearance and character of the Conservation Area by reason of the dwelling's prominence on a small and constrained site, and the significant possibility of harm to protected trees for the reasons stated.

10. Paragraph 134 of the National Planning Policy Framework (the Framework) states where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as a Conservation Area), this harm should be weighed against the public benefits of the proposal. The development would provide a self-build starter home dwelling for the appellant's own occupation, provide a dwelling to contribute to housing land supply, and would provide a contribution towards affordable housing provision. With respect to housing land supply, the appellant states it to be deficient. However, while the harm to the significance of the Conservation Area is less than substantial, the public benefits would not be sufficient to outweigh that harm.
11. The Council indicate that the appeal site also lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Within the surrounding area, there is a pleasant mixture of open fields, hills and uplands, with woodlands and dispersed groups of trees. The prominence of this development and the possibility of the felling or cutting back of trees would erode its landscape and scenic beauty to which the Framework places great weight upon in terms of conservation.
12. My attention is drawn to a proposal for a dwelling on the site which was dismissed at appeal¹. The Inspector found that insufficient details were before him to assess the scheme's impact on TPO'd trees and the character and appearance of the area. With the current proposal, an AR has been submitted and the dwelling is partly to be built into the slope of the site. Nevertheless, the current proposal would still be prominent in the street scene when viewed from the south, as it would be in an elevated position and would be set forward of other dwellings. Consequently, the current appeal scheme would not overcome the issues raised in this previous decision. In any case, the current proposal has been considered on its individual planning merits.
13. In conclusion, the development would harm the character and appearance of the area having regard to the All Stretton Conservation Area and the Shropshire Hills AONB for the reasons stated above. With regard to the Conservation Area, it would fail to preserve the character and appearance of it. Accordingly, the proposal would not comply with Policies CS6 and CS17 of the Shropshire Local Development Framework Core Strategy (CS) which collectively and amongst other matters, require proposals to protect, restore, conserve and enhance the natural, built and historic environment and those features which contribute to local character and distinctiveness.

Affordable Housing

14. Policy CS11 of the CS seeks to ensure that all new open market housing makes appropriate provision towards local needs affordable housing having regard to the current prevailing target. For a single open market dwelling proposal, the

¹ APP/L3245/A/13/2205751.

affordable housing provision is expected to be financial in accordance with a formula contained within the Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document (SPD) 2012. The appellant has submitted a legal undertaking to secure the payment of the requisite contribution which has been prepared in consultation with the Council.

15. The need for affordable housing and use of contributions is set out in the CS and the SPD. The SPD sets out a methodology for calculating the contributions allowing for scheme viability to be considered and explains how the monies collected would be spent. On this basis, I find the methodology robust and the approach taken reasonable. Thus, I find the contribution is necessary and meets the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). As the contribution would result in additional affordable housing provision, it is a benefit that would weigh in favour of the proposal.

Other matters

16. The dwelling would be a self-build for the appellant who is a young builder whose family have operated a building business in the settlement for a number of generations. Under the CIL regulations, he would commit to occupy the dwelling for a period of five years. However, no obligation has been put before me to ensure this and government advice discourages planning permissions granted with a personal planning condition restricting use to the applicant. In the absence of any planning mechanism to ensure that the dwelling would be a starter self-build home, little weight is given to this consideration.
17. The Council point to a five year housing land supply based on the Shropshire Council Site Allocations and Management of Development (SAMdev) Plan which has been at an Examination-in-Public stage of plan preparation. However, there is a dispute between the two parties over whether the modifications to be made will achieve a five year supply of deliverable housing land.
18. Nonetheless, even if the Council's housing land supply is deficient and housing land supply out of date, the contribution that this development would make towards an undersupply would be limited by reason of it being a single dwelling. Similarly, the affordable housing contribution arising from one dwelling would be limited. Consequently, these limited benefits would not outweigh the harm that the scheme would cause to the character and appearance of the area, including that of a Conservation Area and AONB. It is thus not the sustainable development for which there is a presumption in favour under the Framework.
19. In this regard, I have borne in mind two core planning principles at paragraph 17 of the Framework, which require that planning conserves heritage assets in a manner appropriate to their significance and contributes to the conserving and enhancing of the natural environment, which this proposal would fail to achieve for the reasons indicated.

Conclusion

20. The proposal would harm the character and appearance of the area and thus would conflict with Policies CS6 and CS17 of the CS. Such a conflict would not be outweighed by the proposal's compliance with Policy CS11 of the CS and SPD because I consider the harm to the character and appearance would be

substantial, given the appeal site's location within a Conservation Area and AONB.

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

Jonathon Parsons

INSPECTOR