

Appeal Decision

Site visit made on 1 November 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 30 November 2016

Appeal Ref: APP/L3245/W/16/3155074

Spring Cottage, Lyth Hill, Shrewsbury, Shropshire 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 15/05027/FUL, dated 23 November 2015, was refused by notice dated 25 January 2016.
 - The development proposed is the erection of a five bedroom dwelling following demolition of existing dwelling and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both parties have drawn my attention to a previous appeal decision dated 5 December 2014 for a new build six bedroom house following the demolition of an existing dwelling and garage on this site (APP/L3245/A/14/2224294). It is a material consideration to which I have attached due weight in reaching my decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of the occupiers of Middlemarch with particular regard to outlook, daylight and sunlight and the occupiers of Furze Cottage with particular regard to outlook and privacy.

Reasons

Character and appearance

4. The appeal site comprises a bungalow, garage and its generous gardens. It is within the settlement of Lyth Hill. There is some variety of age and form of the dwellings in the immediate vicinity of the appeal site from 2-storey dwellings to modern bungalows. The majority of dwellings are set in generous landscaped plots.
 5. There is no dispute between the parties that the settlement of Lyth Hill is not a designated settlement for the purposes of the development plan. As such, the settlement is within the countryside for planning policy purposes.
 6. Policy CS5 of the Shropshire Core Strategy (the CS) indicates that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural
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- communities. Policy MD7a of the Sites Allocations and Management of Development Plan (SAMDev) states, amongst other things, that further to CS Policy CS5 new market housing will be strictly controlled outside of Shrewsbury, the Market Towns and Community Hubs and Clusters.
7. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. Paragraph 3 of SAMDev Policy MD7a relates to replacement dwelling houses and indicates that proposals will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use. It also states that replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case.
 8. Further explanation of the Council's approach to replacement dwellings is contained within the Type and Affordability of Housing Supplementary Planning Document (SPD). It states that regard will be had to the visual impact of the replacement dwelling and the need to ensure the development is sympathetic to the character and appearance of the original building and the area taking account of the bulk, scale, height and external appearance of the resultant dwelling.
 9. There is no dispute between the parties that the existing dwelling is a permanent structure with a residential use and that for the purposes of local policy, the existing dwelling on the appeal site is neither small nor low cost.
 10. The existing dwelling is a single storey cottage that has been extended. I concur with the previous Inspector that the character of the area is defined by a small collection of simple, cottage style houses and bungalows set within spacious plots in a predominantly rural setting.
 11. I acknowledge that Spring Cottage has an association with the Shropshire author Mary Webb and that, as such, many local residents and the Mary Webb Society wish to see it retained. However, as noted by the previous Inspector, Historic England has stated that it does not consider that the building meets the criteria for listing as the building has been extensively extended and the cottage is not within a Conservation Area. The Council's Officer Report states that the Council has decided not to place the building on a local heritage list and that there is no statutory mechanism available to control the demolition of Spring Cottage. Consequently, based on the evidence before me there is no specific policy or planning designation which would prevent the proposal to demolish Spring Cottage in principle.
 12. The proposal would comprise the demolition of the existing dwelling and garage and the construction of a five bedroom dwelling with a cinema in the basement and an orangery, swimming pool, gym, studio and triple detached garage. Part of the dwelling would be located in a similar position to the existing dwelling but it would extend across through the centre of the site and would be orientated towards the north-west/south-east. I note that the floor area of the dwelling has been reduced and the ridge height of the 2-storey part would be slightly lower from that proposed in the previous scheme and the finished floor level would be around 1 metre below the existing dwelling.
 13. However, the dwelling would still be substantially larger than the existing dwelling in scale, height and mass. Moreover, it does not reflect the predominant scale of the dwellings in the immediate vicinity. Whereas, the ratio of building footprint to plot area would be similar to other plots the

footprint of the building would be significantly larger than the majority of surrounding dwellings.¹ I acknowledge that the architectural style of the proposal is pseudo traditional and that there is some diversity in the architectural style of the nearby dwellings. However, it would still be grander in scale and design than the simple cottage style of neighbouring properties. Consequently, the proposal would still be *“seen as an incongruous feature that would neither relate to nor reflect the local context within which it would be situated”* as stated by the previous Inspector.²

14. The mature landscaped gardens including the hedges and trees within and on the boundaries of the site would provide some screening of the proposal. Nonetheless, there would be some visibility of the dwelling from the access tracks to the south and west and from the neighbouring properties and gardens, particularly in winter months when foliage is sparser.
15. I appreciate that the swimming pool and gym are to assist with the treatment of medical conditions suffered by one of the appellants and an elderly parent and that additional space is required to accommodate the elderly parent and other relatives. I also note that the dwelling has been designed to maximise views of the South Shropshire Hills and that the materials to be used would reflect that found locally. However, these considerations are not sufficient to outweigh the harm that I have identified.
16. In conclusion the proposal would be an incongruous feature that would significantly harm the character and appearance of the area. As such it would not comply with CS Policies CS5, CS6, CS17 and SAMDev Policies MD2 and MD7a which together seek development that respects, maintains and enhances the character of the countryside, the built environment and the local context. It would also not comply with the guidance in the SPD in relation to the need to ensure the development is sympathetic to the character and appearance of the original building and the area taking account of the bulk, scale, height and external appearance of the resultant dwelling.

Living conditions

17. The adjacent properties to the appeal site include Middlemarch and Furze Cottage. Middlemarch is a bungalow that shares an access with and is sited adjacent to the eastern boundary of the appeal site. Furze Cottage is a 2-storey dwelling that is located within close proximity of the southern access track adjacent to the rear garden of Spring Cottage.
18. The detached garage would be nearer to Middlemarch than the existing garage. However, the existing garage is orientated so that the gable and flank wall face Middlemarch. Whereas, the proposed garage would be orientated so that the rear wall and roof would face Middlemarch. Consequently, even though it would be closer the garage would not have an appreciably greater impact on the outlook enjoyed by the occupiers of Middlemarch.
19. In relation to the main dwelling the proposal would be orientated at an angle to Middlemarch and would be appreciably further away from Middlemarch than Spring Cottage or the previous proposal. The nearest part of the dwelling would be 2-storey but taking into account the orientation and the distance between the dwelling and Middlemarch I do not consider that the proposal

¹ Taken from drawing No 30A

² Taken from paragraph 14 of APP/L3245/A/14/2224294

would significantly reduce the outlook enjoyed by the occupiers of Middlemarch.

20. The Council's Officer Report states that the proposal would reduce the amount of afternoon sun currently enjoyed by the occupiers of Middlemarch. The appellants have submitted a Daylight and Sunlight Study which concludes that *"the proposed development will have a low impact on the light receivable by its neighbouring properties."* The Council have not disputed the findings of this study. As such, I consider that the proposal would not significantly reduce the amount of daylight or sunlight currently enjoyed by the occupiers of Middlemarch.
21. Furze Cottage and its garden areas are at a lower level than Spring Cottage and the proposed dwelling. However, the altered orientation of the proposal, the increased distance between the proposal and Furze Cottage and the alteration of the position of the balcony on the southern elevation would ensure that the current outlook and privacy enjoyed by the occupiers of Furze Cottage would not be substantially harmed.
22. In conclusion the proposal would not significantly harm the living conditions of the occupiers of Middlemarch with particular regard to outlook, sunlight and daylight and the occupiers of Furze Cottage with particular regard to outlook and privacy. As such, the proposal would comply with CS Policy CS6, in this respect, as it requires, amongst other things, development to safeguard residential amenity.

Other Matters

23. There is reference to a possible fallback position in relation to the construction of an extension to Spring Cottage under permitted development rights. However, in the absence of any detailed information upon this issue it has limited weight.
24. Whilst I sympathise with the appellant regarding any positive pre-application advice received in relation to this proposal, such advice is given without prejudice and cannot pre-determine the outcome of a subsequent application. Moreover, this is not a matter to be addressed through this appeal and I am required to determine the appeal on its own merits, notwithstanding any advice given by the Council.

Conclusion

25. In my determination of this appeal, I have had regard to paragraph 49 of the National Planning Policy Framework (the Framework) which states that housing applications should be considered in the context of the presumption in favour of sustainable development. The Framework at paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental.
26. There would be limited economic benefits associated with the proposal including the provision of construction jobs. The proposal would provide space for an extended family or elderly relative to stay in and the swimming pool and gym would assist with the medical conditions of one of the appellants and an elderly relative which would have a limited social benefit.
27. However, I have found that the proposal would result in significant harm to the character and appearance of the area. As such it would conflict with the development plan and would not accord with the environmental dimension of sustainable development. When assessed against the Framework taken as a

whole that harm would outweigh the limited benefits associated with the proposal.

28. Given that the 3 roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour.
29. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR