



Appeal Decision

Site visit made on 26 November 2019

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2019

Appeal Ref: APP/L3245/D/19/3238500

13 Upper Linney, Ludlow, SY8 1EF

- 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 Mark Cawley against the decision of Shropshire Council.
 - The application Ref 19/02495/FUL, dated 3 June 2019, was refused by notice dated 28 August 2019.
 - The development proposed is addition of garden room to the rear of the property accessed via existing back door.
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Decision

1. The appeal is allowed, and planning permission is granted for addition of garden room to the rear of the property accessed via existing back door at 13 Upper Linney, Ludlow, SY8 1EF in accordance with the terms of the application Ref 19/02495/FUL, dated 3 June 2019, 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: 1920.003.01; 1920.003.02; 1920.003.03; 1920.003.04; 1920.003.05; 1920.003.06; 1920.003.07; GHA-19-613 P.01 Rev 01; GHA-19-613 P.02 Rev 01; GHA-19-613 P.03 Rev 01.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme and provision to be made for post investigation analysis and reporting;
 - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - iv) provision to be made for archive deposition of the analysis and records of the site investigation;

- v) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

Main Issue

- 2. The main issue is the effect of the development on the living conditions of No 12 Upper Linney with regard to loss of privacy.

Reasons

- 3. The layout of No 13 Upper Linney is unusual in that its garden area is directly to the rear of the adjoining property at No 12. The proposed extension would be positioned along the rear wall of No 12 and below first floor windows to that property which serve a bathroom and a landing.
- 4. The proposed extension would contain 2 rooflights. These would be angled away from No 12 which would heavily restrict any direct overlooking between the proposed and existing windows. Moreover, the bathroom window to No 12 is obscurely glazed which would further restrict any residual overlooking. In my view, no significant loss of privacy would arise from the position of the rooflights.
- 5. The angle of the proposed rooflights would also serve to direct light and sound spillage away from No 12. The extension is not proposed to be used as a kitchen, and in any case, it is highly unlikely that cooking smells from a single dwelling would be intrusive.
- 6. The roof of the proposed extension would be mono-pitched and no stairway or other access onto it is proposed. It is clearly not designed to be used as a balcony, and I am satisfied that the privacy of the windows above would therefore be preserved.
- 7. The proposed extension would be positioned around 2.5 metres from the existing boundary fence. Given the intervening distance, and the single-storey height of the extension, it would not result in any significant overshadowing or loss of light to any ground floor window in No 12.
- 8. Any disturbance or loss of privacy during the construction phase would be temporary in nature. Any damage incurred during this period would be a civil matter between the relevant parties.
- 9. For the above reasons, I conclude that the development would not significantly harm the living conditions of No 12 Upper Linney with regard to loss of privacy. It would therefore accord with Policy CS6 of the Shropshire Core Strategy (2011) which seeks, amongst other things, to protect residential amenity.

Other Matters

- 10. The proposed extension would leave only a narrow gap between the development and the rear wall of No 12. In this regard, it is asserted that it would prejudice the proper maintenance of that property. However, maintenance and associated access rights are covered by other legislation outside of the planning regime. Similarly, matters relating to the proposed

foundations, and any drains that exist beneath the proposed extension, are addressed by other legislation including the Building Regulations and the Party Wall Act. Accordingly, those matters have not had any material bearing on my assessment of the planning issues in this appeal. In this regard, the development would not conflict with Policy CS17 of the Shropshire Core Strategy (2011), or Policies MD2 and MD13 of the Shropshire Site Allocations and Management of Development Plan (2015).

11. The appeal site is within the Ludlow Conservation Area, which encompasses the historic core of the town. The effect of the development on the character and appearance of the conservation area was not a reason for refusal, and the Council do not object to the development on this basis. The proposed extension would be modest in scale and sympathetic in its design, and it would not be visible from any public vantage point. I am therefore satisfied that it would preserve the character and appearance of the conservation area, in accordance with national policy.
12. The rear garden to No 13 backs onto Ludlow Town Walls, which is a Scheduled Monument and a Grade II listed building. Whilst the proposed extension would bring the property slightly closer to the walls, a significant gap would remain, and it would be sympathetic in its scale and appearance. Accordingly, I do not consider that it would result in any harm to the walls or its setting. I further note that neither Historic England, the Council's Conservation Officer, nor The Ludlow Town Walls Trust object to the development on these grounds.
13. It is asserted that there are a number of factual errors within the submitted documents. However, these are minor in nature and do not alter the planning merits of the proposal.
14. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.

Conditions

15. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A further condition that requires the proposed materials to match the existing building is necessary to protect the character and appearance of the host property. I have also imposed a condition relating to archaeology, which is necessary in order to ensure that any archaeological remains are appropriately investigated and recorded. This condition is pre-commencement in nature as any construction works could affect remains within the site. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to this condition in writing.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR