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## Appeal Decision

Site visit made on 7 January 2020 by G Sibley MPLAN MRTPI

**Decision by Chris Preston BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 March 2020**

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**Appeal Ref: APP/M1005/D/19/3238201**

**Greenacres, The Green, Kirk Langley, Ashbourne DE6 4NN**

- 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 Ms T Jackson against the decision of Amber Valley Borough Council.
  - The application Ref: AVA/2019/0707, dated 9 July 2019, was refused by notice dated 12 September 2019.
  - The development proposed is described on the application form as alterations and extensions to existing dwelling.
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### Decision

1. The appeal is allowed, and planning permission is granted for the alteration and extensions to existing dwelling at Greenacres, The Green, Kirk Langley, Ashbourne DE6 4NN in accordance with the terms of the application Ref: AVA/2019/0707, dated 9 July 2019 and subject to the following conditions:
  - 1) The development hereby approved shall begin not later than three years from the date of the decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plan listed: Final scheme – house – plans, elevations and site plan (Ref: 1402J – DWG No.08)
  - 3) No development shall commence until details/samples 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/samples.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The effect of the proposed development upon the character and appearance of the host dwelling and the street scene and connected to this whether the proposal would preserve or enhance the character or appearance of the Kirk Langley Conservation Area (CA).

### Reasons for the Recommendation

4. The host dwelling is a relatively large two storey dwelling that was constructed around the 1970's and was originally an agricultural worker's dwelling. It is neither attractive nor unattractive but is rather nondescript being constructed of buff coloured bricks with no features of particular interest. The agricultural worker's tie has since been removed. The dwelling is located to the south west of Kirk Langley and is located outside of the Kirk Langley Conservation Area away from the centre of the settlement. The section of the CA closest to the site is characterised by attractive terrace and detached dwellings with some variation in the design of the buildings. The roads are bound by mature trees and hedgerows and the CA has a rural character.
5. The dwelling is set within spacious grounds that are well maintained which contributes to the open and attractive setting of the dwelling. The site is bound by trees but is still relatively open and Kirk Langley and the dwellings further along The Green are visible from the site. Nonetheless, the site sits in relative isolation from the village and the CA and is essentially a modern detached property in a rural setting. Its existing character is not reflective of the vernacular buildings that are within the CA.
6. Policy H5 of the Amber Valley Local Plan (2006) (LP) requires that extensions should not result in a significant change to the scale or character of the dwelling and its surroundings. Based on calculations provided the proposal would almost double the size of the dwelling in terms of floorspace and would lead to a significant increase in the volume of the property. There is no dispute between the parties that the proposals would result in a significant change in the scale of the dwelling. Given the scale of the proposals and the fact that the design and outward appearance would be markedly different to the existing dwelling I am also of the view that the proposal would mark a significant change in the appearance of the property. Thus, the proposal would be contrary to the aims of Policy H5 in those respects.
7. That is not to say that the proposal would cause demonstrable harm to the character and appearance of the area, just that the character of the dwelling would change. I shall address the impact on the character and appearance of the area later in my report. However, policy H5 does not allow for any qualitative analysis of the nature of the change. As the policy is worded any significant change, positive or harmful, would be contrary to the policy.
8. I am not satisfied that the policy is entirely consistent with current guidance in The National Planning Policy Framework (the Framework). Paragraph 127 requires developments to be sympathetic to local character and the landscape setting and paragraph 170 states that planning decisions should respect the intrinsic value and beauty of the countryside. Providing that proposals are of good design quality, having regard to those aims, there is nothing within national policy which would prevent the principle of a significant change in the appearance or scale of a dwelling in the countryside, with the exception of Green Belt land.
9. Consequently, the restrictive nature of policy H5 does not reflect current national guidance in my view. The policy clearly pre-dates the Framework by some margin and the preamble refers to PPG3. Having regard to its age and content I consider that the policy should be afforded reduced weight having regard to the terms of paragraph 213 of the Framework. In that context, if the proposal is well designed and would not have a harmful effect on the setting of

the area and would preserve any assets of acknowledged importance, I find no automatic reason why permission should be refused in relation to the aims of national policy.

10. The proposed development would include an extensive redevelopment of the dwelling and would include the removal of the existing attached garage and canopy. The extensions, altered roofline and fenestration and the use of render would undoubtedly change the appearance of the dwelling significantly and it would appear as a larger and slightly more prominent structure in the landscape when compared to the existing dwelling. However, as set out above, the property is surrounded by a generous garden and mature landscaping and the increased scale would not appear disproportionate to the size of the plot.
11. The main section of the building would retain simple proportions with two projecting gables and a pitched roof across the central section. Many vernacular cottages and houses within the village are of a simpler design but I also noted other properties on Church Lane with forward facing gables and the form of the building would not be unduly out of character in the context of the wider settlement. The garage and home office to the side would be set down to give the appearance of a subservient service wing and the change in roof height would help to break up the apparent mass of the structure.
12. The predominant walling material is red brick but I noted other rendered properties along Church Lane and the combination of render and red brick would not be unusual in that setting. The fenestration including the extensive full height glazing and the design of the dormer window would give a contemporary appearance but not to the detriment of the character and appearance of the area. The overall impression would be of a well-proportioned dwelling with an attractive external appearance in a mature garden on the fringe of the village. Whilst the changes would be substantial, they would not cause harm to the character and appearance of the area on account of well-designed nature of the proposals and due to the fact that the existing property that would be developed is lacking in any particular design merit. Consequently, I find that the proposal would comply with the aims of paragraphs 127 and 170 of the Framework and would amount to good design.
13. The delegated officer report suggests that the proposal would not cause harm to the CA on account of the distance between it and the boundary of the designated asset. Nonetheless, the reason for refusal refers to views from within the CA. The site is located on higher ground than the CA and as such is clearly visible when viewed from the closest parts of the CA. The existing view of the site from the CA is of the first floor of the dwelling and whilst the proposed dwelling would appear to be slightly taller than the existing dwelling, the view from the CA would still be of a modern detached dwelling set within a large plot. The design would be different but in effect, one modern and nondescript external facade would be replaced with a well-designed contemporary structure. Because the site is located a relatively long distance away from the CA and would retain the hedgerows along the roadside, the effect a larger dwelling would have upon the CA would be limited and it is considered that the proposal would preserve the character and appearance of the CA.
14. The appellant has provided a plan which shows how the dwelling could be extended using permitted development rights. The appellant notes that it

would be possible to increase the volumetric size of the dwelling by around 600 m<sup>3</sup> if they built the permitted development scheme and the Council has not disputed that this would be possible. As such, I consider that this represents a realistic fallback position and there is more than a theoretical possibility it would be implemented if the appeal was to fail given the desire to extend the property. The permitted development scheme would appear somewhat contrived in design terms with various roof alterations and a much wider and lower wing to the side. In my view, the likely possible alternative would be less sympathetic to the character and appearance of the area than the well-proportioned proposal and that is a matter that weighs in favour of the proposed scheme.

### *Conditions*

15. The Council has suggested a number of conditions. I have included those which meet the six tests set out at paragraph 55 of the National Planning Policy Framework, rewording, where necessary, for clarity. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity.
16. The Council has also suggested a condition requiring samples of the materials to be submitted to and approved by the Council prior to development taking place which is necessary in the interest of preserving the character and appearance of the area.

### **Conclusion and Recommendation**

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. For the reasons given, the proposal is contrary to policy H5 of the LP and is inconsistent with the development plan as a result. However, I am not satisfied that the policy is entirely consistent with the aims of the Framework which does not seek to preclude significant residential extensions to properties within the countryside providing that they are well-designed and do not cause harm to the character and appearance of the area. I have given reduced weight to the conflict with the development plan as a result.
18. Moreover, I have found no harm to the character and appearance of the area and the proposal is well-designed in accordance with the aims of the Framework. If the appeal was to be dismissed it is also likely that a less attractive scheme would be constructed based on permitted development rights and this would have a greater and harmful effect on the surrounding area and that is a matter that attracts significant weight in favour of the proposal.
19. Therefore, although I have found that the proposal would not accord with the development plan as a whole, the other material considerations that I have identified above outweigh this conflict with development plan policy. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*G Sibley*

APPEAL PLANNING OFFICER

**Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be allowed.

*Chris Preston*

INSPECTOR