



Appeal Decision

Site visit made on 23 June 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/W1850/W/19/3242888

Appletree House, 11 Willow Rise, Sutton St Nicholas HR1 3DH

- 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 G Harrison against the decision of Herefordshire Council.
 - The application Ref 193353, dated 24 September 2019, was refused by notice dated 13 November 2019.
 - The development proposed is a 3 bedroom house.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr G Harrison against Herefordshire Council. This application is the subject of a separate Decision.

Background

3. I understand that a previous application¹ for a new dwelling on the appeal site was refused in July 2019. I acknowledge that the scheme has been revised. However, my determination is focused upon the development proposals before me.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development upon the character and appearance of the area;
 - Whether the proposal would preserve or enhance the character or appearance of the Sutton St Nicholas Conservation Area (CA) and the effect of the proposal upon the setting of a listed building;
 - The effect of the proposal upon the living conditions of the occupiers of 9 Willow Rise and future occupiers, with regard to overlooking and privacy; and
 - The effect of the proposal upon the River Wye Special Area of Conservation (SAC).

¹ Planning application reference 191912

Reasons

Character and appearance

5. The appeal site comprises a detached dwelling located within a relatively modern housing estate located within the village of Sutton St Nicholas. In the estate dwellings are typically large with wide frontages set back from the road with clear and obvious gaps between them. The layout of houses, open frontages and grass verges gives the area a sense of spaciousness.
6. I acknowledge that Appletree House occupies a large and prominent plot within the estate. However, the proposed development lacks the proportions and massing of nearby properties and its narrow plot with limited spacing around it would be at odds with the established pattern of development in the area.
7. It would not successfully integrate into the street scene by virtue of its narrow width and small plot, appearing as an unduly cramped and incongruous feature eroding the sense of spaciousness that currently exists, irrespective of the open area in front of the site being retained or potential amendments to the parking area.
8. Whilst the proposal may well result in a more efficient use of land, this would be at the expense of a garden that, in my view, positively contributes to the spacious character and appearance of the area.
9. I acknowledge that the proposal would meet an identified need for three bedroom houses in the area. However, this is not sufficient to justify the harm that I have identified in relation to this matter.
10. As such, the proposed development would be contrary to Policies SD1, LD1 and SS6 of the Herefordshire Local Plan Core Strategy (2015) (CS) which, amongst other things, requires new buildings to make a positive contribution to architectural diversity and the character of the area; demonstrate that the character of the landscape and townscape has positively influenced the design, scale and nature of the development and for proposals to conserve and enhance environment assets that contribute to the county's distinctiveness.
11. It would also be contrary to Policies 3 and 7 of the Sutton St Nicholas Neighbourhood Development Plan (2016) (NP) which, amongst other things, requires the layout, design and landscaping of new housing development to respect landscape setting and to protect and enhance the distinctive character and appearance of the village.
12. The proposal would also conflict with paragraphs 124, 127 and 130 of the National Planning Policy Framework (the Framework) which, amongst other things, sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve; ensuring that development will add to the overall quality of the area, development is sympathetic to local character and history, including the surrounding built environment and that poor design should be refused.

Effect on heritage assets

13. I acknowledge that there is no character appraisal or management plan for the CA. However, from the evidence before me including my observations on site the CA is characterised by a historic road layout and green spaces that extend

through the village and surround the built form that contributes to its rural agrarian character. This agrarian landscape provides a verdant setting for a number of attractive buildings in the village including cottages, farmhouses and agricultural buildings. Willow Rise and the surrounding estate is at variance to much of the CA, but nonetheless, reflects its sense of spaciousness.

14. The parties have identified a listed building nearby the site. This comprises Pantall's Cottage which sits within the modern housing estate opposite the site.
15. I have found that the development would not be sympathetic to dwellings in the area and would erode the sense of spaciousness that currently exists in the area which would not preserve the character or appearance of the CA. I now turn to the effect upon the setting of the nearby listed building.
16. I note that the Council consider insufficient information has been provided to assess the effect upon the setting of a nearby listed building. Notwithstanding this, it is incumbent upon me to assess the effect on heritage assets as set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
17. The extent of the setting of a heritage asset is not fixed and may change and be experienced differently as the asset and its surroundings evolve. The immediate setting of Pantall's Cottage is already defined by existing houses and domestic paraphernalia. There would be a degree of separation between the proposal and the heritage asset and taking into consideration its already developed setting the proposal would not unacceptably undermine the contribution the heritage asset makes to the character and appearance of the area.
18. In light of the above I find that there would be some, albeit limited harm to the CA. Accordingly, the proposal would be contrary to Policy LD4 of the CS and paragraph 127c) of the Framework.
19. In accordance with paragraph 196 of the Framework, it is for the decision maker, having identified harm to designated assets, to consider the scale of that harm. In this case I conclude that the proposal would lead to less than substantial harm to the significance of the CA. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.
20. In this regard, the proposal would contribute to local housing supply with the construction of one dwelling, but this benefit is modest. I therefore afford it limited weight. Taking into consideration the points above I find that the harm to the CA would clearly outweigh the public benefits of the proposal.
21. As such it would fail to preserve or enhance the character and appearance of the CA contrary to Policy LD4 of the CS which, amongst other things, requires development proposals to protect, conserve and where possible enhance heritage assets and their setting appropriate to their significance. It would also conflict with Policy 3 of the NP which, amongst other things, requires the layout, design and landscaping of new housing development to respect the setting of adjoining heritage assets. It would also conflict with the Framework.

Living conditions

22. I acknowledge that there is no adopted numerical guidance in respect of distances between properties and amenity space. In this regard, the consideration of the impact of the proposed development upon living conditions is one of planning judgement based on the merits of the scheme.
23. There is some disagreement between the main parties in respect of the actual length of the proposed garden and the distance between the proposal and 9 Willow Rise. Notwithstanding the disagreement and the angle of the houses, the limited garden size and depth and limited separation between them would result in direct overlooking into No 9 and its rear garden area leading to an unacceptable loss of privacy for existing occupiers. Conversely, this lack of separation between the houses would also result in overlooking and a loss of privacy for future occupants. This harm, in my view, would not be overcome through additional planting along the boundary, as it would take some time to grow to maturity and could be removed at any time.
24. Whilst the appellant has suggested that the internal layout could be amended to overcome this issue. The details are not before me and therefore I afford it limited weight in coming to my decision.
25. As such, the proposal would not accord with Policy SD1 of the CS which, amongst other things, requires development proposals to safeguard residential amenity for existing and proposed residents. It would also be contrary to Policies 3 and 7 of the NP which, amongst other things, seek to protect the amenity of future residential occupants and have regard to established built characteristics. The proposal would conflict with paragraphs 124, 127 and 130 of the Framework which, amongst other things, requires a high standard of amenity for existing and future users.

Impact on the River Wye SAC

26. I note that the appeal site is located within the River Lugg catchment which forms part of the River Wye SAC. The proposal would connect to the main sewer discharging into the Moreton on Lugg Sewage Treatment Works (STW). The Council's Strategic Housing Land Availability Assessment (SHLAA) indicates that there is capacity at the STW for new development. The appellant contends that on this basis, and due to the lack of consultation with the Environment Agency and the responses from Welsh Water and Natural England, the Council is incorrect to state that there would be an impact on the SAC, especially as they have not undertaken an Appropriate Assessment (AA).
27. Whilst ordinarily a competent authority such as myself would potentially need to carry out an AA I have found against the appellant on other substantive grounds and planning permission is to be refused. Therefore, this matter need not be considered any further in this case.

Planning Balance

28. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 73 of the Framework. As such, in line with paragraph 11d) of the Framework planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the

development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

29. Paragraph 177 of the Framework indicates that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an AA has concluded that the plan or project will not adversely affect the integrity of the habitats site. As I am dismissing the appeal on other substantive grounds I have not considered this matter further.
30. Nevertheless, I have concluded that the proposal would have a harmful effect on the character and appearance of the CA and so paragraph 11d) i would be engaged. Consequently, I consider that the application of policies in the Framework, that protect areas or assets of particular importance provide a clear reason for refusing the appeal proposal. The presumption in favour of sustainable development would not apply in any event.
31. The proposed development would contribute to local housing supply, short term employment through the construction phase and future occupiers would support the existing services in the village, but these benefits are modest associated with the construction of one dwelling. I therefore afford these benefits limited weight in coming to my decision.
32. Whilst the presumption in favour of sustainable development does not apply for the reasons set out above, even if it did, the harm of granting planning permission in respect of character and appearance including the effect upon the CA and living conditions of existing and future occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
33. I have identified that the proposal would result in harm to the character and appearance of the area, including the CA and the living conditions of existing and future occupiers. Consequently, I consider that the proposal would conflict with the development plan as a whole. The benefits identified would not outweigh this harm or the statutory presumption in favour of the development plan.

Conclusion

34. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR