



Appeal Decision

Site visit made on 19 October 2020

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2020

Appeal Ref: APP/D1265/W/20/3255634

Land at Park Walk, rear of Church Lane, Shaftesbury, Dorset SP7 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs T Morgan against Dorset Council.
 - The application Ref 2/2017/1725/FUL, is dated 26 October 2017.
 - The development proposed is construction of one bedroom dwelling and associated external works.
-

Decision

1. The appeal is dismissed and planning permission for the construction of one bedroom dwelling and associated external works is refused.

Preliminary Matters

2. The planning application was submitted to North Dorset District Council, which ceased to exist on 1 April 2019 to become part of a new Unitary Authority known as Dorset Council. The development plans for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies set out within the North Dorset Local Plan Part 1 (LPP1) (January 2016).
3. The Council issued its decision on 14 August 2020. However, the appeal, which was lodged on 8 July 2020 against the Council's failure to give notice of its decision on the application within the statutory period, predates the decision issued by the Local Planning Authority. Whilst the appeal therefore proceeds as a non-determination case, I shall have regard to the concerns expressed by the Council within their submissions, which include the reason for refusal detailed within the decision notice.

Main Issue

4. In light of the above, the main issue is therefore the effect of the development on designated and non-designated heritage assets, including the Shaftesbury Conservation Area, the setting of nearby Listed Buildings and the remains of Shaftesbury Abbey, a Scheduled Ancient Monument, and associated area of equivalent archaeological significance, as notably derived from their setting.

Reasons

Context and site's significance

5. The appeal site comprises a derelict single storey structure, which is to some extent covered by overgrown vegetation, set within an otherwise largely undeveloped area of open space. A major part of the site currently stands on higher ground than adjacent buildings and the green sandstone walled frontage to Park Lane. There is no doubt that the site lies in a highly sensitive position, not only by reason of its topography, but also its location at the heart of the Shaftesbury Conservation Area and within the setting of a number of listed buildings. These include King Alfred's Kitchen (nos 17 and 19 High Street), the Fruit Shop (High Street) and nos 4, 6 and 8 Church Lane.
6. The significance of these listed properties derives primarily from their rich architectural and historic qualities. These designated heritage assets, together with the numerous surviving historic buildings and street pattern, contribute to the special interest of the Conservation Area, which is defined by its strong sense of historic character.
7. The site also lies within proximity to Shaftesbury Abbey Scheduled Ancient Monument, and falls within the former convent area of the abbey church, where the nuns' cemetery is believed to have been located, between the church and the almonry at Broad Hall on the edge of the Inner Court. Broad Hall is thought to be now occupied by King Alfred's Kitchen and adjoining buildings.
8. The representations made by Historic England (HE) explain that the nunnery appears to have been founded circa 871-77 by King Alfred for his daughter Aethelgeofu, and became one of the largest, wealthiest and most prestigious religious houses in England. The Saxon Queen Aelfgifu was buried there in the 10th century, as was the body of King Edward the Martyr, whose tomb became a shrine and important place of pilgrimage. There is archaeological evidence confirming the presence of burials in the area, which includes three skeletons found in the grounds of The Priory in 2018 and a human skull recorded from no 8 Church Lane.
9. For these reasons, there is no doubt that the appeal site holds very high heritage significance, not just for its nationally important archaeological remains, but also for its contribution to the Abbey and its setting, particularly by reason of its largely undeveloped character. As such, this area is considered of equivalent significance to scheduled monuments which, as detailed within Footnote 63 to the National Planning Policy Framework (the Framework) and national Planning Practice Guidance¹ (PPG), should therefore be treated subject to the same policies as those for designated heritage assets.

Shaftesbury Conservation Area and Listed Buildings

10. Although it is accepted that the appeal site falls within the historic core of the town, I have been presented with limited evidence to demonstrate with certainty whether the proposal would involve the amalgamation of two former medieval burghage plots. Whilst their exact origin may remain uncertain, it is clear, having regard to the pattern of development in this area, that the proposed development would result in the amalgamation of two historic plots. Whilst the appellant has sought to address this issue by breaking down the proposed dwelling into different elements, the scheme would nevertheless

¹ Paragraph: 041 Reference ID: 18a-041-20190723.

result in the creation of a single residential plot, thus eroding the historic street and plot pattern which presently contributes to the character of this sensitive area.

11. The scheme as originally submitted was amended during the course of the planning application, thus reducing to some extent the visual impact of the proposed dwelling within the public realm. Nevertheless, despite the single storey scale of the proposed development, which would be set down into the site to reduce its prominence, the construction of a dwelling in such a sensitive location would inevitably encroach upon the open character that characterises the area surrounding the Abbey grounds. The proposed built form would also erode the appreciation of the nearby listed buildings when viewed from Park Walk and to a lesser extent from the High Street.
12. As a result, the proposal would erode the contribution which the site presently makes to the Shaftesbury Conservation Area, but also the setting of nearby listed buildings. Furthermore, the proposed development would cause unacceptable harm to the ability to understand and appreciate the significance of important heritage assets.

Scheduled Ancient Monument and associated area of equivalent archaeological significance

13. As detailed within HE's submissions, the designation of archaeological scheduled monuments (and other sites of national importance), relies on an informed assessment of the potential for archaeological remains surviving below ground. The Archaeological Evaluation Assessment Report (January 2017) commissioned on behalf of the appellants states that no archaeological features or deposits were found on site as part of the evaluation trenching carried in support of the planning application.
14. Although no evidence either associating the site with the medieval cemetery was found either, this could be explained by the relatively limited depth of the evaluation trenches, which varied between circa 1.20m and 1.50 m. Having regard to the elevated position of the appeal premises in relation to their immediate surroundings, it is highly likely that, as suggested by the Council and HE, the site may have been subject to ground raising over the last centuries. In the absence of further substantive evidence to the contrary, there could be significant archaeological deposits of national importance below the made up ground, which would remain unexplored. By reason of the potential archaeological and historic interest of the site, a precautionary approach is therefore justified in this particular instance.
15. The construction of the proposed dwelling would not solely cause harm to the setting of the former Abbey. It would also render the site inaccessible for future archaeological investigation, as well as for the preservation and enhancement of public understanding of this area of national significance. For these reasons, measures such as the use of shallow foundations would not constitute suitable mitigation.

Public benefits

16. The appeal scheme would therefore fail to preserve the significance of the Scheduled Ancient Monument and associated area of equivalent archaeological significance, the character and appearance of the Shaftesbury Conservation

Area, and the settings of nearby listed buildings. It would therefore conflict with paragraph 193 of the Framework and Policy 5 of the LPP1, which seeks to preserve the historic environment and notably requires clear and convincing justification for any development that would cause harm to the significance of designated and non-designated heritage assets.

17. The proposal would not lead to a total loss of significance and would not therefore cause substantial harm to the special interest of designated and non-designated heritage assets, including as derived from their settings. Considering the significance of the affected assets as a whole, the magnitude of the harm would nevertheless be less than substantial, and lie at the higher level of the spectrum. Paragraph 193 of the Framework states that great weight should be afforded to the conservation of assets and the more important the asset, the greater the weight should be. In this particular case, the affected assets include Shaftesbury Abbey, a Scheduled Ancient Monument, which is formally identified as an asset of the highest significance nationally.
18. The harm identified should therefore be weighed against the public benefits of the proposal, in accordance with paragraph 196 of the Framework. Although the development would make a modest contribution to housing supply and choice, this would not outweigh the significant harm that would be caused to the Shaftesbury Conservation Area, the Scheduled Ancient Monument and associated area of equivalent archaeological significance, and the settings of nearby listed buildings, to which I ascribe very substantial weight.

Conclusion

19. For the reasons detailed above, and having regard to all other matters raised, the appeal is dismissed, and planning permission is refused.

S Edwards

INSPECTOR