
Appeal Decision

Site visit made on 3 May 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2022

Appeal Ref: APP/W1850/D/21/3289070

Ralph Court, Church Road, Edwyn Ralph HR7 4LU

- 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 Stephen Morgan and Mrs Paula Morgan against the decision of Herefordshire Council.
 - The application Ref 212330, dated 10 June 2021, was refused by notice dated 18 November 2021.
 - The development proposed is a residential annexe with necessary medical and care facilities for the applicants' daughter.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - i. the character and appearance of Ralph Court and the surrounding area; and on the settings of heritage assets;
 - ii. if any harm is caused in respect of issue (i), whether such harm is outweighed by other considerations, including the personal and health circumstances of the proposed future occupier of the annexe.

Reasons

Character, appearance, and the settings of heritage assets

3. Dating from the mid-19th Century, Ralph Court is a large Victorian building with predominantly sandstone walls, light stone quoined mullion window surrounds, stone dressings, slate tiled gable roof forms, and with numerous tall brick chimneys. Originally built as a rectory, Ralph Court sits within extensive landscaped gardens. The site currently has a mixed use as a dwelling house and as a visitor attraction open to the wider public.
4. The Council asserts that Ralph Court is a non-designated heritage asset (NDHA) because of its special architectural and historic interest derived from its age, quality of design, and association with the grade II* listed Church of St Michael located south-east of the site. The National Planning Policy Framework (the Framework) defines a heritage asset to include a building or site that has a degree of significance meriting consideration in planning decisions because of its heritage interest. It goes on to state that this would include assets identified by the local planning authority and notes local

listing as one way to do this, however it is not stated that this is the only way. As such, I am not persuaded that the lack of inclusion of Ralph Court on a local list would of itself preclude the building from being considered a NDHA.

5. The appellants highlight that recent planning applications to extend or alter Ralph Court itself, along with others within or adjacent to its grounds, have been approved without any identification by the Council of Ralph Court as a heritage asset, and without any request for a Heritage Statement. I have not been provided with full details of those earlier applications and cannot, therefore, be certain that the Council has not altered its position due to additional assessment, information, or evidence. In particular, I note that the Council refers to Ralph Court as having been identified as a heritage asset within a 'Characterisation Study' undertaken in preparation for the drafting of the Edwyn Ralph Neighbourhood Development Plan.
6. Whilst I have not been provided with the details of the 'Characterisation Study', I am satisfied that the Council has now identified Ralph Court as a NDHA through the planning application process. I acknowledge that the building has been subject to various 21st Century alterations and additions, including the construction of a tearoom and covered terrace at the northern end of the main building. Those additions are, however, set back and set down from the principal elevation of the original rectory building. As such, the original rectory building has retained much of its historic character and architectural features of interest. As such, I find Ralph Court to have heritage significance, including by virtue of its age, period architectural design, and its association with the Grade II* listed Church of St Michael. It follows that Ralph Court has a level of heritage interest that merits consideration in my decision and the existing building is therefore a NDHA.
7. In stark contrast to the Victorian architecture of Ralph Court, the annexe would be intentionally contemporary in design and appearance. I am mindful that the Framework advises against discouraging appropriate innovation and change. However, the Framework also sets out that it is proper to seek development that is sympathetic to local character and history, and that maintains a strong sense of place. In my view, the proposed design and form of the annexe, with its mono-pitch standing seam roof forms, cedar cladding and render finishes, would be too far removed from the character and appearance of Ralph Court.
8. I acknowledge that the scale and position of the annexe reflects its functional requirements. Nevertheless, the significant scale of the annexe, in combination with its incongruous contemporary design and position close to, and forward of, Ralph Court's principal elevation, would result in a harmfully discordant visual effect that competes with, rather than complements, the character of the original rectory building. The proposal would, therefore, harm the character and appearance of Ralph Court and, consequently, that of the surrounding area. Furthermore, the development would undermine the ability to appreciate the architectural integrity and heritage significance of the historic dwelling, harming the setting of the NDHA.
9. The Council also asserts that insufficient information has been provided by the appellants to allow a full assessment of the impact of the development on the settings of nearby heritage assets. The designated heritage assets referred to in the Council's submissions are Old Cross Farmhouse (grade II),

Church of St Michael (grade II*), Townsend Farmhouse (grade II), and a Motte and Bailey Castle (Scheduled Ancient Monument¹).

10. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. Furthermore, the Framework requires, at paragraph 194, that the applicant should describe the significance of any heritage assets affected, including any contribution made by their setting. As a minimum, the relevant historic environment records should have been consulted and appropriate expertise used. The appellants have not identified Ralph Court to be of heritage significance and assert that the development would not be within the setting of other nearby designated heritage assets. I concur with the appellants' assessment that the limited height of the annexe, the topography, and intervening landscaping, would result in very limited, or no, intervisibility between the nearby designated heritages assets and the development.
11. Nevertheless, whilst the extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development, the Planning Practice Guidance (the Guidance) is clear that the way in which we experience an asset in its setting is also influenced by our understanding of the historic relationship between places. The Guidance states that, 'buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each'². As such, the appellants' assessment of the intervisibility between the development and nearby designated heritage assets is not sufficient to meet the Framework requirement, at paragraph 194, to describe the significance of any heritage assets affected, including any contribution made by their setting.
12. Whilst there is insufficient information available to me to allow a full assessment of the heritage impacts of the proposal in accordance with the Framework, I can conclude that the development would have a harmful impact on the character and appearance of Ralph Court and the surrounding area, detrimental to Ralph Court's setting and heritage significance as a NDHA. The proposal is, therefore, contrary to Policies SS6, LD1, LD4 and SD1 of the Herefordshire Local Plan Core Strategy (CS). These policies, taken together, amongst other things, advise development should conserve and enhance environmental assets, including heritage assets, that contribute to local distinctiveness. Moreover, the development would be inconsistent with section 12 of the Framework as it would not add to the overall quality of the area and would not be sympathetic to local character and history.

Personal circumstances and the planning balance

13. I have carefully considered the reasons why the appellants have applied for planning permission for the annexe and have taken into account the appellants' medical and personal statement, including the accommodation assessment provided by Sherwood Therapy Services Ltd. I am satisfied that the design of the annexe reflects the medical requirements of the appellants' daughter and her necessary carers.

¹ Ancient Monuments and Archaeological Areas Act 1979

² Paragraph: 013 Reference ID: 18a-013-20190723

14. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health conditions of the individual concerned. However, on the evidence that is before me, I have no doubt that the proposal would be of benefit to both the appellants and their daughter, and that it would lead to improved living conditions for the daughter.
15. In weighing the personal circumstances in the balance, this must be done in the context of the wider policy implications of the development. There is support within both local and national policy for housing that meets the needs of all sections of the community, including within CS Policy H3 and Framework paragraphs 60 and 62. I also acknowledge the support within the Guidance for housing that meets the needs of those with disabilities. However, given the development would accommodate only a single person, the benefit of additional specialist accommodation carries only moderate weight. I give limited weight to the bio-diversity enhancements proposed and the consequent net gains that would be delivered in accordance with paragraph 174 of the Framework. I also give limited weight to the proposed design features that support energy efficiency and the transition to a low carbon future.
16. For the reasons and policy conflicts set out in my assessment of the first main issue, I give significant weight to the harm to the character and appearance of Ralph Court and the surrounding area, and also to the harm to the setting and heritage significance of Ralph Court as a NDHA. Personal circumstances rarely outweigh general planning matters because the effect of the development would remain long after the personal circumstances no longer apply. Even if controlled as an annexe, the personal circumstances used to justify the development would inevitably change over time. However, the identified harms would be permanent.
17. The Guidance³ states that the use of a condition to grant planning permission solely on the grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for a permanent building. It would not therefore be appropriate to grant a temporary or personal permission, given the permanence of the development. Whilst I sympathise with the appellants' situation, there is insufficient evidence before me to suggest that the development is the only reasonable option available. As such, taking all relevant matters into account, I give moderate weight to the personal circumstances identified.
18. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act. Refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the harms identified are avoided. The protection of the public interest cannot be achieved by means that are less interfering of the appellants' (including their daughter's) human rights. Therefore, whilst I acknowledge the personal circumstances set out by the appellants, I conclude that these are not

³ Paragraph: 015 Reference ID: 21a-015-20140306

matters, even when taken cumulatively with the other identified benefits of the proposal, that outweigh the harms identified in my assessment of the first main issue.

19. Even if further heritage information would lead me to conclude there would be no harm to the settings of designated heritage assets, the other identified adverse impacts of granting permission would outweigh the proposal's benefits and all other considerations before me. As such, the insufficient information before me in relation to the effects of the proposal on the settings of nearby designated heritage assets has not been determinative in my decision. Accordingly, I find that the proposal conflicts with the development plan as a whole and material considerations do not exist to justify a decision other than in accordance with the development plan.

Conclusion

20. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR