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# Appeal Decision

Site visit made on 9 January 2023

**by Tom Bristow BA MSc MRTPI AssocRICS**

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

**Decision date: 21 February 2023**

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**Appeal Ref: APP/L3245/D/22/3307459**

**Laurel Bank, Painters Lane, Faults, Whitchurch, Shropshire SY13 2AT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by Mr J. Scarratt against the decision of Shropshire Council.
  - The application ref. 22/02183/FUL, dated 6 May 2022, was refused by notice dated 7 July 2022.
  - The development proposed is a two storey rear house extension.
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## Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension at Laurel Bank, Painters Lane, Faults, Whitchurch, Shropshire SY13 2AT in accordance with the terms of the application ref. 22/02183/FUL, dated 6 May 2022, subject to the conditions below.

## Preliminary matters

2. There is an extensive planning history to Laurel Bank, a property which has been successively altered. This appeal follows an unsuccessful appeal in 2018 for a different scheme.<sup>1</sup> Each proposal must nevertheless be determined on its merits, in accordance with the development plan unless material considerations indicate otherwise.

## Main issues

3. The main issues are (i) whether Laurel Bank should be treated as a non-designated heritage asset, (ii) the effect of the proposal on housing affordability, (iii) the effect of the proposal on local character and appearance, and (iv) whether the proposal would suitably safeguard bats.

## Reasons

### *Non-designated heritage asset ('NDHA')*

4. There is little substantive evidence of the history to Laurel Bank. Elements of the property, however, likely date from the Victorian era. That is judging by the quality of certain bricks in elements nearest Painters Lane, the use of Flemish bond with accentuated headers, and the presence of a sawtooth cornice. Those details are, however, confined to a modest proportion of the property. There are many nearby properties ostensibly of similar era, construction and design, including nos. 1 and 2 Painters Lane, the Patch broadly opposite, and Briarleigh closer to the Church. A significant proportion of dwellings across the country are of comparable age and aesthetic. As with Laurel Bank, the foregoing

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<sup>1</sup> Ref. APP/L3245/D/18/3197898 (related to application Ref 17/05750/FUL).

properties have been much altered over time. The Patch, for example, has been rendered, painted and re-roofed at some point.

5. Alterations over time do not inherently justify development that would further erode significance. Nevertheless in origin, and having been altered subsequently, Laurel Bank is commensurate with prevailing architecture here and that which is commonplace elsewhere. There is nothing to suggest that Laurel Bank is significant in other respects, for example in possessing any clear associative value as to local history. I also note that the property has not, I am told, previously been identified as an NDHA or included in the local historic environment record.<sup>2</sup> In short, Laurel Bank is not of a degree of historic interest meriting its treatments as a NDHA. The proposal should not therefore be held up against policy MD13 of the Site Allocations and Management of Development Plan (adopted December 2015, 'SAMDev') in that respect.

#### *Housing affordability*

6. SAMDev policy MD7a states 'in order to protect the long term affordability of single plot exception dwellings, they will be subject to size restrictions...'. Whilst that element applies only to exception sites, supporting paragraph 3.62 to policy MD7a, and paragraph 2.20 of the Council's 'Type and Affordability of Housing' Supplementary Planning Document (adopted September 2012, the 'SPD'), explain that there is a trend towards an increasing size of dwellings in the countryside. The SPD explains how that trend exacerbates housing affordability, and therefore guides that 'it is also important to maintain and provide an appropriate stock of smaller, lower cost, market dwellings'.
7. The previous inspector's decision states that Laurel Bank originated as a property of 67m<sup>2</sup> floorspace, which by then had increased to about 203m<sup>2</sup>. In this instance an extension with a footprint of 35.5 m<sup>2</sup>, or floorspace of some 60 m<sup>2</sup>, is proposed. That is a significant change likely to elevate market value. Albeit that there is limited information before me in this respect, even at 203m<sup>2</sup> Laurel Bank could not rationally be described as 'smaller, lower cost'. Many houses at Fauls Green are smaller, as are many, if not most, nationally. The proposal would therefore not further skew the mix of dwellings relative to the objectives of the SPD.

#### *Character and appearance*

8. Laurel Bank falls towards the fringe of Fauls. Fauls comprises a scattering of properties, roughly set around the grade II listed Church of Immanuel. Both Fauls and Painters Lane have a semi-rural character. Aside from at Hawkstone Terrace, properties tend to be detached and set within variably-sized and irregular parcels of land. That results in properties sitting comfortably within their context, as opposed to a more regular arrangement. Fauls is surrounded by a staunchly rural landscape dotted with farms. It has developed incrementally over many centuries, noting that grade II listed Moat House likely dates from the sixteenth century.
9. Painters Lane is a private track and public footpath arcing around part of the periphery of Fauls. Albeit varying, it is relatively enclosed by established planting and properties' boundary features. As is the case of Laurel Bank, the

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<sup>2</sup> Noting Planning Practice Guidance ref. 18a-040-20190723.

plots of properties in the area tend to be marked by substantial hedges. As noted above, there are historic properties about, many of which have been altered over time. There are also more recent properties, a number of which fall around Painters Lane further north-eastwards than Laurel Bank. Having grown up organically, there is limited coherence in terms of the scale or layout of properties, though most are essentially traditional in form and materials.

10. The proposal would represent a significant addition to the property. It would result in Laurel Bank becoming one of the larger properties here. The resultant form of the dwelling would be somewhat complex, having a number of wings. I acknowledge that the previous inspector dismissed a scheme for an extension on the basis that it would adversely affect the existing form of the property and character of its surroundings. There comes a point where the cumulative extension of a property crosses a threshold and entails detrimental effects. However that would not occur in this instance for 5 principal reasons.
11. Firstly the semi-rural character to Fauls results principally from the irregular layout of properties in variable plots, along with mature gardens and established planting. Those features would not be directly affected by the proposal, nor would any views looking in a northwards arc around the settlement (where the connection with the countryside is most clearly felt). Secondly, in terms of footprint, the proposal would result in a property broadly comparable with others nearby.<sup>3</sup> Thirdly, as also noted by the previous inspector, Laurel Bank falls within one of the larger plots in the locality. The resultant ratio of garden space to footprint would not be discordant.
12. Fourthly the proposal would respect the existing height, proportions and architectural detailing of Laurel Bank as it stands. Consistent materials could be secured via condition. Fifthly, the proposed extension would be set behind the existing form of Laurel Bank. It would, in effect, represent a rear outrigger largely hidden from view from Painters Lane (or from public vantage points elsewhere). Glimpsed views might be possible, however any views would be only partial and heavily filtered by boundary features and planting. Unlike the 2018 scheme, the proposal would not visually unbalance the appearance of the property, nor adversely affect the prevailing character of the area to any appreciable degree.<sup>4</sup>
13. I therefore conclude that the proposal would accord with the relevant provisions of policy CS6 of the Shropshire Core Strategy (adopted February 2011, the 'CS') and SAMDev policy MD2. In summary, and amongst other things, those provision seek to ensure that development integrates appropriately with the character of its surroundings, an objective shared with paragraph 130 of the National Planning Policy Framework ('NPPF').

### *Bats*

14. There is a duty on me in respect of conserving and enhancing biodiversity (section 40 of the Natural Environment and Rural Communities Act 2006 as amended, 'NERC'). All species of bats are protected.<sup>5</sup> The Council's decision

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<sup>3</sup> Including Orchard Cottage, Oak Lodge, The Bungalow and Freshfields along Painters Lane.

<sup>4</sup> Inherent in that reasoning, notwithstanding paragraphs 4 and 5 of this decision, it would also not adversely affect any historic interest.

<sup>5</sup> Schedule 2 to the Conservation of Habitats and Species Regulations 2017 and schedule 5 to the Wildlife and Countryside Act 1981 as amended.

notice of 7 July 2022 states that the proposal requires 'a bat survey in accordance with the 2016 Bat Conservation Trust: Good Practice Guidelines', and that no survey had been submitted. I understand, however, that a Preliminary Roost Assessment ('PRA') was submitted to the Council on 5 July 2022. Insofar as the merits of the proposal are concerned, the effects of a scheme on protected species must be established, and the onus is principally on an applicant to substantiate their case.<sup>6</sup>

15. The PRA applies the Guidelines referenced above. There is no indication that the site falls within an area of particular value to bats. There are no designated wildlife areas within 1k of the site, albeit that surroundings are characterised by various types of habitat. Given that much of Laurel Bank has been recently constructed or renovated, the PRA identified the site as having overall 'negligible potential value for bats'.<sup>7</sup> Observations in the PRA accord with mine, noting that the property and its grounds were in good order at the time of my visit. Moreover the majority of the ground area proposed for the extension is either hardsurfaced or maintained as lawn (rather than representing features upon which bats rely for roosting, sustenance or commuting).
16. Consequently, and given protections in any event under section 9 of the NERC, I conclude that the proposal would not result in undue effects to bats. Subject to a condition requiring adherence to the measures recommended in the PRA, the proposal would accord with the expectations of statute, the relevant provisions of CS policy CS17 and SAMDev policy MD12. In summary, and in common with NPPF paragraph 174. d), those provisions seek to minimise effects on, and to seek to enhance, biodiversity.

### **Other matters**

17. The extension would include four windows facing roughly towards Cape House. A sense of privacy is, in large part, dependent on perception. However there are no first floor windows within the nearest elevation of Cape House. The boundary between the plots of Laurel Bank and Cape House is demarcated, in part, by a substantial hedge. Given the prevailing nature of the area described above, there is every likelihood that would remain broadly similar (regardless of any planning condition or ownership).
18. Moreover there would be a comparable, if not greater, separation between the proposed extension Cape House as exists between the flank elevations of neighbouring properties in the surrounding area. Undue effects to privacy would not therefore result, and any implications of noise or disturbance during construction would be temporary.<sup>8</sup> Whilst I note reference has been made to poor drainage, there is no indication that Laurel Bank falls in an area vulnerable to flooding or a critical drainage area. In any event development must comply with the provisions of Building Regulations 2010 as amended.<sup>9</sup> No other matters therefore alter the foregoing reasoning, namely that the development proposed would be acceptable.

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<sup>6</sup> Government Circular 06/2005, paragraph 99, section 62(3) of the Town and Country Planning Act 1990 as amended.

<sup>7</sup> Acknowledging that the porch, which would be unaffected by the proposal, may have some greater potential.

<sup>8</sup> With provision elsewhere to address noise amounting to a statutory nuisance (under the Environmental Protection Act 1990 as amended).

<sup>9</sup> To which Approved Document H, Drainage and waste disposal, relates.

## **Conditions**

19. In addition to requiring commencement within the relevant statutory period, I have imposed conditions specifying compliance with the supporting plans and that matching materials shall be used. Those conditions are necessary to ensure that the development is implemented as assessed above. To minimise effects upon, and to make provision for, biodiversity I have additionally imposed condition 4 referencing the approach in the PRA. Suggestions advanced by the Council in respect of lighting would, however, be excessive given the limited value of the site to bats. In imposing conditions I have had regard to the NPPF, the Planning Practice Guidance and relevant statute. Accordingly I have amended the wording of conditions put to me without altering their fundamental aims.

## **Conclusion**

20. For the above reasons, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

*Tom Bristow*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plan entitled 'Proposed two storey rear extensions' (also referenced as drawing No. 'Planning 1/2022 Resubmission').
- 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) The development hereby permitted shall not be occupied until at least one bat box or brick and one artificial bird nest have been installed in suitable locations for their intended use, including in respect of orientation, height, shade, lighting and flightpaths, and made available for use (in line with section 3.4 and Appendix 4 of the supporting Preliminary Roost Assessment undertaken by the Bat Surveyor, April 2022, and, as appropriate, the Bat Conservation Trust's Guidance Note 08/18 or successor document). Once installed and made available for use, the bat box or brick and artificial bird nest shall thereafter be maintained as such.