

Appeal Decision

Site visit made on 7 August 2023

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 25th August 2023

Appeal ref: APP/P0240/D/23/3322455

5A Mill Lane, Langford, Central Bedfordshire SG18 9QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
 - The appeal is made by Mr P Elwood against the decision of Central Bedfordshire Council.
 - The application, ref. CB/22/04750/FULL, dated 8 December 2022, was refused by a notice dated 2 March 2023.
 - The development is: Construction of a parking area and installation of a garden shed (retrospective).
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Decision

1. The appeal is dismissed insofar as it relates to the garden shed. The appeal is allowed insofar as it relates to the parking area. Planning permission is granted for the construction of a parking area on land attached to 5A Mill Lane, Langford, Central Bedfordshire SG18 9QB in accordance with the terms of the application, ref: CB/22/04750/FULL, dated 8 December 2022, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following condition:
 - 1) The development hereby permitted, insofar as it relates to the construction of the car parking area, shall be carried out in accordance with the following approved plans: Plan No. CBC 02 - Existing and Proposed Site Layouts - 06_01_2023 dated 30 December 2022; Location Plan dated 22 November 2022.

Procedural matter

2. The appeal parking area and the timber garden shed within the land attached to the semi-detached house at No. 5A Mill Lane have been constructed. The application for their retention was submitted retrospectively. I have dealt with the appeal on that basis, (s.73A of the Act).

Main issue

3. The main issue is the effect of the appeal project on the street scene and on the setting of adjacent Listed Buildings.

The appeal projects

4. The Appellant, Mr Elwood, said he had carried out improvement works to the garden area of the house at No. 5A alongside Mill Lane. He had replaced an old shed and moved the car parking area to the east on a newly paved part of the land. The new fencing was not part of the planning application.

Council objections

5. The Council were concerned that Mr Elwood's works at No. 5A appeared unduly prominent within the street scene. They were incongruous and at odds with the grain of development. Harm to the character and appearance of the area and the setting of adjacent Listed Buildings had been caused. There was conflict with Sections 16 and 12 of the National Planning Policy Framework, (NPPF), policies HQ1 and HE3 of the Central Bedfordshire Local Plan, Section 7 of the Central Bedfordshire Design Guide and policy PD3 of the Langford Neighbourhood Plan.
6. The Council also said that newly installed fencing had resulted in inadequate visibility splays at the access. That was detrimental to the safety and convenience of users of the highway. The parking area was contrary to policies T2 and T3 Central Bedfordshire Local Plan.

Listed buildings and setting

7. The Grade I Listed Building Church of Saint Andrew stands opposite the appeal property No. 5A on the other side of Mill Lane. Nos. 1 and 3 Mill Lane is a Grade II Listed Building immediately east of No. 5A.
8. The glossary to the NPPF defines a Heritage Asset as a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. The glossary defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Considerations –

Heritage asset

9. Planning (Listed Buildings and Conservation Areas) Act 1990, section 66 headed 'General duty as respects listed buildings in exercise of planning functions', says at (1): In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
10. The case of *Steer v SSCLG* [2017] EWHC 1456 (Admin) dealt with the general duty of a decision maker under s.66 of the Listed Buildings Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In *Steer*, Mrs Justice Lang DBE agreed with the Claimant and Historic England that the Inspector had "adopted an artificially narrow approach to the issue of setting which treated visual connections as essential and determinative", and that this had amounted to an error of law. It was confirmed that the NPPF, PPG and Historic England's 'Good Practice Advice in Planning 3: The setting of Heritage Assets' ('GPA3') all support a "broad meaning given to setting", and that although "a physical or visual connection between a heritage asset and its

setting will often exist, it is not essential or determinative". The word 'experienced' in the NPPF definition of 'setting' has a broad meaning which is capable of extending beyond the purely visual.

11. *Steer* was, however, overturned by Lindblom LJ in *Catesby Estates Ltd v Steer* [2018] EWCA Civ 1697. Whilst it might have seemed from *Steer* that the extent of the setting of a listed building potentially has no limit, *Catesby* determined that the section 66(1) duty, where it relates to the effect of a proposed development on the setting of a listed building, makes it necessary for the decision-maker to understand what that setting is – even if its extent is difficult or impossible to delineate exactly – and whether the site of the proposed development will be within it or in some way related to it. In my view, the appeal property, No. 5A Mill Lane, clearly lies within the setting of a heritage asset, particularly the Grade I Church of Saint Andrew immediately opposite No. 5A. The high hedge along the Church boundary with Mill Lane currently limits intervisibility across Mill Lane to No. 5A, but it does not form the limit of the setting of this heritage asset. The hedge does not diminish the highest level of protection that is to be applied here.
12. The Grade II Listed Building at Nos. 1 and 3 Mill Lane stands close to the newly built appeal shed at the eastern end of the side garden to the house at No. 5A. Plans show the shed to be 4.84m long, 2.41m wide and some 2m high. It is a utilitarian timber shed of no visual merit. It is clearly visible to all users of Mill Lane and entirely fails the test of avoiding any harm to, or loss of, the significance of a designated heritage asset, (NPPF, paras. 200 -202). No public benefit arises that might offset the harm caused to this part of the heritage asset by the visual intrusion of this large ill-fitting garden shed. Planning permission is not granted for its retention.

Parking area

13. Mr Elwood said the former car parking area had been close to the eastern gable of the house. Emerging visibility to the left was obscured. The limited turning space within the curtilage of No. 5A meant vehicles had to back into the road, or back in from the road. Mr Elwood said the new 1m high fencing west of the parking area was not included in the planning application. It is therefore not a matter before me.
14. I find no objection to the retention of the works to form the new car parking area. Moving the No. 5A car parking east away from the house improved visibility. It is safer for users. The newly paved area appears to be an improvement on the previous layout. It has no adverse effect on the setting of the nearby Listed Buildings. Planning permission is granted for its retention.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed insofar as it relates to the construction of the new car parking area at No. 5A Mill Lane but dismissed insofar as it relates to the erection of the new garden shed.

John Whalley

INSPECTOR