



# Appeal Decision

Site visit made on 2 November 2023

**by Laura Cuthbert BA(Hons) MSc MRTPI**

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

**Decision date: 6<sup>th</sup> December 2023**

## **Appeal Ref: APP/Y3940/W/23/3321615**

### **The Old Vicarage and Staverton House, 51A New Terrace, Staverton BA14 6NX**

- 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 Ashley Jones of Fidelia Care Ltd against the decision of Wiltshire Council.
- The application Ref PL/2021/10237, dated 26 October 2021, was refused by notice dated 19 January 2023.
- The development proposed is Demolition of existing care home with replacement building providing 9 bedrooms on lower ground floor, 9 bedrooms on ground floor and 14 bedrooms on first floor, all with auxiliary space, & together with the existing home would provide 52 bedrooms in total.

### **Decision**

1. The appeal is dismissed.

### **Application for Costs**

2. An application for costs was made by Mr Ashley Jones of Fidelia Care Ltd against Wiltshire Council. This application is the subject of a separate Decision.

### **Preliminary Matters**

3. The address in the banner heading above has been taken from the Council's decision notice and the appellant's statement of case for clarity purposes.
4. I note that a revised application has been submitted to the Council<sup>1</sup>. Whilst I note that this application has been through the required public consultation procedure, interested parties will be expecting my decision to be based on the plans before the Council at the time the decision was made on the appeal proposal. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought<sup>2</sup>.
5. Both parties have provided me with an electronic link to watch the relevant Development Control Committee meeting at which the appeal application was discussed. I have not watched this as I cannot be sure that all relevant interested parties have access to the facilities to watch it. It also does not bear directly on the planning merits of the case and therefore does not materially affect my judgement of the appeal.

<sup>1</sup> Planning Application Reference PL/2023/04128

<sup>2</sup> Annex M of the Procedural Guide Appeals

## Main Issues

6. The main issues in this case are:

- the effect of the proposal on the living conditions of the existing occupants of 6 Littlebrook, 50b and 52 New Terrace, and 12 Smallbrook Gardens, with respect to privacy and outlook; and
- the effect of the proposal on the Old Vicarage, a non-designated heritage.

## Reasons

### *Living conditions*

7. The Old Vicarage and Staverton House is an existing care home facility. The Old Vicarage, a 2 storey building with a lower ground floor due to the changes in the site levels, has provided extra care facilities since 1984. Staverton House, a 2 storey building situated to the south of the site, was constructed to provide additional bedrooms<sup>3</sup>. A single storey structure runs off the rear of the Old Vicarage towards Staverton House, albeit it does not physically link the 2 buildings. The Old Vicarage and single storey structure have been vacant since November 2021, due to the buildings no longer being fit for purpose.
8. The appeal site is situated in a predominantly residential area and consequently forms a close relationship with the neighbouring residential properties. The proposal involves the erection of a 2-3 storey building, replacing the Old Vicarage towards the north of the site and the introduction of a 3 storey, flat roofed central building, linking the new building to the north to Staverton house to the south.

### 6 Littlebrook

9. No 6 Littlebrook is a modest semi-detached property, situated adjacent to the southern half of the western boundary. Its main external amenity space is its side garden which lies immediately adjacent to the shared boundary with the appeal site. The single storey structure attached to the Old Vicarage is visible from No 6's side garden albeit its impact is relieved by its low height. There are a handful of trees in No 6's garden along the shared boundary, although I noted that the canopies are sparse in places, and the single storey building and associated windows still visible. Staverton House is also an imposing building when viewed from No 6's garden, though its impact is mitigated by its siting.
10. The proposed site plan<sup>4</sup> annotates the distances between the new 3 storey central structure and the side elevation of No 6. This is calculated to be 16m. I note that the Council has calculated the 3 storey structure to be 9.6m high and that it would be 'within 9 metres' of the boundary with No 6. The appellant has not disputed these measurements or distances.
11. I acknowledge that the 3 storey structure would be positioned further away from the boundary with No 6 than the existing single storey structure. However, the introduction of the substantial 3 storey building, by virtue of its size, massing and proximity, would have an unacceptable overbearing effect upon the outlook from the modest external amenity space to the side of No 6.

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<sup>3</sup> Council application Refs - W/03/02197/OUT & W/05/01212/FUL)

<sup>4</sup> Proposed site plan with sight lines - drawing ref: A-840 113 E

The presence of the trees along the boundary would do little to alleviate this harm, given the scale of the proposal. This harm would particularly be felt in the winter months when the trees are not in leaf.

12. I note the windows that would look towards No 6 include angled modules, in order to restrict the potential for future residents of the proposal to overlook No 6. Whilst it is noted that the lower 1.6m of these windows would have opaque glass, the proximity of these windows, which would be at first and second floor level, would lead to the perception of being overlooked.
13. Therefore, for the above reasons, the proposal would harm the living conditions of the existing occupants of No 6, in respect of privacy and outlook.

#### 50b New Terrace

14. No 50b New Terrace is an end of terrace, of a group of 3 properties, situated to the east of the appeal site. At present, the vehicular access to the parking area associated with the care home runs to the west of the shared boundary with No 50b, with the parking area situated along the boundary with No 50b's rear garden. There are no windows in the gable end of 50b.
15. The proposed built form would bring the proposals closer to No 50b and at a greater scale. I also note that it would be approximately 1.1m higher than the existing Old Vicarage. However, the proposed building that would replace the Old Vicarage would be sited roughly in line with No 50b. The siting of the 3 storey central building would be positioned a sufficient distance from No 50b so as not to be materially harmful to the existing outlook and privacy enjoyed by No 50b. Therefore, it is considered that the living conditions of No 50b would not be materially harmed by the proposed buildings.
16. The front garden of No 50b is an open, landscaped area to the side of the access drive serving Nos 50, 50a and 50b New Terrace. It is their rear garden which offers greater privacy as external amenity space. The internal access for the proposal would run alongside the shared boundary with No 50b's front garden and would be slightly elevated. It is considered that the internal access would create some noise, overlooking and car fumes close to the boundary with No 50b. However, the access to the rear parking area of Staverton House is already alongside the boundary with No 50b. Furthermore, the proposal would move the parking associated with Staverton House to the front of the site, which currently lies to the west of No 50b's rear garden. On balance, whilst the proposal would elevate the access track slightly, it is not considered to be materially harmful given the status of the area to the front of No 50b's house, and the existing parking and access arrangements of Staverton House.
17. Whilst the siting of the service area and refuse storage close to the boundary with No 50b, again in a slightly elevated position, is not ideal, it is not considered that any harm by way of noise, smell or overlooking would be significant enough to be materially harmful. They would be positioned adjacent to the blank gable end of No 50b, rather than being adjacent to their rear garden. I also note the suggestion for a landscaping condition to secure some mature evergreen trees around the refuse storage area. It is considered that this would ensure that the privacy of No 50b, in regard to mitigating any overlooking to their rear garden, would not be harmed.

18. Therefore, the proposal would not harm the living conditions of the existing occupants of No 50b, in respect of privacy and outlook.

#### 52 New Terrace

19. No 52 New Terrace is one half of a pair of semi-detached properties situated adjacent to the northern half of the western boundary. It has a long rear garden. No 52 is currently subject to overlooking from the existing first and second floor windows of the Old Vicarage along its western elevation. The siting of the existing Old Vicarage building, as well as the single storey link building, are also prominent in the outlook from No 52's rear garden.
20. Taking in to account the existing situation, the scale and bulk of the proposal would allow the outlook enjoyed by No 52 to not be materially harmed. The new building to the front of the site, whilst it would be positioned closer to the shared boundary with No 52 and would be wider and longer than the existing building, would be further to the south than the existing Old Vicarage. The impact of the new central link building would be largely screened by the new building at the front. It is also positioned close to the bottom of No 52's rear garden. The proposal would therefore not result in a significantly overbearing structure and the outlook enjoyed by No 52 would not be harmed.
21. The positioning of the windows in the new central link building would overlook the southern part of No 52's rear garden. However, the use of opaque glass in the bottom half, as well as their distance from No 52 and their angled view, would ensure that the degree of overlooking that would result would not be materially harmful.
22. Therefore, the proposal would not harm the living conditions of the existing occupants of No 52, in respect of privacy and outlook.

#### 12 Smallbrook Gardens

23. No 12 Smallbrook Gardens is situated to the east of Staverton House, towards the south of the appeal site. Due to its position directly adjacent to the boundary with No 12, Staverton House is highly prominent in the outlook from No 12, both from the rear window of No 12 and from the rear garden. I also note there are 2 existing first floor windows of Staverton House which directly overlook No 12.
24. Whilst I acknowledge that the proposal, in particular the 3 storey central element, would be more visible and prominent in the outlook from the first floor bedroom window and rear garden of No 12, given the distance from the boundary with No 12, it is not considered that the bulk and design of the proposal would be materially harmful to the outlook currently enjoyed by No 12. The distance from the boundary with No 12's garden would also ensure that any windows along the eastern elevation of the 3 storey central building would not result in a material loss of privacy due to overlooking to No 12.
25. Therefore, for the above reasons, the proposal would not harm the living conditions of the existing occupants of No 12, in respect of privacy and outlook.

#### Other Matters in regard to Living Conditions

26. Whilst it did not form part of the reason for refusal, in its Statement of Case the Council has stated that the proposal would cause overshadowing of No 6

and No 52's gardens in morning hours for long periods of the year. In response to this, the appellants have provided a shadow desk based analysis conducted at 9:05 am on July 21, 2023. This demonstrates that there would be minimal variation in the shadows cast on the neighbouring properties to the west when comparing the existing built form on site and the proposed development. Therefore, the amount of light received by the properties to the west would be similar to that which they enjoy currently. Consequently, based on the evidence before me, I consider that the proposals would not be significantly overshadowing to the neighbouring properties. Nevertheless, despite the lack of harm to the amount of light received by No 6, this does not overcome my concerns in regard to their outlook and privacy.

27. For the reasons given above, whilst I have found that the proposals would not be harmful to the outlook or privacy enjoyed by 50b and 52 New Terrace and 12 Smallbrook Gardens, the proposal would harm the living conditions of the occupants of 6 Littlebrook, in respect of privacy and outlook. It would be contrary to Policy 57 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy), which states that proposals should make a positive contribution to the character of Wiltshire through having regard to the compatibility of adjoining buildings and uses and the impact on the amenities of existing occupants. It would also be contrary to paragraph 130 (f) of the National Planning Policy Framework 2023 (the Framework), which states that development should have a high standard of amenity for existing users, which the proposal would fail to achieve.

#### *Non-Designated Heritage Asset*

28. The Old Vicarage, a former Victorian vicarage, was constructed between 1860 and 1886 to serve the vicar of St Paul's Church in Staverton. The 1886–87 map included in the appellants 'Built Heritage Assessment'<sup>5</sup> shows that the vicarage was sited in an isolated location, surrounded by agricultural land. Over time, extensive residential development has occurred in the immediate vicinity of the former vicarage, including that of New Terrace, Smallbrook Gardens and Littlebrook. The vicarage, which subsequently became known as the 'Old Vicarage', was converted to a care home in approximately 1984. Various extensions and alterations were added to facilitate this new use. The significance of the building for the purposes of this appeal is its architectural and historic interest as a former vicarage.
29. The Old Vicarage possesses some aesthetic merit due to its external stonework, including the carved hoodmoulds, porch and windows. However, it is not particularly original in its style and has been considerably altered internally in order to serve its modern use as a care home. Original elements of the building, such as the main entrance, have been covered and have been replaced with modest additions to facilitate its use. On the ground floor, the sills of the former windows in the north and west elevations have been removed to create large doorway openings into the conservatory extensions. Where early floorboards were visible under the modern carpets, these have evidently been cut, presumably in order to install modern services. There are also signs of rot and instability.
30. Internally, some original features remain. These include moulded cornices with typical Victorian profiles, window shutters and a few early ceiling roses at

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<sup>5</sup> Prepared by Pegasus Group, dated 07/03/2023, Pegasus Ref P23-0380

ground-floor level. There is also evidence of some early joinery around the internal doorways and the staircase has 'simple turned balusters and robust but plainly carved newel posts and handrails'. Nevertheless, I consider that those features that do remain are not especially unusual or special for a property of this period.

31. In summary, the building, whilst attractive with some pleasing external and internal architectural features, is typical of its era. There is nothing inherently special about its design that sets it apart from other buildings of this period. It has been extended, unsympathetically in places, and interior features have been lost. It does not meet the criteria for statutory listing. Whilst the Council have not articulated the level of significance, the appellant considers that the building has a moderate level of significance. This has taken into account the modern accretions and alterations which are considered to detract from the architectural and historic interest of the asset.
32. In my view, taking account of the above, I consider it has a moderate level of significance. Demolition of the building, as proposed, would result in its total loss. Paragraph 203 of the Framework, in respect of non-designated heritage assets, requires decision makers to make a 'balanced judgement' having regard to the scale of any harm or loss and the significance of the heritage asset. I return to this matter in the heritage balance.

### **Other Matters**

33. The appeal site is within 4 km of a Greater Horse Shoe bat 'core roost', as identified in the Bath and Bradford on Avon Bat Special Area of Conservation (SAC). The Council's Ecologist state that the proposal 'has potential to result in significant adverse impact either alone or in combination with other projects on the statutorily designated Bath and Bradford on Avon Bats SAC'. Had I been minded to allow the appeal, I would have sought more information on this matter. However, given my conclusion on the main issues, it is not necessary for me to do so as I do not need to carry out an Appropriate Assessment as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
34. I note that the proposal was submitted following pre-application advice from the Council. This did not raise any concerns regarding the loss of The Old Vicarage, nor was the building considered at the time to be of heritage value and a non-designated heritage asset. I also note the Conservation Officer did not comment at the pre-application stage. Nevertheless, at appeal the proposal is considered afresh, and any omission to address or raise a matter as part of any pre-application advice does not warrant allowing the appeal.

### **Heritage Balance**

35. The proposal would result in the total loss of a non-designated heritage asset of moderate significance. The loss of a building of moderate significance would result in a moderate level of harm. Paragraph 203 of the Framework, in respect of non-designated heritage assets, requires decision makers to make a 'balanced judgement' having regard to the scale of any harm or loss and the significance of the heritage asset.
36. The proposal would provide enhanced dementia care at an existing facility and would maximise the number of beds on a viable basis. This is in recognition

that there is a growing demand for dementia care accommodation. It is noted that the Cabinet member for Adult Services recognised the value of the site in providing care that is needed within Wiltshire. They also stated that the need for such forms of care is due to the aging population in the UK, and in particular in Wiltshire. I also note the content of the 'Planning Need Assessment'<sup>6</sup> prepared by Carterwood, in regard to the need for care facilities in Wiltshire. This found that 'even on the basis of minimum market standard care beds, shortfalls are expected to increase to 421 and 1,854 in the market catchment and local authority area, respectively, by 2036.....reflecting the sustained and escalating nature of need'. I therefore attach significant weight to the provision of the care home facilities that the proposal would deliver.

37. It is agreed that the Council is currently unable to demonstrate a 5 year housing land supply. The Council have confirmed that the proposed C2 accommodation can be included in the Council's Housing Land Supply. The proposal would result in a net gain of 12 rooms which, when applying the Wiltshire ratio to the C2 rooms, would equate to a gain of 7 dwellings to the housing shortfall. I attach significant weight to this benefit.
38. An analysis of the existing building has been submitted with the appeal<sup>7</sup>, which discusses the key reasons against the use of the existing Old Vicarage building as part of a refurbishment scheme. The appellant has considered the reuse of the existing vicarage building, showing an attempt to ensure all bedrooms include a full ensuite wet room as standard, and that every room has a minimum of 15m<sup>2</sup> of space for each resident to live in. However, due to the inadequate vertical circulation within the building and particularly the convoluted arrangement within the Old Vicarage, this idea has been dismissed due to the inability to effectively provide quality care within the building. The Council still consider that it has not been adequately demonstrated that the Old Vicarage, alongside 'an appropriate extension behind it linking with Staverton House' could not provide for non-care rooms or an alternative arrangement.
39. However, regardless of whether it would be viable or even feasible to convert the existing Old Vicarage building to provide for modern care needs, having carefully considered all of the evidence, I find that the benefits of the scheme, taken together, outweigh the harm arising from the total loss of a non-designated heritage asset of moderate significance. Hence, there would be no conflict with the relevant criterion of Core Policies 57 and 58 of the Core Strategy or the Framework. These policies, in combination, seek to ensure that distinctive elements of Wiltshire's historic environment, including non-designated heritage assets, which contribute to a sense of local character and identity will be conserved, and where possible enhanced. Proposals should also ensure a high standard of design and enhance local distinctiveness by responding to the value of the historic environment.

## **Planning Balance and Conclusion**

40. Although acceptable in some regards, I have identified that there would be conflict with the development plan as a whole, as the proposal would harm the living conditions of the occupants of 6 Littlebrook, in respect of privacy and outlook. I attach significant weight to this harm. Taking in to account the benefits outlined above, I find that the adverse impacts of the proposed

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<sup>6</sup> Appendix G of Appellant's Statement of Case - Planning Needs Assessment, Carterwood (March 2023)

<sup>7</sup> Appendix F of Appellant's Statement of Case - Existing Building Review, Carless and Adams

development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

41. Therefore, considered in total, the material considerations referred to above, including the approach of the Framework, do not outweigh the conflict with the development plan. The appeal is therefore dismissed.

*Laura Cuthbert*

INSPECTOR