



Appeal Decision

Site visit made on 3 October 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/L3245/W/23/3320450

Kyrewood, Clive Avenue, Church Stretton, SY6 7BL

- 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 Peter Foster against the decision of Shropshire Council.
 - The application Ref 22/05112/FUL, dated 16 November 2022, was refused by notice dated 3 February 2023.
 - The development proposed is described as “demolition of existing garage, construction of a new three bedroom property and car proposed parking deck to Kyrewood.”
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage, construction of a new three bedroom property and car proposed parking deck at Kyrewood, Clive Avenue, Church Stretton, SY6 7BL in accordance with the terms of the application, Ref 22/05112/FUL, dated 16 November 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were both invited to make representations on it. No comments have been received.

Main Issue

3. The main issue is whether or not the proposal would preserve or enhance the character and appearance of the Church Stretton Conservation Area (CA) and the Shropshire Hills Area of Outstanding Natural Beauty (AONB) with particular regard to protected trees.

Reasons

4. The appeal site is a detached dwelling located on Clive Avenue. The surrounding area is predominantly residential, characterised by large, detached dwellings on sloping ground, elevated above the A49. The unadopted nature of Clive Avenue, with no separate footway, occasional verges, stone walls and extensive tree planting, and protected woodland at the rear of the site, give the surrounding area a semi-rural and verdant character and appearance.
5. The appeal site lies within the Church Stretton CA which derives its significance from its historic buildings and their spacious layout, as well as the varied and individual appearance of dwellings. The overall verdant character of the area also contributes positively towards the significance of the CA. This is reflected by what is a landscaped and spacious plot.

6. The proposed development would introduce a dwelling to the side of Kyrewood, in place of an existing domestic outbuilding. In order to facilitate the construction of the dwelling a single tree would need to be felled. The submitted Tree Condition Report identifies that this tree does not form part of the woodland tree preservation order (TPO) which is located to the rear half of the site and notes that it has localised decay, minor deadwood and has a less than 10-year life expectancy. This tree is located to the rear of the existing outbuilding and would be removed to facilitate access and construction of the proposed dwelling. Given the extensive tree cover provided by the TPO, I consider that the loss of this single tree would have a neutral effect and therefore preserve the character and appearance of the CA.
7. The Council are concerned that the proximity of the development, and in particular its associated amenity space, to the protected trees would be likely to result in an anticipated pressure to fell trees on amenity grounds, due to the impact on natural daylight. I have carefully considered this matter and observed the relationship between the protected trees, proposed amenity space and the position of the existing and proposed dwelling on the site.
8. Whilst undoubtedly the proposal would result in the introduction of development much closer to the protected trees than is currently the case, the area of proposed garden within the TPO area is currently part of the residential garden of Kyrewood. Additionally, approximately 1356 square metres of amenity space would be provided for the proposed dwelling, whilst only 302 square metres of this would fall outside tree cover, this is sufficient open amenity space for a 3-bedroom dwelling.
9. I accept that there could be the potential for conflict between future residents and some of the protected trees, however the Council would retain the ability to consider these through TPO applications. Nevertheless, on balance I would conclude that the overall design and layout of the proposal would ensure sufficient amenity space not under tree cover to ensure that protected trees would not be harmed. As such, the proposal would have a neutral effect and therefore preserve the character and appearance of the CA.
10. The appeal site is located within the Shropshire Hills AONB. The verdant and semi-rural character of the area contributes positively to the AONB. The proposed development would be located in a residential area and would, apart from one poor quality tree, retain all trees and the protected woodland. The retention of the woodland and the grouping of the proposed dwelling with existing dwellings means that the visual impact of the proposed development would not have an adverse impact on the rural landscape and scenic quality of the AONB.
11. The proposal would, for the reasons I have given, ensure that the character and appearance of the CA and AONB is preserved. As such, it would comply with Policies CS6 and CS17 of the Shropshire Core Strategy (2011), and Policies MD2, MD12 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015). Together these seek to ensure development does not have a significant adverse effect on important woodland, trees and hedges, and that heritage assets are protected. The proposal would also comply with the historic and natural environment policies contained within the Framework.

Other Matters

12. Local residents have raised concerns regarding highway safety. I note from comments received that the access road is private and maintained by the Clive Avenue Residents Association (CARA). Whilst the access road is narrow and sloping, there are areas to stop and allow cars and pedestrians to pass. With the above in mind, vehicles utilising the parking provided for the proposed dwelling would have good visibility and the net increase in use of the road by a single dwelling would not have a harmful impact on highway safety.

Conditions

13. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding surface and foul water drainage and construction management plan are necessary in order to ensure that adequate drainage is provided, and the site is managed acceptably during construction and lifetime of the development. Landscaping and biodiversity conditions are necessary in order to ensure the proposed landscaping and biodiversity mitigation is completed and maintained. Conditions regarding materials and details for windows and doors are necessary in order to safeguard that character and appearance of the area. Conditions regarding improving the access and parking are necessary in order to protect highway safety. I have altered the wording of some conditions in order to ensure they comply with the PPG.
14. I have given careful consideration to the inclusion of the condition removing permitted development rights, having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, the proposed development, whilst currently preserving the character of the CA and not harming the protected trees, if extended could be done so unsympathetically or impact on protected trees. As such, I consider the condition to be necessary.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Site Plan drawing no. F522/02A/03, and Proposed Floor Plans and Elevations drawing no. F522/02A/02.
- 3) No development shall commence until details of proposed surface water and foul drainage systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:
 - a. Percolation test results and sizing calculations for any soakaways
 - b. Provision for installation of a silt trap or catch pit upstream of any drainage field.
 - c. Measures to prevent surface water from flowing onto adjacent land, including any public or private highway.
 - d. Details of any other/alternative Sustainable Drainage Systems (SuDS) to be incorporated into the development • Details of foul drainage flows.
 - e. A drainage layout plan, to include details of proposed foul sewer connections The approved system(s) shall be implemented in full prior to the first use/occupation of any part of the development and shall be retained thereafter for its lifetime.
- 4) No development shall commence until a construction management statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period, and shall include provision for:
 - a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. storage of plant and materials
 - d. the erection and maintenance of security fencing/hoardings
 - e. wheel washing facilities
 - f. control of dust, dirt and noise emissions during construction
 - g. timing of construction works and associated activities.
 - h. recycling/disposal of waste resulting from demolition and construction works.
 - i. a construction traffic management plan
- 5) No development shall commence until a detailed scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. This shall include:
 - a. Full details/schedules/densities of all proposed new planting, to include the species and sizes of all plants. The details will include the location for the planting of a specimen tree *Betula Pendula* (Silver Birch) of semi-mature nature, with a height of 4-5m and a minimum girth of 18 to 20cm.
 - b. details of the type/construction, alignment and height of all walls, fences, trellises, retaining structures and other boundary treatments/means of enclosure.

- c. details/samples of hard surfacing materials; and
- d. timetables for implementation.

The landscaping works shall be completed in accordance with the approved details. Thereafter all fences, trellises, walls, hardstanding and other hard landscaping features shall be retained for the lifetime of the development, whilst any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of similar size and species.

- 6) No works in connection with the development hereby permitted, including demolition or site clearance works, shall commence until the Local Planning Authority has been notified and acknowledged in writing that tree protection measures have been established on-site in compliance with the following documents:
 - a. Tree protection plan referenced KCA 04-22 / 01 Rev. A, dated 15th November 2022
 - b. Tree Condition Report/Arboricultural Impact Assessment/Root Protection Areas/ Method Statement', revised 12 November 2022

The agreed tree protection measures shall be retained on-site and fully adhered to for the duration of the development works.

- 7) No works in connection with the development hereby permitted, including demolition or site clearance works shall be carried out within the agreed tree protection zones except in strict accordance with a supplementary, fully detailed arboricultural impact assessment and task-specific method statement which shall first be submitted to and approved in writing by the Local Planning Authority.
- 8) Besides demolition works, no above-ground development shall commence until samples/details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained thereafter.
- 9) Besides demolition works, no above-ground development shall commence until samples/details of the roofing materials and finishes, to include detailing of the ridges, eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained thereafter.
- 10) No external windows, doors or other glazing or joinery shall be installed until details of their material, form and style, including details of glazing bars, mullions, sill mouldings and surface treatments/decorative finishes, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved details and retained thereafter.

- 11) Prior to the first occupation of the development hereby permitted, artificial roosting opportunities for bats and nesting opportunities for wild birds shall be provided at the site in accordance with full details of their types and positions, which shall first be submitted to and approved in writing by the Local Planning Authority. These shall include:
- a. a minimum of one external Woodcrete bat box or integrated bat 'brick' suitable for nursery or summer roosting by small crevice-dwelling UK bat species; and
 - b. a minimum of two nesting boxes or integrated 'bricks' suitable for swifts (swift bricks or boxes with entrance holes no larger than 65 x 28 mm), starlings (42mm entrance hole, starling-specific design), swallows (swallow nesting cups), house martins (house martin nesting cups) and/or small birds (32mm hole, standard design)

These shall be retained thereafter for the lifetime of the development.

- 12) Prior to first occupation of the development hereby permitted, verification report by an appropriately qualified and experienced Ecological Clerk of Works, to demonstrate implementation of the Herptile Reasonable Avoidance Measures Method Statement set out in Section 10 of the submitted 'Environmental Impact Assessment' report by Tom Fairfield, dated August 2022 shall be submitted to and approved in writing by the Local Planning Authority.
- 13) No external lighting shall be installed or provided on the site other than in strict accordance with a detailed scheme which shall first be submitted to and approved in writing by the Local Planning Authority. This shall be designed so as to take into account the guidance contained in the Bat Conservation Trust document 'Bats and Lighting in the UK'.
- 14) Prior to the first use or occupation of the new dwelling, vehicular accesses and parking/turning areas for both it and the existing dwelling at the site (Kyrewood) shall be laid out and surfaced in accordance with the approved plans and the details agreed under Condition 5 above. These shall be retained for their intended purposes for the lifetime of the development.
- 15) Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no extensions, outbuildings or other buildings/structures shall be erected or installed at the site, or alterations carried out, without an express planning permission first being obtained from the Local Planning Authority.