



## Appeal Decisions

Site visit made on 29 January 2024

**by C Masters MA (Hons) FRTPI**

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

**Decision date: 07 March 2024**

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### **Appeal A: APP/J3720/W/23/3323235**

**The Mount, Chapel Lane, Shotteswell, Warwickshire OX17 1JB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr Tony Ingerson against the decision of Stratford-on-Avon District Council.
- The application Ref 22/03115/LBC, dated 18 October 2022, was refused by notice dated 16 March 2023.
- The works proposed are alterations and extensions to existing ancillary outbuildings (including demolition of existing garage and partial demolition of existing boundary wall) to form new home office, fitness room, garden store and amended garaging provision for existing dwelling (all ancillary to the occupation of The Mount as a single dwelling).

### **Appeal B: APP/J3720/W/23/3323234**

**The Mount, Chapel Lane, Shotteswell, Warwickshire OX17 1JB**

- 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 Tony Ingerson against the decision of Stratford-on-Avon District Council.
  - The application Ref 22/03114/FUL, dated 18 October 2022, was refused by notice dated 16 March 2023.
  - The development proposed is alterations and extensions to existing ancillary outbuildings (including demolition of existing garage and partial demolition of existing boundary wall) to form new home office, fitness room, garden store and amended garaging provision for existing dwelling (all ancillary to the occupation of The Mount as a single dwelling).
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## Decisions

1. **Appeal A** is allowed and listed building consent is granted for alterations and extensions to existing ancillary outbuildings (including demolition of existing garage and partial demolition of existing boundary wall) to form new home office, fitness room, garden store and amended garaging provision for existing dwelling (all ancillary to the occupation of The Mount as a single dwelling) at The Mount, Shotteswell, OX17 1JB in accordance with the terms of the application Ref 22/03115/LBC dated 18 October 2022 and the plans submitted with it, subject to the conditions set out on the attached schedule.
2. **Appeal B** is allowed and planning permission is granted for alterations and extensions to existing ancillary outbuildings (including demolition of existing garage and partial demolition of existing boundary wall) to form new home office, fitness room, garden store and amended garaging provision for existing dwelling (all ancillary to the occupation of The Mount as a single dwelling) at The Mount, Shotteswell, OX17 1JB in accordance with the terms of the

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application, Ref 22/03114/FUL, dated 18 October 2022, and the plans submitted with it, subject to the conditions set out on the attached schedule.

### **Preliminary matters**

3. The Council confirmed by email dated 19 October 2023 that they would not be providing evidence in support of reasons for refusal 1,2 and 4 on decision notice 22/03115/LBC (appeal A) in relation to the listed building consent and would not be submitting evidence in relation to the conservation area in relation to reason for refusal 3.

### **Main Issues**

4. The Mount is a grade II listed building and is located within the Shotteswell Conservation Area.
5. The main issue in relation to Appeal A is whether or not the proposal would preserve the special interest of the listed building (The Mount) and other neighbouring listed buildings.
6. In relation to Appeal B, the main issues are firstly, whether or not the proposal would preserve or enhance the character or appearance of the Shotteswell Conservation Area as well as the wider Special Landscape Area, and secondly, the effect of the proposals on the living conditions of the occupiers of nearby properties with specific reference to overbearing impact, overshadowing and loss of light.

### **Reasons**

7. The starting point for the consideration of the proposals is Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require that special regard is had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest it possesses.

#### *Appeal A - Special interest of The Mount*

8. The Mount consists of a detached residential dwelling located in a relatively central position within the Shotteswell. The topography of the village is such that Chapel Lane runs at a much lower level to the appeal site itself and parts of the appeal site sit in an elevated position to the surrounding properties. The property was once a farmstead and has extensive gardens, outbuildings and a generous driveway. The significance of the property is largely derived from its architectural and historic interest as an original farmstead, including the physical form and layout which references the original agricultural role of the property. The existing boundary walls are at a raised level above the highway and form an important feature of the property given the steep topography of the site.
9. The proposal involves various elements. In terms of the outbuildings fronting Chapel Lane, a pitched roof would be added to this building as well as the erection of an outbuilding. Taking into account the scale of the proposals, it is my view that both of these elements would be of an appropriate scale and form to be in keeping with the host property. The proposal would also see the boundary wall increased in height as well as the addition of new gates to the site access. In my view, the increase in the height of the wall would be entirely

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in keeping with the established character and form of the area. The gates would be timber and would be domestic in scale, reflective of the farmstead character of the property. Overall, taking into account the domestic use of the property as well as the design, scale and massing of the proposal, I am of the view that the proposal would be proportionate in scale and form to the host property and would not result in any heritage harm.

*Special Interest of other neighbouring listed buildings*

10. Although not raised directly by the Council, a number of third parties have expressed concerns regarding the impact of the proposals on other listed buildings in the vicinity of the appeal site. The Council have advised that Honeysuckle Cottage is listed as the Cottage and the Old Forge is listed as The Croft. I have used the names as described on the listing description below and I therefore deal with each of these in turn.

*St Lawrence's Church (Grade II\*)*

11. The Church is located opposite the appeal site. However, given the significant level change, in my view its visibility is somewhat limited from Chapel Lane given the narrow pedestrian access and screening associated with the garden boundary treatment at neighbouring properties. This view is also echoed by the Conservation Area Appraisal document which notes that approaches to the Church are narrow and obscure, with the churchyard itself feeling enclosed by the hedges which surround it. Nevertheless, the Church itself is a central feature within its immediate environment and the Spire is visible from a number of vantage points within the village itself.
12. The significance of the asset is in my view related to its high level of architectural design and detailing, reflected in detail within the listing description. The appeal proposals would not result in any change to the built form or fabric of this building. It would also not effect the setting which, given the enclosed nature of the site, is limited to the immediate environment. As a result, the proposals would not cause any harm to the significance of the Church or the appreciation of the significance of the heritage asset concerned. It would also not alter the dominant relationship that the Church has with the settlement of Shotteswell.

*The Old Vicarage (Grade II)*

13. This is a detached residential dwelling located to the east of St Lawrence's Church. Its significance is derived from the built form and fabric of the building, as well as its proximity and close relationship to the Church itself. The appeal proposals would not result in any change to the built form or fabric of this property and would not alter the close relationship between the property and the Church. There would be no harm caused to the significance of the Old Vicarage or the appreciation of the significance of the heritage asset as a result of the appeal proposals.

*Fairview Cottage (Grade II)*

14. This is a further residential property which is located opposite the appeal site. The significance of the property is derived from its prominent position adjacent to the Churchyard and path to the Church. The appeal proposals would not result in any change to the relationship of this building to the Church. There

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would therefore be no harm to the significance of the property or the appreciation of the significance of the heritage asset concerned.

*College Farmhouse (Grade II)*

15. This property is located off Middle Lane and is set back from the road frontage. It is a residential property and the significance of the property is derived from its built form and fabric. The appeal proposals would not result in any change to the built form or fabric of this property and there would be no harm to the significance or the appreciation of the significance of the property as a result of the appeal proposals.

*The Croft (Grade II)*

16. This is a further residential property which is located flush to Chapel Lane. As result of the topography of the site the garden includes close boarded fencing fronting Chapel Lane and the appeal site. The significance of the property is derived from its built form and fabric. The appeal proposals would not result in any change to the built form or fabric of this property and there would be no harm to the significance or the appreciation of the significance of the property as a result of the appeal proposals.

*The Cottage (Grade II)*

17. This is a residential property and the significance of the property is derived from its group value. The appeal proposals would not result in any change to the group value of this property and there would be no harm to the significance or the appreciation of the significance of the property as a result of the appeal proposals.

*The Flying Horse (Grade II)*

18. The significance of the property is derived from its built form and fabric. The appeal proposals would not result in any change to the built form or fabric of this property, the appeal proposals being focused on the courtyard area of the Mount which is some distance from this property. There would be no harm to the significance or the appreciation of the significance of the property as a result of the appeal proposals.

*Conclusion on issue 1*

19. I therefore conclude that on the first main issue, the proposal accord with the statutory requirement of the s.66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that the decision maker shall have special regard to the desirability of preserving the listed building or its setting or any features of special interest it possesses.
20. For the same reasons, the proposal would comply with policy CS.8 of the Stratford-on-Avon District Core Strategy (CS) which advises, amongst other things, that the districts historic environment will be protected and enhanced for its inherent value.

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*Appeal B - Character and Appearance of the Shotteswell Conservation Area, including the wider Special Landscape Area*

21. In terms of the Conservation Area, Section 72 (1) of the Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the area.
22. From what I saw on my site visit, the Shotteswell Conservation Area is characterised by rural properties set within steep lanes and bankings where the residential properties often sit tightly between narrow roads. There is a clear harmony in the built form of properties within the Conservation Area and I note that walls, hedgerows and narrow lanes form an important boundary treatment to a number of residential properties within the village. In this way, the boundary walls form an established part of the character of the Conservation Area and this fact is acknowledged by the Shotteswell Conservation Area appraisal.
23. The proposal would result in an increase in height of the boundary wall to the perimeter of the host property. It is clear to me that the existing boundary walls form an established part of the existing street scene. Through the use of appropriate materials, the walls would remain in keeping with the established character and appearance of the area, would integrate with the historic grain of the area and the Conservation Area generally and would not dominate this part of the Conservation Area. As a result, I am unable to conclude that the proposal would result in any material harm in this regard.
24. The other elements of the proposal include the solar panels, new gates, pitched roof and erection of an outbuilding. The Council contend that the development would lead to an overly prominent feature within the street scene. I disagree. From what I saw on my site visit, outbuildings are a clear feature of the character of the village and, based on the evidence presented, were indeed an original feature at the property. In my view, the proposed additions to the property would all be domestic in scale, appropriate to the site and its historical context, entirely in keeping with the established pattern and built form of development within the village and would in this way respect the character and appearance of the area and the Conservation Area generally.
25. As a result, the character of the Conservation Area would be preserved, and the proposals would comply with the statutory duty as set out in s72 (1) of the Act. The proposals would also accord with policies CS.8 and CS.9 of the Stratford-on-Avon District Core Strategy. Policy CS.8 is a general policy concerning the protection and enhancement of the historic environment and policy CS.9 requires, amongst other things, that proposals improve the quality of the public realm and enhance the sense of place, reflecting the character and distinctiveness of the locality. The reason for refusal also refers to policy CS.13 however I have not been provided with a copy of this policy.
26. The second reason for refusal in relation to Appeal B refers to the proposal resulting in a harmful impact on the wider Special Landscape Area and reference is made to policy CS.12 of the CS. This policy relates to the wider landscape character of the area. I have already concluded the proposals would not result in any harm to the character and appearance of the area and would preserve the character of the Conservation Area. As a result, the proposals would respect the current and historic relationship of the settlement with the

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landscape and there would be no conflict with policy CS.12 of the CS as a result.

*Appeal B – Effect on the living conditions of neighbouring occupiers*

27. The Council's reasons for refusal in this regard refers to (1) overbearing impact on nearby properties and (4) the impact of the proposal on a bedroom window at the Old Chapel in terms of overshadowing and loss of light.
28. The Council's appeal statement focuses on the effect of the proposal on Fairview Cottage and the Old Chapel although in addition to the above, it also refers to loss of outlook to the Old Chapel. I deal with each of these properties in turn.
29. Fairview Cottage is located opposite the appeal site on the other side of Chapel Lane and is also located at a higher level to Chapel Lane. It has a small parking area and boundary wall facing the appeal site. Given the topography and separation distances involved, as well as the existing boundary treatment in place at the appeal site, I am not convinced that the appeal proposals would result in any material harm in terms of overbearing impact to this property.
30. The Old Chapel is a residential property which lies opposite the appeal site and is set back from the road boundary on Chapel Lane. I was able to view the appeal site from the bedroom concerned as part of my site visit.
31. As a result of the topography of the location, the appeal property is located in an elevated position relative to the Old Chapel. In relation to the front elevation where the window concerned is located, there is an existing established relationship between the two properties comprising a steep bank and retaining wall associated with the Mount.
32. The bedroom concerned benefits from 3 windows positioned on different elevations, two of which are set at a lower level. As such, the room experiences light from these different light sources throughout the day. The appeal proposal is likely to impact the level of light and overshadowing to the window which is located on the elevation of the Old Chapel which faces the Mount. The appellant has set out a clear assessment as to the likely impacts at different times of the day and year. Conversely, the Council have not referred me to any technical analysis of how the levels of light have been assessed in order to reach the conclusion that the proposal would have a materially detrimental impact on the habitability of the room.
33. I am mindful that the current occupiers use this room as an additional sitting area. However, taking into account the existing relationship between the appeal site and retaining wall to this front elevation, the separation distances involved, as well as the fact that the room concerned has 2 additional windows which all provide sources of light to the room (three in total) I am not convinced that the appeal proposals would cause material harm to the living conditions of the occupiers in this regard. In reaching this conclusion, I have also had regard to the assessment provided by the appellant as well as the guidance contained within the SPD on Development Requirements which advises, amongst other things, that daylight in bedrooms may be considered but is generally less important, except where this is main private accommodation, such as residential care homes.

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34. In terms of outlook and overbearing impact, the existing outlook is somewhat restricted, and I am not convinced that the domestic nature and scale of the appeal proposals would alter this existing outlook to any material degree or result in an overbearing impact. Furthermore, the Council content that the other windows which serve the bedroom are obscured by the existing topography, trees or look towards neighbouring buildings. From what I saw on the site visit, I would disagree with this statement. Both of the alternative windows are to a much more open aspect than the window fronting the appeal site which essentially faces the boundary wall. The proposals would therefore cause no harm in terms of overbearing impact or loss of outlook.
35. I therefore conclude that the proposals would not result in any material harm to the living conditions of the occupiers of the Old Chapel or Fairview Cottage. As a result, there would be no conflict with policy CS.9 or policy CS.20 of the CS.

### **Other Matters**

36. In relation to both appeal A and appeal B, a number of concerns have been raised regarding the potential for the proposals to result in a separate dwelling, noise and disturbance associated with the construction traffic, proximity to electricity and telephone lines, solar glare from solar panels, highways concerns, and the impact of the proposals on the living conditions of the occupiers of other neighbouring properties. I note that the Council have not raised any objection to the proposals in relation to these matters and based on the evidence before me, I am unable to conclude that the proposal would result in any material harm in this regard. In relation to the matter of the creation of a separate dwelling, I have addressed this below through and appropriately worded condition.

### **Conditions**

37. I have had regard to the conditions as suggested by the Council in light of paragraph 56 of the Framework. Where necessary, I have amended the wording of the suggested conditions in the interest of precision and enforceability.
38. In the interests of proper planning and to provide certainty, I have imposed the standard time limit conditions and the plans condition on both the decisions. It is also necessary in the case of the listed building consent (appeal A) to include conditions requiring the submission of full design details as well as the specifications and sample of the windows, external lintels and doors, roof eaves and verges and rainwater goods in order to protect the special architectural interest and setting of the listed building.
39. In terms of appeal B, I have also attached conditions regarding the external facing and roofing materials as well as the natural stone for the external walls in order to ensure the appearance of the development is satisfactory. In order to ensure that satisfactory provision is made to safeguard the habitat of any bats present on the site, a condition is necessary to ensure that the mitigation contained in the appellant's protected species report is addressed.
40. In order to ensure that the building is used for its intended purpose, a condition to restrict the use as specified within the application is also necessary and reasonable.

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**Conclusion**

41. Taking all of the above matters into account and for the reasons given above,  
Appeal A is allowed and listed building consent is granted subject to conditions.  
Appeal B is allowed and planning permission is granted subject to conditions.

*C Masters*

INSPECTOR

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## **CONDITIONS**

### **Appeal A**

1. The development to which this consent relates must be commenced not later than the expiration of three years from the date of this permission.
2. The works hereby approved shall be carried out in accordance with the following plans and drawings: 22.03/P/20, 22.03/P/22, 22.03/P/23, 22.03/P/24, 22.03/P/25, 22.03/P/26, 22.03/P/27. The works shall also be carried out in accordance with the Design and Access Statement unless otherwise required by conditions attached to this consent.
3. Prior to the works commencing full design details of the following (in scale 1:20 annotated elevation and section drawings) shall be submitted to and approved in writing by the District Planning Authority and thereafter the works shall only be carried out in accordance with these approved details.
  - Windows and external lintels and doors
  - Roof eaves and verges
  - Rainwater goods
4. Photographs and details of a sample panel (30cm x 30cm) of the proposed rooftiles/slates, stonework and pointing shall be submitted for the written approval of the District Planning Authority before works commence. The work shall be implemented in accordance with the approved details/samples. The sample panel shall be kept on site for reference until the works are fully completed.

### **Appeal B**

1. The development to which this permission relates must be commenced not later than the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following plans and drawings: 22.03/P/20, 22.03/P/22, 22.03/P/23, 22.03/P/24, 22.03/P/25, 22.03/P/26, 22.03/P/27
3. The external facing and roofing materials to be used in the construction of the development hereby permitted shall accord as specified in the approved drawings and as specified in the application form.
4. The natural stone to be used externally on the walls of the development hereby permitted shall be of the same type, texture, colour and appearance as the stone on the existing walls and shall be laid, dressed, coursed and pointed to match that of the existing walls, unless otherwise approved in writing by the Local Planning Authority prior to the works commencing, and thereafter so retained.
5. The development hereby permitted shall be carried out in full accordance with the recommendations and mitigation measures for bats contained in section 4 of the Bat Survey report by Worcestershire Wildlife Consultancy,

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report dated September 2022.

6. The outbuildings hereby permitted shall only be used for additional living accommodation ancillary to the enjoyment of the main dwelling known as The Mount, Shotteswell. It shall not be used as a separate dwelling unit, and no separate curtilage shall be created.