



Appeal Decision

Site visit made on 13 February 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal: APP/J1860/D/23/3325116

Steeptop, Hanley Childe, Tenbury Wells, Worcestershire WR15 8QY

- 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 and Mrs D Diamond against the decision of Malvern Hills District Council.
 - The application Ref M/23/00483/HP, dated 29 March 2023, was refused by notice dated 9 June 2023.
 - The development proposed is the erection of an ancillary domestic annex.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal relates to a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023, after the appeal was made. However, the revisions are not directly relevant to the main issues in this appeal. I am therefore satisfied that the interests of the main parties will not be prejudiced by this change.
4. A signed and dated Unilateral Undertaken (the UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal. As the UU is completed, I have taken it into account.

Main Issues

5. The main issues are:
 - i. Whether the proposal would preserve the setting of a Grade II listed building "Steeptop" (Ref: 1167388) (the LB), and any of the features of special architectural or historic interest that it possesses; and
 - ii. Whether the proposal would be ancillary to the main dwelling or tantamount to a new residential dwelling.

Reasons

The listed building

6. The LB dates from the 17th century with mid-19th century alterations. It is timber-framed with brick infill and replacement walling, a plain tiled roof and a

large external rubble chimney with chamfered plinth and detached brick stack. It is a single storey and attic building, with an internal winder staircase. The LB occupies a large plot in an isolated location in the open countryside. The secluded rural surroundings, which comprise its setting, contribute to the special interest of the LB as a modest, early vernacular, rural dwelling.

7. The proposed detached single storey building would be widely separated from the LB, being sited roughly in the location of the northernmost outbuilding which is one of two detached stable buildings to the west. The annex would be larger than the stables in terms of its footprint, its height and scale. Moreover, its openings, including bifold doors, first floor windows and rooflights, would be distinctly domestic in terms of their size, position and design. While it would be finished in brick to match the host LB, with a simple clay tile pitched roof, nevertheless it would be disproportionately large and overtly residential. By virtue of its scale, contemporary domestic appearance, its visual and physical separation and its function, the annex would not be read as a subservient outbuilding ancillary to the use of its historic rural host.
8. The heritage assessment includes historic maps and aerial photographs. The 1844 tithe map illustrates the LB with a small outbuilding immediately to its west and it is described as a cottage with gardens. The LB was extended and altered in the late 20th and early 21st centuries. Nevertheless, the evidence indicates that its setting remained largely undeveloped until the 21st century when the stable buildings and menage appeared. The equestrian development does not appear to benefit from planning permission, it does not form part of the listing and it does not contribute to the special interest of the LB. While there would be no objection to the removal of the stables, there appears to be no historic precedent for large detached outbuildings in association with the LB.
9. Consequently, I find that the proposed annex would be an alien and discordant form of development that would erode the historically undeveloped setting of the LB. It would detract from the character and appearance of the LB as an isolated, unassuming historic dwelling in a large garden in secluded rural surroundings.
10. The LB is remote from neighbouring properties and the public highway. However, there is a network of public rights of way in the area including along the access road, heading north along the eastern boundary and heading east to west directly to the north of the LB and the proposal. Notwithstanding the isolated location, the proposal would be readily visible in conjunction with the LB in public views. However, listed buildings are in any case safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building or curtilage can be gained.
11. Given the above, I find that the proposal would fail to preserve the special interest of the listed building. Consequently, I give this harm considerable importance and weight in the planning balance of these appeals.
12. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that any such harm should have a clear and convincing justification. Given the scale and nature of the

proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

13. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellants consider that the proposal would be beneficial because it would provide additional accommodation suitable to be occupied by disabled persons, thereby enabling the appellants to continue to live at the property together with family members or carers; it would be an improvement on the existing stable building; and it would ensure greater utility value of the LB in future.
14. The additional accommodation would be a significant private benefit but a limited public benefit, taking into account its scale. There would be temporary economic benefits during construction. The replacement of the rural stable outbuilding with a larger residential building would not be a visual enhancement. Notwithstanding the constraints of the LB, its continued viable use as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence. The limited public benefits are not sufficient to outweigh the harm that I have found.
15. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting and thereby the special interest of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 205 of the Framework and conflict with policies SWDP6, SWDP21 and SWDP24 of the LP. These seek, among other things, to ensure that proposals are well integrated with their surroundings, in terms of form and function, and that they conserve and enhance heritage assets including their contribution to the character of the landscape, local distinctiveness and sense of place. As a result, the proposal would not be in accordance with the development plan.

Whether ancillary to the main dwelling

16. As noted, the LB is an isolated dwelling in the open countryside. In this regard, Policy SWDP2 of the South Worcestershire Development Plan Adopted February 2016 (the LP) seeks to focus development in accessible locations, in accordance with the settlement hierarchy, and to safeguard and where possible enhance the open countryside. Accordingly, it seeks to limit development in the open countryside, subject to exceptions including house extensions.
17. The Design Guide Supplementary Planning Document Adopted March 2018 (the SPD) sets out requirements for extensions, ancillary accommodation and ancillary buildings. Among other things, such proposals are expected to be subordinate, of a size and scale reflecting its ancillary function, and to respond to the local context. Proposed additional accommodation should demonstrate dependency on its host not only through physical linkage but also close siting, the provision of limited accommodation, the sharing of curtilage and facilities, and the ability to be used as part of the main dwelling at a later date.
18. In this case, the annex would be a detached single storey building providing self-contained living accommodation over two floors, utilising the roof space. It would be sited around 17-20m to the west of the LB. By virtue of its scale, design and siting, the annex would not appear subservient to its modest host.
19. I understand the appellants intend to live in the annex, with family or carers staying in the existing dwelling. However, the evidence indicates that neither

future carers nor any of Mr Diamond's relatives would wish to negotiate the existing internal arrangements in the LB. The appellants refer not only to the unsatisfactory nature of the accommodation, with its varying levels, to cater for a party with mobility issues, but they also consider the dwelling is woefully inadequate for even able-bodied persons. This suggests that the modern annex would become the principle living space and the LB would be used in an ancillary capacity. Notwithstanding, in considering the proposal over its lifetime, I am also required to be mindful of the way in which future occupiers, who may be unrelated to the appellants, might use the property.

20. The annex would be accessed from the parking area through the garden of the LB. However, it would be widely separated and its bifold opening doors serving the living room would face away from the LB. This would prevent overlooking and afford a high degree of privacy to the residential occupiers of both the annex and the LB. Taking into account the large size and layout of the garden and the design and siting of the annex for privacy, it would not share principal private outdoor space with the LB. Moreover, while the appellants do not intend to subdivide the garden, separate access, parking and garden arrangements for the annex could be provided in future.
21. Case law¹ has established that the provision of facilities for independent living would not necessarily result in the creation of a separate planning unit from the main dwelling, rather it would be a matter of fact and degree. In this case, the proposal would effectively replicate the facilities in the LB and it would provide for self-contained and private living. The occupiers of the annex would need to walk through the garden, but there would be no clear functional link between the buildings. The annex could be occupied independently with no sharing of facilities, with separate outdoor space and with no interaction with the occupiers of the LB. Irrespective that it is not proposed as a separate dwelling, the annex would not be functionally dependent on the appeal property.
22. Therefore, I conclude that the proposal would not be an extension or ancillary accommodation such as would be an acceptable form of development in the open countryside. The additional unit of accommodation would conflict with the rural housing and development aims of Policy SWDP2 of the LP and the aims of the SPD in relation to extensions, ancillary accommodation and outbuildings. It would also conflict with the Framework in relation to rural housing and design.

Other Considerations

23. The LB is a modest dwelling and the bedroom in the attic is accessed via steep, narrow and uneven winder stairs which the appellants find difficult to safely navigate. In this regard, Mr Diamond has arthritis and, while he is currently mobile, I understand this limits his mobility and he may not be able to use the stairs in future. Mrs Diamond has slept downstairs for periods of time when health issues prevented her from negotiating the stairs. Family members are unable to stay due to the limitations of the living space. Consequently, the appellants consider that the LB is not suitable to meet their future needs.
24. At the time of my visit, I observed that the winder stairs are fairly precipitous, without a handrail and not suitable to be used by elderly persons or those with limited mobility. While the annex would also have stairs, these would be modern and could accommodate a stair lift if required. There would also be an

¹ Uttlesford DC v SSE & White [1992]

accessible ground floor bathroom. By moving into the annex, the appellants would not need to use the winder stairs to access the attic in the LB. The proposal would also facilitate overnight visitors and it would allow carers or family to live at the property in future. The appellants' desire to stay in this location is understandable and the proposal would undoubtedly be a significant benefit in this regard. However, there is little substantive evidence, such as a GP letter, in relation to Mr Diamond's health or future needs to demonstrate that he would require wheelchair-accessible accommodation, accommodation for permanent carers or, in the absence of the proposal, residential care.

25. I do accept that the winder stairs will be increasingly problematic and accordingly the LB, with its extensive grounds, will be increasingly unsuitable for the appellants as they age and become less able-bodied. However, while the LB may not meet modern standards or be suitable for specialist needs, it has apparently been occupied as a dwelling for many years and I am not persuaded that it is inherently unsuitable to be occupied. The Council suggests that similar benefits, in terms of additional ground floor accommodation, could be achieved by means of an extension to the LB. I appreciate that the appellants would prefer an annex and they consider that an extension would be more harmful to the designated heritage asset than a widely separated detached building. Nevertheless, it has not been demonstrated that alternative solutions, resulting in no or a lesser degree of harm, have been robustly explored and reasonably discounted. As such, while I have had regard to the appellants' personal circumstances and preferences, based on the evidence before me this carries only limited weight in favour of the proposal and does not outweigh the harm that I have found.
26. The submitted UU was not provided to the Council during the processing of the application and the appeal procedure did not provide the Council with the opportunity to comment on it. Nevertheless, the Council states that a legal agreement would not meet the relevant tests for planning obligations in the Framework because the proposal would not be ancillary to the occupation of the main dwelling.
27. While the UU does reference this appeal, it also states that it relates to application Ref: M/22/01061/HP, which is not the application subject of this appeal, and it refers to the application submitted on 17 April 2023, which is not the date of the planning application. Notwithstanding, the UU covenants that the annex shall be used and occupied as ancillary residential accommodation in conjunction with the occupation of Steep Top as one dwelling by the applicant and his family and any designated carer (although this latter is not defined) and it shall not be disposed of separately. While this would ensure that the proposal was not severed from the appeal property, for the reasons set out above, it does not demonstrate nor would it ensure that the annex was used ancillary to the LB. Restricting its occupation to the applicant, his family and carers would also not ensure that the annex was ancillary. Moreover, I am also mindful that planning permission would run with the land and not the applicant.
28. For these reasons, the UU would not be necessary to make the development acceptable in planning terms, directly related to the development nor fairly and reasonably related in scale and kind to the development. Consequently, the UU would fail to meet the tests set out in paragraph 57 of the Framework and it does not weigh in favour of the scheme.

Conclusion

29. For the reasons set out above, I conclude the proposal would conflict with the development plan and there are no other considerations, including the appellant's personal circumstances, that would outweigh that conflict.
30. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR