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# Appeal Decision

Site visit made on 20 March 2023

**by Emma Worley BA (Hons) Dip EP MRTPI**

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

**Decision date: 5 May 2023**

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**Appeal Ref: APP/W1850/W/22/3302649**

**Dorefield House, C1209 From B4348 To Urishay House Access Road, Peterchurch, Herefordshire HR2 0SF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Jamie Hearn against the decision of Herefordshire Council. The application Ref 220307, dated 31 January 2022, was refused by notice dated 23 June 2022.
  - The application sought planning permission for the proposed erection of dwelling and garage. Construction of associated works without complying with a condition attached to planning permission Ref 193966, dated 19 February 2020.
  - The condition in dispute is No 2 which states that: *The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 869-01, 02, 03 & 04 all dated Oct 2019) and the schedule of materials indicated thereon.*
  - The reasons given for the condition is: *To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.*
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## Decision

1. The appeal is allowed and planning permission is granted for the proposed erection of dwelling and construction of a garage. Construction of associated works at Dorefield House, Crossways, Peterchurch, Herefordshire HR2 0SF in accordance with the application Ref 220307 dated 31 January 2022, without compliance with condition number 2 previously imposed on planning permission Ref 193966 dated 19 February 2020 but subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. The address in the banner heading above is taken from the application form. However, the appeal form and decision notice include a more precise address, I have therefore used that in my formal decision above.
3. The prescribed time period set out in condition 1 of planning approval Ref. 193966 has now lapsed, however the parties are agreed that the development commenced prior to the expiry of the permission.

## Background and Main Issues

4. The appellant seeks to vary the list of approved plans imposed by condition 2 in order to facilitate a revised design to the approved dwelling. Government

guidance is clear that under Section 73 I must consider only the condition in question, in this case the amended design.

5. The main issues are i) the effect of the amended proposal on the character and appearance of the area; and ii) whether the amended proposal would preserve the setting of Crossways House, as a listed building and Urishay House, a non designated heritage asset.

## **Reasons**

### *Character and Appearance*

6. The appeal site lies on the edge of the village where the character of the area is predominantly residential, comprising dwellings of a mix of architectural styles, ages and finishes. This includes more recent single and two storey properties in frontage and cul-de-sac developments which prevail on the opposite side of the road. Whereas the residential development on the same side of the road as the appeal site includes larger detached dwellings set on generous plots in a more informal layout. As a consequence of this more ad hoc arrangement the group of dwellings of which the appeal proposal would form part are set back varying distances from the highway and differ in terms of their orientation.
7. The main difference between the approved and revised schemes is the amended design and orientation of the proposed dwelling and amended garage siting and size.
8. The dwelling would sit centrally on the plot, in a similar position to the approved dwelling. Whilst it would not be orientated to front the highway, given the established pattern and layout of the residential development on this side of the road the proposal would not be at odds with the surrounding built form.
9. The appeal submissions indicate that the footprint of the proposed dwelling would be the same as that approved, with a lower ridge height and higher eaves. Given the similarity in scale, together with that of the neighbouring detached residential properties, I do not share the Council's view that the proposed dwelling would be uncharacteristic in terms of height or scale. The hipped roof design, stepping in of the rear projection, as well as the projecting element to the front elevation serve to add interest to and break up the overall scale of the building.
10. I note comments that the Georgian design would be out of keeping and at odds with the established rural character, however, in my opinion, the house would be well detailed and proportioned and would look appropriate within its context of the varied surrounding built form on the edge of the village. Consequently, the proposed dwelling would not appear unduly dominant at the entrance to the village as a result of its scale or design.
11. The proposed detached garage is of a traditional form, it would be subservient in scale to the host dwelling and of a sympathetic design. As with the main dwelling, the hipped roof design serves to reduce the overall bulk of the garage and reflects the building form nearby. Furthermore, due to the orientation of the garage, at a right angle to the highway, and the boundary treatment, it would not appear unduly dominant in the street scene.

12. I therefore conclude that the proposed revised design would not harm the character and appearance of the area. Consequently, the proposal would accord with Policy LD1 of the Herefordshire Local Plan Core Strategy 2011-2031 adopted October 2015 (HLPCS) which requires development proposals, among other things, to demonstrate that their design and scale has been positively influenced by the character of the landscape and townscape and the high quality design aims of Policy SD1 of the HLPCS. The proposal would also comply with Policy P6 of the Peterchurch Neighbourhood Development Plan 2011-2031 which requires proposals to satisfy a range of criteria in order to show regard to the varied and distinctive landscape character of the area, including demonstrating the character of the surrounding landscape has influenced the materials, design, scale, form and siting of the development proposed. The proposal would also reflect the high quality design aims of Chapter 12 of the National Planning Policy Framework.

### *Setting of heritage assets*

13. The Council's refusal reason refers to Policy LD4 of the HLPCS, which requires that, among other things, development which affects heritage assets should protect and enhance the assets and their settings.
14. I note that the neighbouring building, Crossway House, is Grade II listed, and together with its ancillary outbuildings form part of the small group of residential properties on the same side of the road as the appeal site. As such I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of the listed building.
15. The setting of Crossway House, which sits centrally on its plot and is enclosed by outbuildings, walls and hedges, contributes to its significance. The proposed dwelling would have its own access and would be separated from the listed building by the prominent boundary wall and intervening land and would therefore preserve the setting of the listed building.
16. Urishay House which is located on the opposite side of the road, is identified by the Council as a non-designated heritage asset (NDHA) due to its age, architectural merits and relative completeness.
17. The appeal property would be set back a greater distance from the listed building and NDHA than the closest neighbouring properties, with the existing brick boundary wall providing a strong boundary feature which, together with the separation distance, reduces the degree of intervisibility between the appeal site and both the listed building and the NDHA. In light of this and as I consider the scale and design of the proposed to be appropriate, the dwelling would not harm the setting of the heritage assets.
18. Accordingly, the proposal would not conflict with Policy LD4 of the HLPCS, in so far as it seeks to protect, conserve or enhance heritage assets.

### **Conditions**

19. As this appeal relates to an application under section 73 of the Town and Country Planning Act 1990, and I am only considering the disputed condition, it is necessary to reimpose those on the previous permission. However, the parties agree condition 3 of planning permission Ref. 193966 has been discharged, therefore a compliance condition to require the development to be

carried out in accordance with the approved details is imposed in lieu of this condition. Furthermore, as the original development has started, there is no need to impose a time limit condition.

20. I note comments made by an interested party in relation to the future use of the garage for habitable accommodation. Among the conditions that have been reimposed is a condition which restricts the use of the garage solely for the garaging of private vehicles and for purposes incidental to the enjoyment of the dwelling house.
21. The Council has suggested an additional condition in respect of electric vehicle charging, but as the previous permission would remain available to the appellant and there is no clear justification for more onerous requirements to be imposed now, so I have not done so.

### **Conclusion**

22. For the reasons given above, the appeal is allowed.

*Emma Worley*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby approved shall be carried out strictly in accordance with the following approved plans and the schedule of materials indicated thereon: 100B, 101B, 102A, 103.
- 2) The method for ensuring that mud is not deposited onto the Public Highway, the Construction traffic access location, and Parking for site operatives shall be in accordance with "Doc 1 - Construction traffic and parking details" which comprises an email from Mr Jamie Hearn and a Plan identifying relevant features. The development shall be carried out in accordance with these details for the duration of the construction of the development.
- 3) Prior to completion or first occupation of the approved development, whichever is the sooner a landscape scheme shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:
  - a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.
  - b) Trees and hedgerow to be removed.
  - c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
  - d) All proposed hardstanding and boundary treatment.
- 4) All planting, seeding or turf laying in the approved landscaping scheme (submitted in relation to condition 3 above) shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.
- 5) With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Prior to the first occupation of the dwelling hereby approved the driveway and/or vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works in relation to the driveway/turning area.
- 7) Prior to the first occupation of the dwelling hereby approved an area shall be laid out within the curtilage of the property for the parking and turning of 2 cars which shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than the parking of vehicles.

- 8) Prior to the occupation of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any of the building hereby permitted.
- 9) Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.
- 10) Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 60 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 11) During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday - Friday 7.00am - 6.00pm, Saturday 8.00am - 1.00pm nor at any time on Sundays, Bank or Public Holidays.
- 12) The garage hereby permitted shall be used solely for the garaging of private vehicles and for purposes incidental to the enjoyment of the dwelling house as such and not for the carrying out of any trade or business.
- 13) The garage and access thereto must be reserved for the garaging or parking of private motor vehicles and the garage shall at no time be converted to habitable accommodation.
- 14) Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B and E of Part 1 and of Schedule 2, shall be carried out.
- 15) The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Willder Ecology dated March 2016 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

**\*\*\*\*\* end of conditions \*\*\*\*\***