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# Appeal Decision

Site visit made on 26 June 2024

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

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

**Decision date: 06 August 2024**

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**Appeal Ref: APP/W1850/W/23/3327517**

**10 Aylestone Hill, Hereford HR1 1HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs M Mohan against the decision of Herefordshire Council.
  - The application Ref is 223653.
  - The development proposed is a single storey dwelling in rear wall garden.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council's second refusal reason sets out its concern that, in the absence of adequate information relating to the disposal of surface water from the site, it could not be certain that a policy compliant surface water drainage strategy was achievable or that the proposed development would not adversely affect the integrity of the River Wye Special Area of Conservation. Since the Council's decision the parties have reached an agreement that a satisfactory solution could be achieved. Consequently, the Council has confirmed that its objection to the development in this respect has been resolved.

## Main Issues

3. The main issues are:
  - whether the proposed development would preserve or enhance the character or appearance of the Aylestone Hill Conservation Area; and
  - whether the proposed development would preserve the setting of nearby listed buildings and structures.

## Reasons

### *Conservation Area*

4. The appeal site is part of the garden of Aylestone House, a Grade II listed building, comprising a pair of semi-detached dwellings, 8 Aylestone Hill (No 8) and 10 Aylestone Hill (No 10). The site lies within the Aylestone Hill Conservation Area (CA) and adjoins the boundary of the Bodenham Road Conservation Area.
5. The significance of the CA is derived from its range of historic buildings of varying ages and architectural interest, predominantly set within spacious,

verdant plots. There are front gardens and parking areas between the residential properties and the highway to the front, enclosed by hedges, boundary walls and fences. The spacious grassed garden area around No 10, which is characteristic of the historic urban grain of the area, makes a positive contribution to the significance of the CA.

6. The proposal would see the construction of a detached single storey dwelling of a contemporary design towards the rear of the appeal site behind No 10, within the rear garden which is enclosed by a brick boundary wall. The new dwelling would be served by the existing vehicular access from Aylestone Hill, via a new driveway to be formed within the site which would necessitate the removal of part of the existing outbuilding and the formation of a gap within the existing brick wall.
7. By virtue of the siting of the proposed dwelling, set back to the rear of the existing properties in the row, and its limited height above ground level, while it would be seen in short range views from neighbouring properties, it would not be readily visible or appear unduly prominent in views towards the site either from Aylestone Hill or Southbank Road. Consequently, it would not have a tangible effect on the appearance of the CA.
8. Nonetheless, the introduction of a new residential unit as proposed would encroach into the otherwise open space to the rear of No 10. Built form of the scale proposed and, in the position shown, would diminish the general sense of spaciousness to the rear of the property. Moreover, the development would be at odds with the established layout of the surrounding residential development and would undermine the prevailing character of the area as influenced by the urban grain.
9. The Council allege the proposed development would fail to preserve the setting of the Bodenham Road Conservation Area, which adjoins the rear boundary of the site. However, it has not been shown how the significance of the conservation area, derived from its setting, would be affected by the development.
10. For the foregoing reasons I conclude the proposal would fail to preserve or enhance the character of the CA. Accordingly, it would conflict with Policy LD1 of the Herefordshire Local Plan Core Strategy 2011-2031 adopted October 2015 (CS) which requires the character of the townscape to positively influence design, scale, nature and site selection, and the protection and enhancement of designated areas. It would also fail to accord with the aims of Policy SD1 of the CS which sets out, among other things, that proposals should make efficient use of land, having regard to the local context and site characteristics, and CS Policy LD4 which seeks to protect, conserve, and where possible enhance heritage assets and their settings.

#### *Setting of the listed buildings*

11. The significance of Aylestone House, which dates back to the late 18th century, is informed by its architectural and historic interest. The setting of the listed building has evolved over time and includes new development which has taken place to the rear of No 8, including the construction of a pair of semi-detached dwellings on land that previously formed part of the plot, within which the setting of the listed building is experienced. The spacious setting to the side and rear of the building provided by the generous garden to No 10, also

contributes to the significance of the listed building. The contribution the rear garden space makes to the setting of the listed building is not undermined by the limited number of window openings in the rear elevation of No 10 which directly face the open space.

12. The set-back position of the dwelling would enable the side elevation of No 10 to be read in views along Aylestone Hill similar to the existing arrangement and would not encroach on the frontage of the listed building. Despite the siting, single-storey nature and simple design, the proposed dwelling would be within part of the garden area which is currently free from built development. While the remaining area of garden to serve No 10 would be greater than that to the rear of No 8, the proposal would nevertheless create a cramped feel to the setting of the listed building, due to the introduction of a large building to its rear and the associated parking and use of the land, which currently has an open, and spacious feel. In addition, the loss of a significant area of formal garden space associated with a house of some stature, would undermine the status of the listed building that contributes to its significance.
13. Consequently, by virtue of the scale and siting of the proposed dwelling, and the subsequent loss of spaciousness, the proposal would fail to preserve the setting of the listed building and its significance as a heritage asset. While I acknowledge the Horse Chestnut tree and boundary wall, in the main, are to be retained, this would not overcome the harm I have identified.
14. At the entrance to the site from Aylestone Hill is a pair of Grade II listed gates, piers and railings. The significance of these structures appears to be derived from their historic interest and functional association, together with the entrance gates that serve No 8, with the listed building. Although the original internal configuration of the site, including the relationship between the access and egress points that historically served the listed building, has been somewhat eroded by the internal subdivision of the front gardens of No 8 and No 10, the listed structures, which are clearly perceptible from Aylestone Hill, serve to unify the listed building within the street scene and inform its significance.
15. The appeal submissions indicate that the gates and railings would remain in situ. However, despite any physical demarcation to separate the new driveway from the existing open gravel parking and turning space, the proposed alterations to the internal configuration of the area of hardstanding to provide a route to the new dwelling, would nevertheless diminish the setting of the gateway at No 10. This would undermine the legibility of the gateways as a pair and impede their historic relationship. Consequently, the proposal would harm the setting of the listed structures and the contribution that makes to their significance.
16. The neighbouring property, 14 Aylestone Hill, which adjoins the side boundary of the site, is an attractive Grade II listed building. Its significance is informed by its historic interest and the spacious plot in which it sits. Whilst there is a degree of intervisibility between the appeal site and No 14, they are physically separated by the intervening boundary wall. Moreover, the proposal would not encroach into the open space immediately surrounding No 14. I therefore find that the significance of No 14 would not be harmed and that its setting would be preserved.

17. Furthermore, the introduction of a new dwelling in the position shown would be no more disruptive than the surrounding residential uses in the immediate vicinity of the site. As such, there would be no tangible effect in terms of additional noise or activity upon the existing garden area.
18. For the foregoing reasons the proposal would fail to preserve the setting of Aylestone House and the associated gates, piers and railings and their significance as heritage assets. In that regard the proposal would conflict with Policy LD4 of the CS which requires proposals affecting heritage assets to protect, conserve, and where possible enhance the assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible.

### **Heritage Balance**

19. For the reasons set out above I have found that the proposal would fail to preserve or enhance the character of the CA as a designated heritage asset. It would also fail to preserve the setting of the listed building, Aylestone House, and listed structures including the gates piers and railings to No 10 through harm to their setting that contributes to their significance. In terms of the Framework, the harm would be less than substantial, but would nevertheless be of considerable importance and weight, and great weight should be given to the conservation of a heritage asset. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
20. Public benefits would arise in terms of the delivery of a market housing unit, in an accessible location close to nearby local services and public transport, in accordance with the Council's strategy for the location of new development. While the proposal would make efficient use of land and would contribute to the local housing mix, I have not been presented with any substantive evidence to demonstrate an overriding need for smaller units in the area or that this need cannot be met elsewhere. Moreover, given the scale of development, for a single unit, these benefits would be limited.
21. Even if the existing outbuilding was found to have little historic significance, given the limited effect of its presence in terms of the setting of the listed building and the overall appearance of the site, any perceived benefits in relation to its proposed partial removal would be of limited weight.
22. In this context, the limited weight of the public benefits of the proposed development would not outweigh the harm to the significance of the heritage assets I have identified.

### **Other Matters**

23. The site lies within the hydrological catchment of the River Wye Special Area of Conservation (SAC). If I were minded to allow the appeal, as the competent authority, I would need to be satisfied that the proposal would have no adverse effects on the integrity of the SAC including through the undertaking of an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.

24. The absence of harm in relation to the living conditions of the future occupiers of the development or the occupiers of neighbouring properties is a normal expectation of new development and is a neutral factor.
25. The application was submitted following positive pre-application advice. The Framework acknowledges the benefits of early engagement and good quality pre-application discussions. While such advice is not binding, it is clearly unfortunate when a different decision is reached on an application. However, I have determined the appeal on the planning merits of the case.

### **Conclusion**

26. For the foregoing reasons, the proposal would conflict with the development plan taken as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

*E Worley*

INSPECTOR