
Appeal Decision

Site visit made on 25 January 2016

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 March 2016

Appeal Ref: APP/L3245/W/15/3137621

Land at the rear of 19 and 21 Park Lane, Shifnal.

- 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 Miss Georgina Hallam (Redrow Homes Midlands) against the decision of Shropshire Council.
 - The application Ref 15/00795/FUL, dated 18 February 2015, was refused by notice dated 31 July 2015.
 - The development proposed is described as 'residential development for 7 dwellings'.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development for 7 dwellings at Land at the rear of 19 and 21 Park Lane, Shifnal in accordance with the terms of the application, Ref 15/00795/FUL, dated 18 February 2015, subject to the 16 conditions set out in the attached schedule.

Preliminary matters

2. Since the original decision was made the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) was adopted by the Council on the 17 December 2015. In light of the advanced stage of its preparation, this document was referred to in the reasons for refusal along with policies from the Shropshire Core Strategy (CS). As indicated in their statement, the appellant was clearly aware of the preparation of this document and the 'Final Comments' stage gave both parties the opportunity to address any implications arising from the adoption of this document. Accordingly the SAMDev, whose policies have been found to be sound, along with the CS, form the statutory development plan for the area. I have considered the appeal on this basis.
3. A Unilateral Undertaking was submitted under section 106 of the Town and Country Planning Act 1990 (s106). I deal with the contents of this below.

Main issue

4. The main issue in the appeal is whether the development proposed would prejudice the longer term development needs of Shifnal.

Reasons

5. The appeal site is located outside of the Shifnal development boundary, on land that has been safeguarded for the future development needs of Shifnal in the recently adopted SAMDev. Planning permission 13/04840/FUL for the erection of 66 dwellings overlaps with the appeal site, with 3 of the 7 dwellings
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proposed already benefiting from planning consent albeit in a slightly different layout, with the other part of the site being residential garden land. The site adjoins the rear gardens of residential properties fronting Park Lane. Shifnal provides a wide variety of facilities and services along with access to public transport with regular rail and bus services to the wider area including Telford, Wolverhampton and Shrewsbury.

6. The Council can demonstrate a 5 year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework). Under these circumstances, the decision-taking criteria contained in paragraph 14 of the Framework are not engaged. Whilst this is so, the Framework seeks to boost significantly the supply of housing and the ability to demonstrate a 5 year housing land supply should not be seen as a maximum supply. Regardless of such a supply being available, the Framework advocates a presumption in favour of sustainable development and the application must be considered in these terms.
7. I have carefully considered the Council's representations in particular the effect of the proposal on land safeguarded for future development needs and current level of housing delivery in Shifnal. However, in this site specific circumstance events at the appeal site and on the immediately adjoining land have overtaken the recently adopted SAMDev plan. As set out above a significant proportion of the safeguarded land surrounding the site is currently being developed with the erection of 66 dwellings (13/04840/FUL). The development under construction along with the existing residential properties on Park Lane would in effect leave a small parcel of enclosed land surrounded by residential development. Moreover, this would be likely to limit the future use of the site to either a residential use or a use that would not materially affect the living conditions of occupiers of the residential properties that adjoin the appeal site. Consequently, although the site would be outside the development boundary of Shifnal it would be enclosed within the residential built up area of the town. Further, based on the evidence before me and my observations I agree with the Council who have clearly stated that the site and proposal are sustainable and that no harm would result from the development. Moreover, there is no evidence that demonstrates that the proposed development would result in material harm to the town's infrastructure, facilities or services.
8. Therefore, taking into account the limited size of the proposed development (4 additional dwellings) and the overall sustainability of the location; it would not undermine or prejudice the purpose of the safeguarded land as established in the SAMDev, as the aforementioned land is already in the process of being developed. Moreover, the provision of 4 additional dwellings would boost the supply of housing consistent with the aims and objectives of the Framework and therefore in this site specific circumstance make a contribution to Shifnal's longer term development needs.
9. Consequently, having reached the conclusion above the proposal would not conflict with Policies CS3 and CS5 of the CS or Policy S15 of the SAMDev. These policies seek amongst other things to ensure that development would not prejudice the potential future use of land meeting the longer term development needs of Shifnal. In reaching my conclusions I have also taken into account the policies of the emerging Shifnal Neighbourhood Plan 2014 – 2026.

Unilateral undertaking

10. None of the planning obligations contained within the undertaking appears to be in dispute, but I have considered them against the tests in Regulation 122 of the CIL Regulations 2010 nonetheless. The Council has identified a need for affordable homes. The contribution of £54000 towards affordable housing sought in the appeal scheme amounts to just over 0.6 of a dwelling, would be consistent with the requirements of the Local Plan. I therefore consider that this obligation meets the necessary tests in law and I have taken account of it in reaching my decision. Having regard to the Government's aim in the Framework to boost significantly the supply of both market and affordable housing, the provision of the latter would be a benefit of the scheme for the purpose of any planning balance.

Other considerations

11. I have been referred to a number of other appeal decisions and these have been cited as setting a precedent for the appeal proposal. However, I have limited information about their histories, but inevitably their contexts would differ to that of the scheme before me, and so they do not lead me to a different view in this case.
12. I have carefully considered the issues that were raised by local residents. These included effect on living conditions with particular regard to outlook, light and overlooking. However, based on the information before me and my observations the siting, orientation and separation distances proposed would ensure that subject to the imposition of conditions, the proposal would not lead to a material loss of outlook or light and would provide adequate protection from overlooking for local residents.
13. In relation to the effect of the proposal on ecology, hedgerows and boundary treatments. I have examined the representations of local residents in detail; however, there is no substantive evidence that would contradict the conclusions reached by the Council with regard to these matters in their planning committee report and appeal statement. I have therefore imposed the conditions in relation to ecology and boundary treatments as suggested by the Council. These conditions seek to ensure adequate protection for local residents.
14. The Council's committee report states that the proposed development would not result in an adverse effect on the setting of The Uplands a Grade II listed building. Therefore, whilst I have observed the inter-visibility between The Uplands and the appeal site, the visual separation and the intervening built form would ensure the setting is preserved. Consequently, the proposed development would not fail to preserve the character or appearance, and consequently the significance, of the Grade II listed building The Uplands.

Conditions

15. The conditions suggested by the Council have been considered in light of the advice contained within the national Planning Practice Guidance and the Framework. In addition to the standard outline implementation condition, it is necessary for the avoidance of doubt and in the interests of proper planning, to define the plans with which the scheme should accord.

16. To minimise the risk of flooding, it is necessary for details of foul and surface water drainage to be agreed with the Local Planning Authority. Further it is necessary to control and agree details of methods of construction and traffic management in the interests of local residents. In the interests of highway safety it is necessary for the access, carriageways, turning heads, drainage, street lighting and parking are carried out in accordance with the previously agreed details. In the interests of highway safety to ensure that a cycle barrier is installed. It is necessary in the interests of amenity to ensure that there is adequate protection for the trees on site during construction and that all works are carried out in accordance with the submitted arboricultural reports and specifications. It is necessary in the interests of amenity to ensure that planting is carried out and maintained in accordance with the specified planting scheme. Finally it is necessary for details of archaeological investigation to be agreed with the Local Planning Authority.

Conclusion

17. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR

Schedule – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1612/08/02/602 Rev E Proposed Site Plan
 - 5223/PP.01 Rev.B Planting Plan Overview
 - 5223/PP.02 Rev B Planting Plan 1 of 2
 - 5223/PP.03 Rev B Planting Plan 2 of 2
 - 1612/08/02/615 Rev C Materials Plan
 - 1612/08/02/610 Rev C Enclosures Plan
 - 1612/08/02/612 Rev B Proposed Finished Floor Levels
 - 1612/08/02/608 Rev A Street Scene and Sections
 - 1612/08/01/630 Location Plan
 - 1612/08/01/610 Topographical Survey
 - EF-SUND-DM 1.0 April 2014 Sunningdale Floor Plans
 - EF-SUND- DM 1.0 April 2014 Sunningdale Elevations 2014 Release Rev Garage
 - EF-OXFD –DM 1.0 April 2014 Oxford
 - EF-MARL-DM 1.0 April 2014 Marlborough Floor Plans
 - EF-MAR-DM 1.0 April 2014 Marlborough Elevations
 - EF-LEAM-DM 1.0 April 2014 Leamington Render
 - EF-LEAM-DM 1.0 April 2014 Leamington Brick
- 3) The improved access off A464, access roads, footways, parking areas, highway surface water drainage, lighting and visibility splays which would serve the dwellings hereby approved shall be fully implemented in accordance with the details approved under planning permission 13/04840/FUL, with the estate roads, roadways, vehicle manoeuvring and turning areas constructed to at least base course macadam level and made available for use before the dwellings that they would serve are first occupied.

- 4) No development shall take place, including any works of demolition, until a Construction Method 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. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 5) No Demolition or construction work shall not take place outside the following times:
 - i) Monday to Friday 0730hrs to 18.00hrs;
 - ii) Saturday 08.00hrs to 13.00hrs;
 - iii) Nor at any time on Sundays, bank or public holidays.
- 6) No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved in writing by the Local Planning Authority. The approved schemes shall be completed before the development is occupied.
- 7) No development approved by this permission shall commence until a programme of archaeological work has been secured on a specification (written scheme of investigation) submitted to and approved in writing by the Local Planning Authority. The written scheme of investigation shall make provision for a series of trial trenches to test for the presence or absence of un-recorded archaeological deposits, prior to work commencing on site. The programme of archaeological work shall thereafter be carried on in complete accordance with the approved specification.
- 8) Before the dwellings are first occupied a cycle barrier shall be installed at the point where the footpath/cycle link meets the two private drives connecting to the estate road, in a precise location and to a specification which has first been approved in writing by the Local Planning Authority.

- 9) Prior to commencement of construction works, tree works shall be undertaken by a competent arborist as specified in Section 5.2 of the Arboricultural Summary Report (5223 FE ASR 01 A, First Environment Ltd, April 2015) and as shown on the Tree Protection Plan (FE Extra TPP 03, Appendix A to the aforementioned tree report). Following completion of the tree works, but in advance of any other development-related activity on the site, the tree protection measures must be installed as specified in Section 5.3 of the aforementioned tree report and shown on the aforementioned Tree Protection Plan. Thereafter the tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development and shall not be moved or removed without the prior written agreement of the Local Planning Authority. With regard to fence installation and the sequencing of development activity in relation to trees, the development shall be implemented in accordance with Sections 5.4 and 6.5 of the aforementioned tree report.
- 10) The planting shall be undertaken in accordance with and as specified in the amended planting plans and planting plan overview (drawings 5223/ PP01 REV B, PP02 REV B and PP03 REV B). The planting shall be implemented in full prior to occupation of any completed property. Any planted tree or shrub, or replacement tree or shrub thereof, which within a period of 5 years from planting dies, becomes seriously diseased, or is otherwise lost or destroyed, shall be replaced by another of a similar specification.
- 11) No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.
- 12) All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Preliminary Ecological Appraisal by First Environment revised June 2015 5223 FEC PEA 01.
- 13) Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.
- 14) Prior to the first occupation of the dwellings details of a minimum of two bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in accordance with a timetable to be approved in writing by the Local Planning Authority.
- 15) Prior to the first occupation of the dwellings details of five artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning

authority. The approved details shall be implemented in accordance with a timetable which has been approved in writing by the Local Planning Authority.

- 16) The first floor wet room window in the west side elevation of the Leamington house type on plot 68 shall be obscure glazed before the dwelling is first occupied and shall thereafter be maintained as such.