



Appeal Decision

Site visit made on 24 May 2016

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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

Decision date: 21 June 2016

Appeal Ref: APP/L3245/W/16/3146714

Quarry View House, 34 New Street, Shrewsbury SY3 8JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Dr John Williams against the decision of Shropshire Council.
 - The application Ref 15/02481/OUT, dated 4 June 2015, was refused by notice dated 7 October 2015.
 - The development proposed is a pair of semi-detached town houses.
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Decision

1. The appeal is dismissed.

Procedural matters

2. This application was submitted in outline with all matters except access reserved for consideration at a later stage. Site layouts and sections have been submitted for illustrative purposes only and I have had regard to them on this basis.
3. In December 2015 following the determination of this application the Council adopted the Site Allocations and Management of Development Plan (the SAMDev). I am satisfied that both parties have had the opportunity to address any implications arising from the adoption of this document. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.
4. As a result of the Court of Appeal's judgement on 11 May 2016 [*Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council 2016*], the Government's Planning Practice Guidance (NPPG) advises that contributions for affordable housing and tariff style planning obligations should not now be sought from small scale and self-build developments. The policies in the Council's development plan relating to such provisions must therefore now be considered in the context of this change in national policy and guidance. Both parties have been given the opportunity to comment on this situation and the Council have indicated that they are no longer contesting the lack of an affordable housing contribution. I have considered the appeal on this basis.

Main Issues

5. The main issues in this case are:
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- 1) Whether sufficient information has been presented to assess whether the proposal represents an acceptable form of development having regard to its flood zone location; and,
- 2) The effect of the proposed development on the character and appearance of the Shrewsbury Town Centre Conservation Area.

Reasons

Flood Risk

6. The appeal site is located on the north western side of the River Severn. It presently forms part of the rear garden of Quarry View House. This is a substantial Georgian property which has recently been renovated. It has an 'L' shaped plot with a private access road running along its long, north eastern side. To the south east the pedestrianised part of Water Lane lies between the site and the river. A boat house lies to the south west and garden areas to the north west. The appeal site itself is the south western portion of the site which currently contains a range of outbuildings and vegetation. The proposed development would place a pair of semi-detached dwellings with storage underneath on this site. The main access point to these dwellings would be shared with the existing access to Quarry View House.
7. According to the Flood Risk Assessment Report (the FRA) that accompanied the application, the site is at high risk of flooding from the river and indeed was partially flooded in 2004. The Environment Agency have commented that the site falls within Flood Zone 3 which in accordance with the NPPG is considered as having a 'high probability' of fluvial flooding. Furthermore, based on the ground level information in the FRA and the modelled flood levels set out in Shropshire Council's Level 2 Strategic Flood Risk Assessment, it is suggested that the entire site is located in Flood Zone 3b. The NPPG states that such land must be regarded as 'functional floodplain' as it is land where water has to flow or be stored in times of flood (Table 1: Flood Zones, Ref: ID: 7-065-20140306).
8. Policy CS18 of the Shropshire Local Development Framework Core Strategy 2011 (the Core Strategy) requires new development to be designed to be safe, taking into account the lifetime of the development and the need to adapt to climate change. The NPPG also states that only water compatible uses and essential infrastructure (which passes the Exception Test) should be constructed on sites assessed as Flood Zone 3b (Table 3: Flood risk vulnerability and flood zone 'compatibility', Ref: ID: 7-067- 20140306). Such water compatible uses do not include buildings used as dwelling houses, which are classified as 'more vulnerable'. In this respect it is noted that the FRA submitted by the appellant has incorrectly identified the proposed development as being water compatible.
9. The NPPG and the National Planning Policy Framework (the Framework) state that inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at highest risk. The Sequential Test should be used to assess the possibility of alternative locations for development. The FRA refers to sequential testing but this is based on the assumption that by placing a water compatible use on the ground floor and raising the residential portions of the property above, the test will be satisfied. However, the Technical Guidance to the National Planning Policy Framework states that buildings that

combine a mixture of uses should be placed into the higher of the relevant classes of flood risk sensitivity¹.

10. Therefore, as the proposed development is not water compatible, the Sequential Test has been incorrectly applied and no evidence of the consideration of alternative sites is given. If the Sequential Test had been correctly applied and it had been found that it would not be possible to locate the development in zones with lower probability of flooding then the Exception Test would also need to be applied. This requires both that the development would provide wider sustainability benefits to the community that outweigh flood risk, and also the preparation of a site specific flood risk assessment which demonstrates that the development would be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere. Such information has not been provided in this case.
11. I conclude that on this matter that the information submitted by the appellant is inaccurate and therefore insufficient to assess whether the proposal represents an acceptable form of development having regard to its location within Flood Zone 3b. In this respect it does not comply with the relevant provisions of the NPPG or the Framework in relation to flood risk, nor would it comply with the Core Strategy Policy CS18.

Character and appearance

12. The appeal site is located in a prominent location on the banks of the River Severn. Clear views of the site are available from Quarry Park, a well-used public space on the opposite side of the river. The site is also visible from Water Lane, though a timber fence running along the front of the site adjacent to this walkway reduces its visibility somewhat. I noted on my site visit that the site is currently occupied by a range of trees, shrubs and single storey outbuildings and is somewhat neglected, in contrast to the well maintained garden area adjacent to the main house. The outbuildings would be removed as part of this proposal.
13. This area is part of the Shrewsbury Town Centre Conservation Area which has been divided into ten character areas. The appeal site is located in the Frankwell Area. This is close to the centre of Shrewsbury and is characterised by red brick buildings of a variety of sizes and styles, mostly set in elevated positions above the river. The gradual gradient down to the river is largely filled with green spaces and mature vegetation.
14. The visibility of this site from a range of public vantage points means that the principle of development in this location in terms of its impact on the wider Conservation Area must be carefully considered. Whilst this application has been submitted in outline with design and layout reserved for consideration at a later stage, the indicative site plan and site section establish that the two and a half storey dwellings would be located in a prominent position relative to Water Lane and would be clearly visible from the opposite side of the river. Furthermore, the fact that other buildings in this area are located at a higher level and the proposed development would be isolated in an area of largely green space would exacerbate its prominence. I therefore consider that this proposal would represent an incongruous addition to this part of the Conservation Area.

¹ Notes to Table 2: Flood risk vulnerability classification

15. Section 72 (1) of the Planning (Listed Building and Conservation Area) Act 1990 refers to any building or other land in a conservation area and requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In exercising this duty the effect of development on the character or appearance of the conservation area must be assessed in terms of the impact on the significance of this area.
16. On this matter I have found that the development would not preserve or enhance character and appearance of the Shrewsbury Town Centre Conservation Area. It would therefore fail to comply with the Core Strategy Policies CS6 and CS17 which require new development to protect, restore and enhance the natural, built and historic environment. It would also conflict with SAMDev Policy MD2 which requires new development to contribute to and respect locally distinctive or valued character and existing amenity value. Finally, it would conflict with MD13 which seeks to avoid harm to designated and non-designated heritage assets including their setting.
17. In this case, as this development is relatively small scale, I consider the harm arising to be less than substantial in terms of Paragraph 134 of the Framework. This harm must be weighed against any public benefits of the proposal. I note the provision of two units of accommodation in a reasonably central location. The appellant has also suggested that a contemporary building would provide interest to the riverside landscape and that views of the river from neighbouring properties would be retained. I also note that the proposal would involve the removal of a number of existing outbuildings and would 'tidy up' this somewhat neglected site. I therefore recognise some public benefits but these are not sufficient to offset the harm identified to which I must attach considerable weight.

Other Matters

18. I note the reference to the fact that the appellant is considering downsizing and may occupy one of the proposed dwellings. However the personal circumstances of the appellant would not outweigh the significant harm I have identified in this case.

Conclusion

19. I have found that this proposal would be unacceptable in terms of flood risk. It would also have a detrimental effect on the character and appearance of a designated Conservation Area. Whilst I have found the harm to this heritage asset to be less than substantial, any public benefits arising from the proposal would be outweighed by its environmental impacts.
20. For the above reasons, taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Mageean

INSPECTOR