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# Appeal Decision

Site visit made on 5 July 2016

**by Paul Singleton BSc (Hons) MA MRTPI**

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

Decision date: 28 July 2016

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**Appeal Ref: APP/L3245/W/16/3147776**

**Land to the rear of 41 Furlongs Road, Cleobury Mortimer, Shropshire DY14 8AR**

- 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 Percy Cox Properties against the decision of Shropshire Council.
  - The application Ref 15/01919/FUL, dated the 28 April 2015, was refused by notice dated 4 December 2015.
  - The development proposed is residential development of 13 number detached and semi-detached houses including garages and road design.
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## Decision

1. The appeal is allowed and planning permission is granted for residential development of 13 number detached and semi-detached houses including garages and road design at Land to the rear of 41 Furlongs Road, Cleobury Mortimer, Shropshire DY14 8AR in accordance with the terms of the application, Ref 15/01919/FUL, dated the 28 April 2015, subject to the conditions listed in the schedule attached to this decision.

## Application for costs

2. An application for costs was made by Percy Cox Properties against Shropshire Council. This application is the subject of a separate Decision.

## Preliminary Matter

3. The application originally proposed a development of 12 houses on the site. Subsequent amendments made prior to the Council's determination of the application included the substitution of one of the proposed detached houses with a pair of semi-detached properties, thereby increasing the total number of dwellings to 13. I have considered the appeal on this basis of this amended scheme.

## Main Issues

4. The main issues are: (a) the effect on the local road infrastructure, (b) the effect on the living conditions of residents of properties fronting the roads on the approach to the site, and (c) the need for the form of housing proposed.
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## Reasons

### *Road infrastructure*

5. Based on my observations on my site visit I consider that the proposed vehicular access from the head of the cul-de-sac section of Furlongs Road would be of adequate width and satisfactory geometry so as to enable the safe turning of vehicles, including large refuse vehicles, into and out of the appeal site. Visibility for vehicles leaving the site would also be satisfactory. The junction of Furlongs Road and Ronhill Crescent would also provide ample space for the turning of large vehicles and for good visibility in both directions for vehicles leaving the cul-de-sac.
6. The cul-de-sac currently serves 14 houses and connects to a wider local network of roads via New Road and Ronhill Crescent, which together serve around 120-150 houses. The traffic surveys show that existing traffic flows on this network are low and the appellant's transport assessment demonstrates that the increase in traffic generated by the development would be very modest. I have seen no evidence to contradict that report's conclusions that there would be no material impact on the link capacity of the local roads or on the operation of the junctions within that local network.
7. I note the concerns that this section of Furlongs Road is narrow but the carriageway width, at 4.25 metres (m), is sufficient to enable two cars to pass one another. All of the houses fronting the road appear to have provision for off street parking, in most cases for more than one car, and at the time of my site visit there was only one car parked on the road. Increased on-street parking might occur at other times of the day but the carriageway width would enable other vehicles to pass and, given the short length of the road, some element of on-street parking would be unlikely to give rise to any significant inconvenience or delay to drivers. As set out in the appellant's transport assessment, Furlongs Road and Ronhill Crescent would continue to operate within acceptable parameters even allowing for the effect of on-street parking.
8. The 2m wide footway on both sides of the cul-de-sac provides for safe pedestrian movements along the street but does not continue around the turning head at the top of the street. The appeal scheme would extend the footway on the south side and carry this across a raised table at the site access point to connect with the existing footpath that links Furlongs Road to Ron Hill Lane. Due to the short length of the road, the carriageway width, and the number of driveways which it serves, most drivers using this section of Furlongs Road are likely to travel at low speed and with appropriate caution. However, this proposal would result in a net benefit in terms of pedestrian safety notwithstanding that it would introduce more traffic movements along the street.
9. There are constraints on the local road network in respect of carriageway "pinch points" and the lack of a footway or pedestrian refuge at some locations. However, in view of the modest scale of the development proposed and the ready accessibility to local shops, schools and other services which the site affords, I agree with the Highway Officer's conclusions that the appeal proposal would not make those conditions significantly worse. The development would contribute some additional vehicle and pedestrian movements to the local

network and it is reasonable that the appellant should make a financial contribution towards making improvements where appropriate. However, if other developments, such as that which has been approved at the Box Works site, are also likely to generate additional movements on parts of the local network, it would be wholly unreasonable to expect the appellant to fund all of any desired improvements to that network.

10. The highways contribution offered by the appellant has been judged by the Highways Officer both to be of benefit and proportionate to the scale of development proposed and I have no reason to reject that conclusion. Given that the Council's concerns mainly relate to conditions on roads further from the site, rather than on the cul-de-sac itself, it is perfectly sensible that the drawing up of possible improvement works and consultation with the local community about those works should be done by the Highway Authority. I therefore reject the Council's criticism of the appellant in this regard.
11. Having regard to the above considerations, I conclude that the proposal would have only a modest effect on the safe operation of the local road network and that adequate mitigation could be provided by means of appropriate planning conditions and a financial contribution towards local improvement works. Accordingly, there would be no residual impacts which would warrant a refusal of planning permission having regard to the guidance at paragraph 32 of the National Planning Policy Framework (Framework).
12. The proposal is consistent with Policy CS3 of the Shropshire Core Strategy (Core Strategy) which expresses support for balanced housing and employment development of an appropriate scale and design and which balances environmental constraints with meeting local needs. It also derives positive support from Policy CS6, which encourages development in sustainable locations and requires that proposals should be designed to be safe and accessible to all, and from Policy CS7 in that the site's central location will provide future occupiers of the proposed houses with a range of choices as to how they make journeys to local services and facilities.
13. The proposal would also comply with Policies MD2(6) and MD8 of the Council's Site Allocations and Management of Development (SAMDev) Plan (2015) in that there is sufficient capacity in the local network to support the development and the financial contribution proposed would help alleviate existing constraints in that infrastructure.
14. *Living conditions*
15. The Council's appeal statement provides little clarification of that part of the reason for refusal concerning the effect of the traffic generated by the proposal on the living conditions of occupiers of residential property in the area; it states only that members had concerns about the amenity of residents fronting the access route. However no evidence has been submitted to demonstrate that such effects are likely.
16. With regard to the amenity of pedestrians using the network, the Institute of Environmental Assessment Guidelines, referred to in the transport assessment, suggest a doubling of existing traffic flows as the threshold for impact evaluation in terms of any effect on the "pleasantness" of the journey and that moderate impacts in terms of pedestrian delay are likely to occur with flows of over 600 vehicles per day with 10-15% HGV levels. The traffic flows following

completion of the proposed development would be substantially below those thresholds and there is, therefore, no evidence to suggest that any adverse effects would arise either in respect of residents when walking along the local roads or when within their homes.

17. Accordingly I find that that there would be no material harm to the living conditions of residents of properties fronting the local highway network and that no conflict would arise with Core Strategy Policies CS7 and SC8 or with any of the policies cited in the first reason for refusal in this regard.

*Need and housing type*

18. In defence of its second reason for refusal the Council relies upon Core Strategy Policy CS11 and SAMDev Policies MD2 and MD3 and I deal with each of these in turn.
19. Policy CS11 sets out a general objective of creating mixed, balanced and inclusive communities and a number of ways in which the Council, as local planning authority, will seek to achieve this. All but one of the following parts of the policy concern things that the Council will seek or support and set no specific requirements that must be met by individual development proposals. The only such requirement is that all open market housing developments should make an appropriate contribution to the provision of affordable housing; the appeal makes such a contribution and is, therefore, in accordance with the policy.
20. Policy MD2 requires that development should respond positively to local design aspirations, in terms of visual appearance and how a place functions, and should contribute to and respect the locally distinctive and valued character of the area. In this case, the Council has concluded that the site is in a sustainable location and that the design of the proposal is of an acceptably high standard having regard to its location at the heart of the Cleobury Mortimer Conservation Area; it follows that the Council also considers the proposal would preserve or enhance the character or appearance of the Conservation Area. In this context, and in light of my conclusions as to the capacity of the road infrastructure to accommodate the scale of development proposed, the proposal would not give rise to any conflict with Policy MD2.
21. Policy MD3 gives positive support to sustainable housing development on non-allocated sites and states that residential proposals should meet the design requirements of relevant Local Plan; the proposal is such a sustainable development that meets those design requirements. The policy also states that proposals on sites of five or more dwellings should include a mix and type of housing that has regard to local evidence and community consultation. The explanatory text at paragraph 3.20 indicates that it is the Place Plans that will provide information as to the different types of housing required at a local level.
22. The Cleobury Mortimer Place Plan (Place Plan) makes reference only to affordable housing as a clearly identified local need. The Council's statement indicates that there is a reference in the Place Plan to the need for bungalows but, on my reading of that document, the only such reference is in the summary of representations made to the SAMDev plan by the Stottesdon and Sidbury Parish Council; hence that comment appears to reflect a view as to what is needed in the wider area rather than in the town itself.

23. The Place Plan's identification of a need for more affordable housing is contradicted by the Cleobury Mortimer Parish Plan (Parish Plan) 2014, with the respondents to its questionnaire stating that no more social housing is needed in the town. The Parish Plan does state that no new bungalows have been built in the recent developments constructed or granted permission to meet the 350 dwelling Core Strategy target for the town; however, the Plan includes no information as to the number or size of bungalows for which a need has been established.
24. Neither the Place Plan nor the Parish Plan forms part of the development plan and, hence, these can only be afforded limited weight in the appeal. The officer report concludes that neither of these documents includes a specific reference to the need in the town for bungalows or smaller units and the Council appears to accept this at paragraph 4.5 of its appeal statement. I agree with that conclusion and consider that neither of these plans provides a sound basis for the application of part 1.ii. of Policy MD3 to the appeal proposal. I also agree with the appellant that the development of a larger number of smaller units or bungalows on the site would not be consistent with the need for the proposal to preserve or enhance the character of the Conservation Area.
25. The appellant has consulted both locally and with the Council and has made a number of changes to the proposal such that this does include a mix of larger and smaller semi-detached and detached properties that would provide for a range of housing needs. The S106 undertaking submitted by the appellant would also secure affordable housing provision in accordance with the Council's policies. In my view this is an appropriate mix of development and the proposal would comply with Policy MD3.

### **Other Matters**

26. The Council has not alleged any harm to the Conservation Area and this is not an area of dispute between the parties. I am satisfied from the observations made on my site visit that the layout and design of the proposed dwellings would be in keeping with the traditional form and style of the properties within this part of the conservation area and would not give rise to any harm in that respect. In its current condition the site has a mildly negative effect on the appearance of the Conservation Area and I consider that its development as proposed would not only preserve but would bring some degree of enhancement to the character and appearance of the area in this respect; this is therefore a positive benefit of the proposal.
27. A previous appeal in respect of a proposed development of 21 dwellings on the appeal site was dismissed in December 2002 on the grounds of highway safety and its effect on the Conservation Area. Whilst that previous decision is a material consideration the current proposal is for a significantly lower number of dwellings and I am satisfied that, in the context of current planning policy and guidance on the capacity of different standards of highway, the proposal is acceptable in highway terms. I also consider that, with the scale of development and design approach proposed, the current proposal would preserve the character and appearance of the conservation area.
28. The third party representations raise concerns about the provision of a vehicular access to the rear of the public house on Lower Street. Although there may have been some confusion as to the purpose of the proposed access

at the outset, the appellant has confirmed that this would be for the private use of the proprietor of those premises. I am satisfied that its use could be suitably restricted by means of a planning condition and that there would be no detriment in terms of the safe operation of the highway network or on residential amenity as a result of such a restricted use. Concerns have also been raised about the effect of the proposal on the outlook and living conditions of occupiers of properties in Furlongs Road and New Road but, based on my observations on my site visit, I find that there would be no risk of any significant harm in this respect.

### **S106 Planning Obligations**

29. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
30. A signed and completed S106 Agreement has been submitted which includes obligations relating to affordable housing provision in line with the Council's adopted policies on such provision and the payment of a financial contribution to help improve pedestrian and cycle links within the vicinity of the development in order to promote sustainable travel, to undertake localised highway improvements and to formalise parking arrangements in the vicinity of the site.
31. I am satisfied that the obligations contained within that agreement are necessary and directly related to the appeal proposal and are fairly and reasonably related in scale and kind to the development proposed, in accordance with CIL Regulation 122. I have therefore attached significant weight to the UU in reaching my decision.

### **Conditions**

32. I have considered the Council's proposed conditions as set out in the officer report and have made amendments to these in the interests of clarity.
33. As the planning permission hereby granted is a full permission and in the interests of certainty a condition is needed to tie the permission to the approved plans and drawings. Drawing No 2047-201-03 is approved only insofar as it shows the site location and red line but not in respect of the materials layout drawing as this was not updated to reflect the late changes to the site layout. The house type and garage plans are approved insofar as they show plans and elevations for these elements but not in respect of the plot references on these drawings as these do not tie up with Revision F of the site layout plan.
34. Conditions have been attached to require the submission and approval of a updated version of the materials plan together with full details of the materials to be used in the construction of the external surfaces of the houses and of the areas of hard surfacing within the development. These conditions are necessary, notwithstanding the information submitted with the application, to ensure a high quality of development commensurate with its location within the conservation area.

35. The application was accompanied by a drainage strategy but conditions are needed which require the submission of detailed proposals for foul and surface water drainage and setting out minimal requirements of such provision in the interests of ensuring a safe and acceptable standard of development. In light of the findings and recommendations of the desk top archaeological assessment which accompanied the application a condition is needed which requires that a scheme of investigation be submitted and approved and that an appropriate programme of archaeological works be carried out prior to the commencement of development.
36. A condition is needed to require the submission and approval of a construction method statement so that appropriate measures are agreed to minimise disruption on the local highway network and potential disturbance to the occupiers of nearby dwellings during the construction programme. Also in the interests of minimising potential noise and disturbance to nearby residents a condition limiting the hours of working during construction has also been attached.
37. Although means of access is approved as part of the permission a condition is needed, so as to ensure an acceptable standard of development, which requires the submission and approval of the engineering details of the access roads, footways and associated infrastructure and setting out requirements for the timing of these works. In the interests of ensuring a sustainable development and providing the future occupiers of the dwellings with a choice of travel options a conditions requiring the submission and approval of a travel plan is appropriate. A condition has also been attached that requires that the parking areas proposed within the development are provided and completed before any of the houses are occupied; this is necessary to ensure that adequate provision is made and that there would be no need for cars to park outside of the site.
38. Again to ensure a high standard of development, conditions are needed in relation to the submission and approval of a scheme of hard and soft landscaping works and in respect to the requirements concerning the implementation of those works. As details are not approved as part of the planning permission a condition is also needed which requires the approval of a lighting scheme before any such works are carried out. Finally in light of the recommendations of the Phase 1 Habitat Survey conditions setting out the requirements in respect of the provision of bird and bat boxes/ artificial nests are also needed.

### **Conclusions**

39. For the reasons set out above I conclude that the proposal would comply with the development plan and that, in accordance with paragraph 14 of the Framework, planning permission should be granted without delay. The appeal is therefore allowed.

*Paul Singleton*

INSPECTOR

**Schedule of conditions attached to appeal Ref APP/L3245/W/16/3147776**

- 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:

2047-20-03 - approved in respect on of Site Location Plan only

2047-20-02 Rev F            Site Layout Plan

2047-HTA-01            House Type A

2047-HTB-01 Rev A    House Type B

2047-HTD-01            House Type D

2047-THE-01            House Type E

2047-HTF-01            House Type F

2047-HTH-01 Rev A    House Type H

2047-DG-01            Double Garage – Pitched Roof

2047-DG-02            Double Garage – Hipped Roof

2047-DG-03            Double Garage – Long Form

House type and garage plans are approved with respect to the proposed plans and details only as the plot references on these plans have not been updated to reflect Revision F of the site layout plan.

- 3) Notwithstanding condition 2, no above ground development shall be carried out until an amended version of Drawing No 2047-201-03 (Materials Layout) and full details of all external materials, including hard surfacing and fenestration, have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding condition 2, no development shall commence until a scheme to appropriately restrict vehicular access from the development site to the car park of the Old Lion Public House has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be completed prior to the first occupation of any of the dwellings approved under this permission.
- 5) No development shall take place until plans for the disposal of foul sewage have been submitted to, and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details and before the development is first occupied.
- 6) The development hereby approved shall not commence unless details of the proposed surface water soakaways have been submitted to and approved in writing by the local planning authority. Percolation tests and the sizing of the soakaways shall comply with BRE Digest 365 and shall cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. The details shall include calculations and dimensions for the soakaways and confirmation of the location for the percolation tests.



- 7) Surface water shall pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.
- 8) If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, a drainage system to intercept water prior to flowing on to the public highway shall be submitted to and approved in writing by the local planning authority prior to the commencement of those works. The works shall be carried out in accordance with the approved details prior to the first occupation of any dwelling within the development.
- 9) If it is proposed to employ highway gullies for the disposal of the surface water runoff from the proposed highway within the site, the developer shall submit a highway water runoff disposal scheme for the approval of the local planning authority prior to the commencement of the development. This shall confirm that the proposed gullies will be able to convey the 100 year plus 30% storm to the soakaway system. Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12. This requires that exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. The exceedance flow path should be detailed to ensure that any such flows are capable of being satisfactorily managed on site. The works shall be carried out in accordance with the approved details prior to the first occupation of any dwelling within the development.
- 10) No development shall commence until a programme of archaeological work has been carried out in accordance with a written scheme of investigation (WSI) which shall have been approved in writing by the local planning authority prior to the commencement of the works.
- 11) 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) the 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;

- viii) ensuring that construction workers vehicles are parked on site at all times;
  - ix) ensuring that smaller vehicles are used whenever possible.
- 12) Hours of working for the construction phase shall be restricted to 07.30 to 18.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays. There shall be no construction work on Sundays, Public or Bank Holidays.
- 13) No development shall commence until full engineering details of the new access roads, footways, parking areas, highway surface water drainage, street lighting and carriageway markings/signs have been submitted to and approved in writing by the local planning authority. The works shall be fully implemented in accordance with the approved details with the estate roads, footways, vehicle manoeuvring and turning areas completed to at least base course macadam level and made available for use before any dwellings they serve are first occupied.
- 14) No development shall commence until a travel plan has been submitted and approved in writing by the local planning authority. . The travel plan measures shall relate to the entirety of the residential development, and shall reflect the phasing of occupation as appropriate. The travel plan shall be implemented in accordance with the approved details within one month of the first occupation of any dwelling approved under this permission.
- 15) No dwellings hereby approved shall be occupied until the car parking areas shown on approved plan have been constructed and surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority. The parking spaces and manoeuvring areas shall thereafter be kept clear and maintained at all times for that purpose.
- 16) No development shall commence until there a scheme of landscaping has been submitted to and approved by the local planning authority. The submitted scheme shall include:
- i) means of enclosure
  - ii) hard surfacing materials
  - iii) planting plans
  - iv) written specifications (including cultivation and other operations associated with plant and grass establishment)
  - v) schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
  - vi) a programme for implementation of the works.
- 17) All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the local planning authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced with

others of species, size and number as originally approved, by the end of the first available planting season.

- 18) 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.
- 19) A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.
- 20) A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

**End of schedule of conditions**