



Appeal Decision

Site visit made on 2 October 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 7th November 2017

Appeal Ref: APP/L3245/W/17/3178484

Land to the South of Little Ness, Shrewsbury SY4 2LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr J Homden against the decision of Shropshire Council.
 - The application Ref 16/04169/REM, dated 14 September 2016, was approved on 22 December 2016 and planning permission was granted subject to conditions.
 - The development permitted is approval of reserved matters (access, appearance, landscaping and layout) pursuant to permission 14/05719/OUT.
 - The condition in dispute is No 12 which states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken:-*
 - extension to the dwelling
 - free standing building within the curtilage of the dwelling
 - addition or alteration to the roof
 - erection of a porch
 - any windows or dormer windows"
 - The reason given for the condition is: *"to maintain the scale, appearance and character of the development and to safeguard the amenities of the locality".*
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Decision

1. The appeal is allowed and the planning permission Ref 16/04169/REM for approval of reserved matters (access, appearance, landscaping and layout) pursuant to permission 14/05719/OUT at Land to the South of Little Ness, Shrewsbury SY4 2LG granted on 22 December 2016 by Shropshire Council, is varied by deleting condition No 12.

Background and Main Issue

2. The approval of the reserved matters application in this case included a condition removing permitted development rights for extensions and alterations to the new dwelling, including curtilage buildings. The reasons for this given on the decision notice refer to the need to maintain the scale, character and appearance of the development and the need to safeguard the 'amenities' of the locality, with the Council's statement referring to the sensitive location of the site.
3. Taking these points into consideration, the main issue is whether the condition is reasonable or necessary in the interests of the character and appearance of the area, and also the living conditions of neighbouring residents.

Reasons

4. The appeal site is a large plot located within a rural settlement which has a dispersed character and is set within agricultural fields. It comprises a range of dwelling types, including some large properties in substantial plots, with others being smaller scale semi-detached dwellings. To the south of the appeal site are two sets of semi-detached dwellings, with Little Ness Farm directly to the east. The approved development is for a large property and detached triple garage which, at the time of my site visit, appeared to be substantially constructed.
5. Whilst the scale of this proposal was approved at outline stage, the reserved matters application generated local concern about the nature and scale of this proposal, including changes to the previous indicative plan. However, I understand that the Council was satisfied that the size of the reserved matters dwelling was as previously approved. Also the positions of the dwelling and garage, though altered from the indicative plan, were considered to be acceptable within this large plot given the generous distances between these built elements and adjacent properties. The Council therefore concluded that the proposal would not result in significant harm to surrounding dwellings or the wider area. I have no reason to take a different view on these matters.
6. The National Planning Policy Framework (the Framework) at paragraph 206 states that planning conditions should only be imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. More specifically, paragraph 200 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.¹
7. In the present case the scale of the development was considered at outline stage, with conditions such as that restricting the number of storeys imposed on the outline approval. Therefore, as matters associated with scale had already been determined, my view is that a condition restricting permitted development was not strictly speaking relevant to the reserved matters application.
8. I note that the concerns of the objectors to the reserved matters application related in part to the fact that the dwelling was positioned further forward in the plot than in the indicative scheme, with the garage moved to the northern side closer to Little Ness Farm. The particular concern was that this scheme would be harmful to the outlook from, and privacy enjoyed, by the occupiers of neighbouring houses.
9. I accept that the character of this area is spacious, and that the occupiers of neighbouring properties are used to having more open views. However, this does not appear to be an especially sensitive location, particularly given the generous size of the plot and the distance to neighbouring dwellings. Therefore, noting that permitted development rights do not allow any extension or curtilage building to be constructed forward of the principal elevation of the house, it is not clear how restricting permitted development rights would

¹ Planning Practice Guidance ID 21a-025-20140306

address these concerns. As such it does not appear that the exercise of permitted development rights would cause significant harm to either the character of this area or the 'amenity' experienced by neighbours.

10. More specifically, the further comments submitted by the appellant indicate that the request for the removal of this condition relates to his wish to build a more accessible garage attached to the house. I assume that this would be positioned adjacent to the northern side elevation of the property in place of the covered area indicated on the approved plans. An addition of this nature would be largely screened and would not harm the interests of the occupiers of neighbouring properties.
11. I note the concern of objectors regarding the possible conversion of the triple garage into a separate dwelling. However, Condition No 11 on the reserved matters approval states that "*the garage hereby approved shall not be used for any purposes other than those incidental to the enjoyment of the proposed dwelling...but not including use as living accommodation*". This condition therefore directly addresses these concerns, ensuring that under the terms of this approval such a scenario is not possible.
12. I conclude that the condition restricting permitted development rights is not reasonable or necessary in the interests of either the character and appearance of the area or the living conditions of neighbouring residents. As such, clear justification for imposing the condition, as required by the policy set out in the Framework, has not been provided. Furthermore, the exceptional circumstances required to show the need for the condition, as advised by the PPG, have not been demonstrated.

Conclusion

13. For the reasons set out above I conclude that the appeal should be allowed and the planning permission should be varied by the deletion of Condition No 12.

AJ Mageean

INSPECTOR