
Appeal Decision

Site visit made on 2 October 2018

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2018

Appeal Ref: APP/L3245/W/18/3205100

Silver Birch, Mill Lane, Higher Heath, Whitchurch SY13 2HR

- 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 Mr Carl Bell of P B Investments Ltd against the decision of Shropshire Council.
 - The application Ref 17/06143/OUT, dated 12 December 2017, was refused by notice dated 9 March 2018.
 - The development proposed is described as 'demolition of the existing dwelling and development of 6 No family dwellings, with associated landscaping with all matters reserved except for access and scale'.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of the existing dwelling and erection of six family dwellings at Silver Birch, Mill Lane, Higher Heath, Whitchurch SY13 2HR in accordance with the terms of the application, Ref 17/06143/OUT, dated 12 December 2017, subject to the conditions in the attached schedule.

Procedural Matters

2. Notwithstanding the description of the development, there is insufficient detail before me to determine scale. It was also indicated on the application form that those reserved matters for which approval is being sought include landscaping and layout. I note that the Council considered layout, access and landscaping, with all other matters reserved and have therefore dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal property is located on the edge of the development boundary of Prees Higher Heath. Silver Birch is a detached single storey property of simple design which sits within tree lined grounds of approximately 0.25ha. The site is accessed via a private track off Mill Lane which serves a small number of other detached properties set within similarly spacious grounds. To the north west of the site is a former commercial site, Gro-Continental, with planning permission for the development of 115 dwellings.

5. The Gro-Continental site, once completed, would comprise dwellings of a similar density to the appeal scheme. The layout shown on the proposed site plan, drawing No AB01-001, generally reflects the layout proposed on the adjacent part of the Gro-Continental site. Thus the appeal scheme has been designed to respond to this context.
6. The bend in Mill Lane, on the approach to the proposed access, would significantly limit views into the appeal site from the east. Furthermore, the location of the proposed access would reinforce the site's relationship with the Gro-Continental site. The site would be viewed from the public realm against this backdrop not that provided by single storey detached dwellings, and would therefore be similar in density to its immediate context.
7. The appeal scheme would be seen from the private track, however, it would not be perceptible from the public realm to the south and so the character of the wider area would not be affected. The retention of trees and use of boundary treatments and landscaping would help delineate the site and soften views from the track and adjacent dwellings. The planting scheme and tree protection measures submitted were based upon access to the site being gained from the private track with a layout of three dwellings. Thus they could not be implemented in full. Notwithstanding this, an appropriate scheme could be secured by condition.
8. The proposal would comply with Policy S18.2(i) of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) insofar as it is located within the development boundary of Prees Higher Heath. I note the preferences outlined in Policy S18.2(i), however, I am not persuaded on the evidence before me that the appeal scheme would constitute infilling or backland development.
9. In the absence of definitions of infilling or backland put forward by the main parties or within the Council documents before me, I consider it reasonable to use the ordinary meaning of the words. I have taken infilling to mean the act of filling or closing a gap and backland to mean land that is behind an area which is built on or otherwise developed. The dwellings would not fill a gap in a developed frontage, nor would they sit behind other development on the northern spur of Mill Lane. I therefore find no conflict with Policy S18.2(i) of the SAMDev.
10. In light of the above, the development would not harm the character and appearance of the area and would therefore not conflict with Policy CS6 of the Shropshire Local Development Framework adopted Core Strategy (2011) which seeks to ensure, in part, that development is appropriate taking into account the local context and character. It would also not conflict with Policy MD2 of the SAMDev which seeks to ensure, in part, that development responds appropriately to existing development.

Other Matters

11. I note concerns which have been raised by interested parties regarding overlooking. However, the neighbouring properties sit within spacious plots with intervening vegetation which means that there would be no intrusive overlooking. Furthermore, appearance is a reserved matter and so matters

relating to overlooking, such as the location of windows, would be addressed at a later stage.

12. Whilst concerns have also been raised by interested parties regarding the removal of trees, the majority of category A and B trees are located on the periphery of the site and could be retained. It was evident during my site visit that several trees within the site have already been cleared and therefore the tree survey report would need to be updated accordingly. However, this is a matter which could be dealt by condition.
13. Concern has also been raised by interested parties regarding space for vehicles turning, impact on wildlife and surface water flooding. However, I consider that conditions can adequately address these matters.

Conditions

14. I have considered the conditions put forward by the Council and other parties against advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for consistency, clarity and omitted others. Since the application is in outline, I have included conditions relating to the submission and timing of reserved matters applications and the commencement of development.
15. Since the scheme within the Tree Survey Report, Arboricultural Implications Assessment and Planting Scheme, document reference C113-01, could not be implemented, I have included a condition to secure a scheme of landscaping and a scheme for the protection of retained trees.
16. As detailed above, I have included a condition to secure drainage details in the interests of preventing flooding and lighting to minimise any disturbance to bats which are a protected species. I have also included a condition to secure the provision of nest boxes for bats and birds in the interests of protected species.
17. Notwithstanding the Council has not requested conditions to be included regarding visibility splays, details of the access, or revised parking, I consider it reasonable to include such conditions in the interests of pedestrian and highway safety. Furthermore, conditions to address these matters were requested in the Highways Note submitted to the Council. I note that there are a number of conditions contained within the Highways Note that the Council has chosen not to request and agree it would be unnecessary to require revised parking details, since the plots have a frontage which provides sufficient parking. It would also be unreasonable to secure the provision of a footway extending to the A41 as it would be on land outside the applicant's control and is a requirement of the planning consent of the Gro-Continental site.
18. The appellant has suggested the inclusion of a condition to secure a Construction Method Statement. However, I do not consider this would meet the test of necessity given other powers which are open to the Council to control such matters.

Conclusion

19. For the reasons given above, and having regard to all matters raised, the appeal is allowed subject to the conditions set out in the schedule below.

M Savage

INSPECTOR

Schedule of Conditions

- 1) Details of the scale and appearance (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: AR XX ST PL 100 001, AR XX ST PL 100 002 Rev A and AB01-001 but only in respect of those matters not reserved for final approval.
- 5) The development hereby permitted shall not begin until a detailed foul and surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to first occupation of the dwellings.
- 6) The makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority and shall include:
 - i. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species.
 - ii. A total of 1 woodcrete artificial nesting box suitable for bird species such as house sparrow, robin, blackbird or tit species.

Prior to first occupation of the dwellings the boxes shall be erected in accordance with the approved details and thereafter retained.
- 7) Prior to the erection of any external lighting a lighting plan shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Bats and Lighting in the UK guidance. The external lighting shall be erected in accordance with the approved details and thereafter retained for the lifetime of the development.
- 8) Vehicular access to the site shall only be via the access shown on the Proposed Site Plan (Drawing No AB01-001).
- 9) Prior to the first occupation of the dwellings, visibility splays measuring 2.4 x 43 metres to the nearside carriageway edge shall be provided each side of the access. The visibility splays shall thereafter be maintained at all times free from any obstruction which exceeds 150mm in height above the level of the adjacent carriageway.
- 10) Prior to the first occupation of the dwellings, the areas shown on the approved plans for parking, loading, unloading and turning of vehicles

shall be provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

- 11) No development above ground floor slab level of any part of the development hereby permitted shall take place until full design, engineering and construction details of the junction bellmouth access to the unadopted road have been submitted to, and approved in writing by, the local planning authority. The access shall be fully implemented in accordance with the approved details prior to the first occupation of the dwellings.
- 12) The development hereby permitted shall not commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include: indications of all existing trees and hedgerows on the land and identify those to be retained; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved landscape scheme.