



Appeal Decision

Site visit made on 14 November 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2024

Appeal Ref: APP/L3245/W/23/3321292

Land adjacent Park View, Broseley, Shropshire

- 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 DBA Homes (Broseley) Ltd, against the decision of Shropshire Council.
 - The application Ref 22/03984/FUL, dated 26 August 2022, was refused by notice dated 20 December 2022.
 - The development proposed is described as "*The erection of an additional dwelling on land off Park View, Broseley, the subject of consent no. 21-05984-FUL; the realignment of the boundary to plot 1 previously approved under 21-05984-FUL; the diversion of an existing public footpath; and the construction of a new access road to serve the proposed allotments to the rear of nos. 37-40 Park View.*"
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an additional dwelling (plot 9) on land previously approved for residential development (21/05984/FUL) at land adjacent Park View, Broseley, Shropshire, in accordance with the terms of the application, Ref 22/03984/FUL, dated 26 August 2022, subject to the conditions set out in the attached schedule to this decision.

Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. The description of development in the fourth bullet point of the above header is taken from the application form. However, the Council has described it on the decision notice as "Erection of an additional dwelling (plot 9) on land previously approved for residential dwellings (21/05984/FUL)." The appellant has also included this revised description on the appeal form. The revised description is a more precise and clear description, which removes wording that is not a description of development. Therefore, I have determined the appeal on this basis notwithstanding the description in the banner heading.

Main Issues

4. The main issues are the effect of the proposed development on:
 - i. the character and appearance of the area; and

- ii. the living conditions of the neighbouring occupiers of 42 Park View, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site is an undeveloped piece of land that forms part of a residential development of eight detached dwellings. The proposed development is for an additional detached dwelling on the land to the side of plot 1 of the original planning permission, reference 21/05984/FUL.
6. The proposed dwelling would have the same house type design as a number of the recently constructed dwellings in the cul-de-sac, which is characterised by large, detached houses set within significant plots. The entrance to the cul-de-sac is set back from Park View and results in areas of informal open space at the entrance of the cul-de-sac, which contribute to the open and spacious setting of the development.
7. The parties have referred to a previous appeal decision on the site (ref APP/L3245/W/15/3006489) for outline planning permission for a residential development of six detached houses. In particular, comments made by that Inspector to the southwest corner of the site and it being a notable undeveloped area. The Council set out that weight should be given to the previous Inspector's comments because the proposed development would now result in this key element of the development being unacceptably eroded and its contribution to providing a high-quality sustainable development is effectively lost. However, since the Inspector's previous observations on the outline proposal, the constructed development has evolved and I need to consider the proposal on its own merits and in light of current circumstances.
8. The southwest corner of the site creates an area of informal open space adjacent to the public right of way. The area was proposed to be landscaped with trees and wildflower, as part of the previously approved scheme for the residential development. There is a further area of informal open space opposite, and the two areas create a buffer between the new residential development and the existing built development on Park View.
9. I acknowledge that the proposed additional dwelling would undoubtedly reduce the spacious appearance of the wider development, particularly at the entrance to the cul-de-sac. Nevertheless, a generous amount of informal open space at the entrance to the cul-de-sac would still be achieved and the spacious and pleasant character of the street scene would be maintained.
10. The proposed dwelling, due to its position and appearance, which would be similar to the other existing dwellings within the cul-de-sac, would comfortably assimilate into the residential development and would not be harmful to the overall character and appearance of the area.
11. Whilst the proposal would result in the loss of some soft landscaping in this part of the development, a landscaping scheme has been submitted which demonstrates that an acceptable amount of planting can nevertheless be incorporated into the development.
12. For the reasons outlined above, the proposed development would not be unacceptably harmful to the character and appearance of the area. Therefore,

the proposal would accord with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev), which together and amongst other things, requires development to be of a high quality design that responds appropriately to the form and layout of existing development.

Living conditions

13. The appeal site is located beyond the rear boundary of 42 Park View (No 42). No 42 fronts the road and is set on a lower ground level than the appeal site. The rear elevation and the habitable windows of No 42 would have an outlook towards the side wall of the proposed dwelling. However, the orientation of No 42, on an oblique angle, would not result in a direct outlook towards the side gable of the proposed dwelling.
14. Furthermore, while I acknowledge that the proposed dwelling would be two storeys in height and occupy a higher ground level, it would have a hipped roof that slopes away from the rear boundary of No 42. The footprint of the proposed dwelling would also be set off the boundary with No 42 by an adequate distance and the juxtaposition between the two buildings would not result in a significant overbearing effect on the outlook from the rear windows and garden of No 42.
15. Consequently, I conclude on this main issue that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 42 Park View, with particular regard to outlook. As such, the proposed development would accord with Policy CS6 of the CS, and Policy MD2 of the SAMDev, which together, and amongst other things, seek to ensure that new development respects the living conditions of current and future occupiers.

Planning Obligation

16. The Community Infrastructure Levy (CIL) regulation 122 makes it clear that a planning obligation can be taken into account where it meets the following tests. These are that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
17. The S106 would secure an additional Affordable Housing (AH) contribution of £17,325 towards the offsite provision of AH, to that previously secured by the planning permission for 8 dwellings, so as to comply with policies CS9 and CS11 of the CS. The appellant has provided a Unilateral Undertaking (UU) for the payment of this sum and the Council have confirmed that the UU would secure the required financial contribution towards the offsite provision of AH.
18. Therefore, for the reasons given, the UU would comply with paragraph 57 of the Framework, and regulation 122 and I can take it into account in my decision.

Other Matters

19. I acknowledge that Broseley Town Council have objected to the proposal and in doing so raised concerns about the housing need for the proposed development, and in particular large market properties. Concerns have also been raised about the rerouting of a footpath due to health and safety issues

for members of the public trying to access the footpath. Increased traffic generation has also been raised as an objection. These factors are not in dispute between the main parties and were addressed in the Delegated Report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Given my findings above, and the suggested conditions by the Council, I have found no justification to dismiss the appeal.

Conditions

20. I have had regard to conditions suggested by the Council, as well as to the Framework and national Planning Practice Guidance (PPG). In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty.
21. To protect the character and appearance of the area I have imposed conditions requiring approval of external surface materials and the implementation of a landscaping scheme. To protect the living conditions of neighbouring occupiers I have imposed conditions requiring the use of obscured glass in the first-floor windows in the side (south) elevation. Likewise, conditions to secure a construction method statement and a restriction on construction hours are necessary to protect the living conditions of neighbouring occupants from noise and disturbance during the construction phases.
22. A condition to secure tree protection measures is required to safeguard existing trees during the construction phases and a condition which secures a scheme for the disposal of surface water and foul sewage is necessary to ensure the appropriate management of water and foul sewage disposal. The future parking provision for the development also needs to be secured by a condition to ensure satisfactory parking levels and prevent on street parking problems.
23. I have not imposed a condition requiring the foundations of the dwelling to include a ventilated void beneath the floor slab because I have not been provided with a justification as to why this is reasonable and necessary. Likewise, I have not included the suggested condition for the submission of a scheme to divert the right of way because this is covered by separate legislation and a procedure.
24. Conditions 3-5 relate to pre-commencement activities. In each case I am satisfied that the conditions are necessary to make the development acceptable in planning terms and that it would have otherwise been necessary to refuse planning permission. The appellant has provided written agreement to the terms of these conditions.

Conclusion

25. The proposed development would accord with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, numbered: 21-066-11; 21-066-12; 21-066-13; 22-003-P-01 Rev D; and 22-003-P-02 Rev B.
- 3) Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include details of:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - h) a Construction Traffic Management Plan.

The approved Construction Method Statement shall be implemented as approved before development begins and be maintained throughout the duration of the construction works period.

- 4) Prior to the commencement of the development hereby approved, a scheme of surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved scheme prior to the occupation of the development.
- 5) Prior to the commencement of the development hereby approved, the Tree Protection measures, as detailed on the approved Tree Protection Plan 22-003-P-02 Rev B, shall be fully implemented on the site. The approved tree protection measures shall thereafter be maintained in a satisfactory condition throughout the duration of the development works and until all equipment, machinery and surplus materials have been removed from the site.
- 6) The approved landscaping scheme shall be implemented as specified on the approved Planting Plan (22-003-P-01 Rev D) and completed prior to the occupation of the development hereby approved. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.
- 7) The development hereby approved shall not be occupied until the garage and parking areas, as shown on the approved plans, have been provided and properly

laid out, hard surfaced and drained. The garage and parking spaces shall be permanently retained as such thereafter.

8) Prior to the occupation of the development hereby approved, the first-floor windows in the side (south) elevation, as shown on drawing number 21-066-13, shall be obscure glazed with top hung opening lights only. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

9) No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays, public and bank holidays.

10) No development above slab level shall commence until samples of all proposed external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.