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# Appeal Decision

Site visit made on 4 March 2014

**by Susan Holland MA DipTP MRTPI DipPollCon**

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

**Decision date: 18 March 2014**

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**Appeal Ref: APP/L3245/A/13/2210349**

**Land south of Kingsland Road, adj Pengrove, Shrewsbury SY3 7LD**

- 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 Mr A Rickards against the decision of Shropshire Council.
  - The application Ref 13/02527/FUL, dated 26 June 2013, was refused by notice dated 10 October 2013.
  - The development proposed is the erection of 2no eco-friendly dwellings with access off Kingsland Road and associated landscape and open space improvements.
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## Procedural Matters

1. The Planning Practice Guidance was issued on 6 March 2014. However, the Guidance has no bearing on this decision.
2. Submitted drawing No.2012.00937.08 (P-08) in respect of House 1 Elevation (sheet 2) is wrongly annotated as 'South Elevation' and 'North Elevation'. In accordance with the corresponding elevations for House No.2 Sheet 2 at drawing No. P-14, these should refer to 'East Elevation' and 'West Elevation' respectively. The Appellant's Agent has confirmed on 17 March 2014, that this is so. (It should be noted that drawing No.P-07 in respect of House No.1 Elevation (sheet 1) correctly shows the south and north elevations for House No.1).

## Decision

3. The appeal is allowed and planning permission is granted for the erection of 2no eco-friendly dwellings with access off Kingsland Road and associated landscape and open space improvements on land south of Kingsland Road, adj Pengrove, Shrewsbury SY3 7LD in accordance with the terms of the application, Ref13/02527/FUL, dated 26 June 2013, and the plans submitted with it, subject to Conditions Nos.1-18 set out in the Annex to this decision.

## Main Issue

4. The main issue is whether the whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area.

## Reasons

5. The current statutory development plan does not, in principle, exclude residential development on the appeal site. Policy LNC4 of the Shrewsbury & Atcham Borough Local Plan, under which the site was previously classified as a protected green space, was not saved following the adoption of the Shropshire Core Strategy. Under Policy CS17 'Environmental Networks' which now applies, any

development on the site should *protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment, and [should] not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors; and should not have a significant adverse impact on Shropshire's environmental assets and [should] not create barriers or sever links between dependent sites.*

6. The National Planning Policy Framework (the Framework) states at paragraph (¶)58 that *planning policies and decisions should aim to ensure that developments ... respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; and are visually attractive as a result of good architecture and appropriate landscaping.* At ¶63 the Framework states that *great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.* At ¶138 the Framework states that *not all elements of a ... Conservation Area will necessarily contribute to its significance.*
7. The appeal site, descending steeply northward from its frontage on Kingsland Road towards the River Severn, occupies a series of terrace levels on the outer bank of a river bend. The site is open, and largely cleared of vegetation except on its tree-lined boundaries. Westwards, the complex slope simplifies, changing direction, becoming shallower, and blending into the wide green valley of the Rad Brook which flows through the Burrs Field Countryside Site to enter the main river. Eastwards, the stepped landform continues into Pengrove, where gardens and modern terraced houses occupy the broad lower level, and the slope up to Kingsland Road becomes foreshortened.
8. In this part of the extensive Shrewsbury Conservation Area, as in others, open riverside land frames architecturally distinctive areas of the historic town. The distinctive area partly encircled by the green valley of the Rad Brook, and further framed, upstream, by the Severn itself, is Kingsland which lies within the Conservation Area and includes fine villas, and also the buildings and grounds of Shrewsbury School. Pengrove, together with other closely-built and relatively recent development centred upon Longden Road and Belle Vue, lies outside the Conservation Area. However, the appeal site itself lies within the Conservation Area. Visually, the site has 'a foot in both camps': though it is seen most fully, from the opposite bank of the River Severn, against the modern residential background of Pengrove and Belle Vue.
9. The appeal proposal is to construct 2 large, 4-storey, detached houses on the site. These would be set side by side with adjoining accesses from Kingsland Road. The elevations to Kingsland Road would be low, appearing as a single storey with subdued, flat roofs. The built form of each house would be adapted to the topography, in a series of levels which would concentrate the bulk of the development against the steepest part of the slope. The design would place visual focus upon the riverside frontage, where the elevations would be more prominent in terms of height and width. Even here, however, the elevations would appear as 3-storey elements, and so would be reasonably consistent and compatible with the existing terraced houses in Pengrove, though of markedly more individual and innovative design.
10. The width of the new buildings, their flat, projecting rooflines, and the elevational treatment of brickwork, cladding and glazing responsive to changes in level,

would together contribute horizontal emphasis. This emphasis would echo, though on an increased scale and in a contemporary design, the strongly horizontal features of continuous windows and cladding seen in the riverside elevation of the adjacent Pengrove housing development. Emphasis on the horizontal in the new development would, however, be tempered through the position - and occasional superimposition - of long, fully-glazed windows. The proposed brickwork would represent a common element and further visual link with the existing adjacent buildings. The sandstone cladding at the base would contribute visual strength in the setting of the sloping terraced landform.

11. The development would be kept within the outer visual 'frame' described by the houses in Pengrove and on Kingsland Road/Luciefelde Road, and would not intrude either physically or visually upon the adjacent valley of the Rad Brook. The surrounding area includes visually distinct elements both inside the Conservation Area (the appeal site, and the Brewery residential conversion) and outside it (Pengrove, and the stretch of Kingsland Road opposite the site entrance as far as Luciefelde Road). Each of these would continue to be independently visible following the proposed development. The uppermost roof level of the new dwellings would not intrude into the view of houses on Kingsland Road as seen from the public path on the north bank of the Severn.
12. Except that it is currently open, the site is visually separate and distinct from the neighbouring open land. A belt of trees divides the appeal site from Burrs Field, which is clearly managed separately (its sign displaying the name of Shrewsbury Town Council) and has public access. The configuration of the slopes also differs between Burrs Field and the site, the latter more clearly associated with, and directly facing, the River Severn. Burrs Field lies within the shallow valley of the Rad Brook, which continues upstream and describes a broad curve separating the area of Kingsland (within the Conservation Area) from Belle Vue (outside it). The appeal site, though a contiguous open area, is not essential to the integrity of the valley: either as a landform, or as a public open space, or as a direct setting against which buildings of the Conservation Area are visible.
13. Drawing these factors together, the proposed houses would make a well-designed contemporary contribution to the built forms in the immediate surroundings, acknowledging that much of the immediate background to the site includes built forms of lesser architectural merit. In their scale and setting, the proposed houses would form a *modern reflection* of the Kingsland Villas within the Conservation Area to the west and south-west and to that extent would introduce a degree of linkage between the branches of the Conservation Area on either side of the site - that is, between the Brewery and its associated riverside buildings, and Kingsland.
14. In occupying a site which is currently open, the proposal would clearly reduce the overall extent of open space included within this part of the Conservation Area. Unlike the adjoining valley of the Rad Brook, however, this particular element of open space does not directly frame any historic or architecturally distinct part of the Conservation Area, and the character and appearance of the Conservation area are not dependent upon the retention of the site as open space in its entirety. In conclusion, therefore, the appeal proposal would at least preserve the essential features and thus the character and appearance of this part of the Conservation Area; would in some respects ultimately enhance its character and appearance; and would meet the relevant requirements of statutory development plan policy, and of the National Planning Policy Framework.

## **Other Matters**

### *Public Footpath*

15. The proposed shift in the position of the existing public footpath along the riverside would enable a wider and potentially more effective wildlife corridor to be provided over this limited stretch of river frontage, without depriving the public of riverside views to be gained from the right of way. Other parts of the footpath would continue to provide more immediate proximity to the river bank. Disruption to the existing path in the course of construction would be temporary. The proposal would therefore maintain the essential green infrastructure, which in this location relates primarily to the riverside and river bank. To the west, the width of the corridor is in any case already considerably reduced, except for the immediate river bank, by the intervention of the Brewery complex. Accordingly, the proposal meets the requirements of Policy CS17 for environmental networks.

### *Flooding*

16. The appeal site is partially located in Flood Zone 3 (based on the Environment Agency's 'indicative' flood map of the River Severn, which is designated as 'Main River'). Flood Zone 3 comprises land assessed as having a 1 in 100 year or greater annual probability of river flooding (>1%). However, the submitted Flood Risk Assessment has demonstrated that the development has safe pedestrian and vehicular access and that finished floor levels for the 'major' accommodation would be set at a level of 56.3m AOD, which is adequately above the 100 year plus climate change river flood level. On the basis that the proposed basement areas would not form part of the habitable accommodation and would be tanked to protect the area during extreme flood events, the Environment Agency stipulates that a condition be imposed to secure habitable finished floor levels at a minimum of 53.4m AOD.

### *Previous Appeal*

17. Appeal Ref.2104639, in respect of 5 proposed 5-bedroomed houses on the site of the current appeal, was dismissed on 7 December 2009. The policy context at the time of that decision included Policy LNC4 *Green Spaces* of the Shrewsbury & Atcham Borough Local Plan, and national policy contained in PPG15 *Planning and the Historic Environment*. Both had the effect of attributing great weight to the nature of the appeal site as a green and open space. Neither of these policies prevails in the current appeal. The current appeal is to be determined in the policy context of the Shropshire Core Strategy and the National Planning Policy Framework, placing increased emphasis upon achieving sustainable development and particularly residential development. The current proposal reduces the number of dwellings proposed, and pays more attention to the quality of design of the dwellings, and to the role of the site in contributing to environmental networks and to nature conservation in particular. These factors constitute significant differences between the previous appeal and the current proposal.

## **Conditions**

18. In addition to the standard time condition, it is necessary for further conditions to be imposed. Condition No.2 specifies the plans to be followed, for the avoidance of doubt. In the interests of visual amenity, Conditions Nos.6, 7 and 8 should be imposed to control the treatment of trees, the use of materials, and the achievement of landscaping on the site. Condition No.3 is necessary to deal with any contamination which may be found, given the proximity of the site to the

former Burrs Lead Works. Condition 4 is necessary to achieve a satisfactory access to the development; and Condition No.5 is necessary in the interests of amenity and highway safety in the course of construction. Condition No.9 is necessary to provide satisfactory drainage. Conditions Nos. 10 and 11 are necessary in the interests of flood resilience and are imposed at the requirement of the Environment Agency. Conditions Nos.12-17 are necessary in the interests of nature conservation. Condition No.18 is necessary in the interests of the architectural integrity of the development; of the amenity of adjacent residential occupiers; and also to reduce flood risk and prevent related contamination.

### **Section 106 Unilateral Undertaking**

19. The appeal is accompanied by a signed, completed S106 undertaking which secures an affordable housing contribution to the Council, and also the provision of a Wildlife Habitat Scheme and measures relating to the future management of the proposed Wildlife Habitat Area.

### **Overall Conclusion**

20. In these circumstances the overall conclusion, in the light of the main issue and all other material considerations, is that the appeal should be allowed, subject to the 18 conditions set out in the Annex to this decision.

*S Holland*

INSPECTOR

## **ANNEX: CONDITIONS**

- 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: Drawings Refs. 2012.00937.01-00937.18 inclusive.

### *Contamination*

- 3) (a) No development shall take place until a Site Investigation Report to assess the nature and extent of any contamination on site has been undertaken by a competent person, and has been submitted to and approved in writing by the Local Planning Authority. The Site Investigation Report shall be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR11'.
- (b) In the event that the Site Investigation Report finds the site to be contaminated a further Report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- (c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- (d) In the event that further contamination, not previously identified, is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken in accordance with the requirements of (a) above. Where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of (b) above and shall be submitted to the Local Planning Authority for its approval.
- (e) Following the completion of measures identified in the approved remediation scheme a Verification Report shall be prepared, demonstrating that the contamination identified has been made safe, and that the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. The Verification Report shall be submitted in writing to the Local Planning Authority for its approval.

### *Access*

- 4) No development shall take place until details of the design and construction of the new driveway and access together with details of the disposal of surface water have been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be fully implemented before any of the buildings are occupied.

### *Construction Work*

- 5) No development shall take place 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:
- (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 the construction of 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 construction and/or demolition works.

### *Trees*

- 6) No ground clearance or construction work shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to ensure that there will be no damage to any existing trees or hedgerows within the site. The submitted scheme shall include the provision of chestnut paling or similar form of protective fencing to BS5837: 1991 standard, at least 1.25m high and securely mounted on timber posts driven into the ground, has been erected around each tree, tree group or hedge to be preserved on site or on immediately adjoining land. The fencing shall be located at least 1m beyond the line described by the furthest extent of the canopy of each tree, tree group or hedge. The approved scheme shall be retained on site for the duration of the construction works.

### *Materials*

- 7) No built development shall commence until details of all external materials, including hard surfacing, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

### *Landscaping*

- 8) No development shall take place until full details of landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure and boundary treatment; and soft landscape works which shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation timetables.

### *Drainage*

- 9) No development shall commence until a scheme for the provision of foul and surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed and thereafter retained for the lifetime of the development.

*Flood resilience*

- 10) Floor levels shall be set at a minimum of 53.40m AOD which is 600mm above the 1 in 100 year plus climate change level.
- 11) There shall be no new buildings, structures, (including gates, walls and fences) or raised ground levels on land below 52.80m AOD as shown on drawing No.P2 (Project No. 2010.01025.000) as indicated in the Flood Risk Assessment dated June 2011.

*Nature Conservation*

- 12) The works on the site to which this consent applies shall be undertaken in line with the Star Ecology letter dated 2 May 2012 entitled Habitat Creation and recommendations of the Extended Phase 1 Habitat Survey by Star Ecology (2011).
- 13) Prior to the first use of the development hereby approved 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.
- 14) A total of 6 bat boxes, Schwegler bat boxes (or direct woodcrete equivalent) as set out in the Star Ecology letter dated 2 May 2012 entitled Habitat Creation shall be erected on the site prior to first use of the buildings hereby permitted, in a location agreed with the Local Planning Authority, and shall be retained for the lifetime of the development.
- 15) A 10m buffer shall be put in place to protect the watercourse during construction works. This buffer zone should be fenced or taped off prior to the commencement of works on the site and no access, material storage or ground disturbance should occur within the buffer zone.
- 16) A total of 10 artificial nests for small birds, such as Schwegler 1FB bird box, 2H robin box, Schwegler bird houses or sparrow terraces (or direct woodcrete equivalents of the above) shall be erected on the site, in locations to be agreed with the Local Planning Authority, prior to first occupation of the buildings hereby permitted and thereafter retained for the lifetime of the development.
- 17) A habitat management plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The plan shall include:
- (a) description and evaluation of the features to be managed;
  - (b) ecological trends and constraints on site that may influence management;
  - (c) aims and objectives of management;
  - (d) appropriate management options for achieving aims and objectives;

- (e) prescriptions for management actions;
- (f) preparation of a works schedule (including a 5-year project register, an annual work plan and the means by which the plan will be rolled forward annually);
- (g) personnel responsible for the implementation of the plan;
- (h) monitoring and remedial/contingency measures triggered by monitoring.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority, for the lifetime of the development.

- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or an order revoking or re-enacting that order with or without modification) the following development shall not be undertaken without express planning permission having first been obtained from the Local Planning Authority:
- (i) extension to the dwelling;
  - (ii) free-standing building within the curtilage of the dwelling;
  - (iii) addition or alteration to the roof;
  - (iv) erection of a porch;
  - (v) hard surfacing;
  - (vi) container for the storage of oil;
  - (vii) fences, gates or walls;
  - (viii) any windows.

(Conditions 1-18).