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## Appeal Decision

Site visit made on 3 June 2019

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> June 2019**

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**Appeal Ref: APP/L3245/W/19/3224092**

**Land to the North of Betley Lane, Bayston Hill, Shrewsbury SY3 0HB**

- 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 Mrs Julie Houlker against the decision of Shropshire Council.
  - The application Ref 18/02747/OUT, dated 14 June 2018, was refused by notice dated 9 November 2018.
  - The development proposed is for residential development for up to 2 dwellings with retention of access.
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### Decision

1. The appeal is allowed and outline planning permission is granted for residential development for up to 2 dwellings with retention of access at Land to the North of Betley Lane, Bayston Hill, Shrewsbury SY3 0HB in accordance with the terms of the application, Ref 18/02747/OUT, dated 14 June 2018, subject to the conditions contained in the Schedule attached to this decision.

### Application for Costs

2. An application for costs was made by Mrs Julie Houlker against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The application was submitted in outline form with all matters reserved for future consideration, with the exception of access. Whilst the drawings suggest the siting of the dwellings, these are clearly identified as illustrative. I have determined the appeal on this basis.
4. I have used the description of the appeal site as set out in the appeal form and the Council's decision notice. This is a more accurate description than that contained in the application form.

### Main Issue

5. The main issue is the effect of the development on highway safety, including accessibility for emergency services vehicles.

### Reasons

6. The appeal site is accessed via an existing gateway off Betley Lane, which is an unadopted highway that serves approximately 22 dwellings and provides access to the rear gardens of properties fronting Lyth Hill Road. The section of the Lane that serves the appeal site has 8 properties on it.

7. Betley Lane is narrow in places and therefore on-street parking reduces this width even further in parts. It is noted that at times there may be high levels of on-street parking. However, the majority of existing properties along this section of Betley Lane have at least two off-street parking spaces. At the time of my site visit, which was in the middle of the day on a week day, I observed several cars parked on the Lane. However, there remained sufficient room for vehicles to pass.
8. There may be occasions when there is a high level of parking on the Lane. However, there is sufficient off-street parking capacity for existing properties, that should ensure that that on-street parking is kept to a minimum. The proposal would unlikely add to any existing on-street parking as it would provide adequate off-street parking provision on site.
9. Furthermore, the increase in traffic along the Lane as a result of the development would not represent any material harm to highway safety. Forward visibility is good and whilst the Lane is narrow and there are often cars parked on it, vehicle speeds are likely to be low, therefore allowing drivers sufficient time to react to any unexpected potential conflict with other road users/pedestrians.
10. I note that during the Planning Committee, Members claimed that due to the unadopted status of the Lane the Council cannot impose parking restrictions. However, the appellant makes a compelling argument that this is in fact not the case. Whilst as an unadopted highway the Council do not maintain the Lane, it is nevertheless a public highway and therefore is subject to the same legal restrictions as an adopted highway, in particular, it is an offence to obstruct the free passage along the highway. Therefore, any inconsiderate parking on the Lane that prevents free passage along the highway, including for emergency vehicles, would be an offence.
11. I also note the evidence submitted that indicates that a refuse vehicle can access the Lane. Whilst the refuse vehicle may be smaller than the typically standard, larger vehicles, there is no substantive evidence before me to suggest that an emergency vehicle could not access the site. Based on the evidence before me and the observations I made during my site visit, there is sufficient existing off-street parking and the Lane is of sufficient width to ensure that emergency vehicles could access the appeal site.
12. Construction vehicles would need access to the site during the construction of the dwellings, particularly for the delivery of materials and plant/machinery. However, I am satisfied that an appropriately worded condition securing a Construction Method Statement would minimise any temporary disturbance to residents. I also note that the Local Highway Authority raise no objection to the proposal.
13. I find therefore that the proposal would not have any significantly harmful effect on highway safety. As such, it would comply with Policy CS6 of the Shropshire Council Core Strategy 2011, which seeks to ensure that all development is safe and accessible to all.

## **Other Matters**

14. I have had regard to the concerns raised regarding drainage and noise and air pollution. However, there is no substantive evidence before me that the proposal would result in any significant harm in respect of these matters.
15. I also note the comments regarding a potential increase in the intensity of the development at reserved matters stage. However, the proposal is for two dwellings only and the reserved matters must reflect this.

## **Conditions**

16. I have considered the conditions suggested by the Council, having regard to the six tests set out in the National Planning Policy Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
17. In the interests of flood prevention and public health, a condition is necessary regarding drainage.
18. In the interests of the character and appearance of the area, a condition is necessary regarding the submission of an Arboricultural Impact Assessment.
19. In the interests of protecting biodiversity, a condition is necessary ensuring that the development is carried out in accordance with the Ecological Assessment prepared by Star Ecology dated 3rd April 2018.
20. In the interests of highway safety, a condition is necessary requiring the access to be constructed.
21. In the interests of safeguarding residential amenity and highway safety, a condition is necessary requiring the submission of a Construction Method Statement. It is necessary that the required details shall be provided pre-commencement of works to ensure that the construction works do not unacceptably harm the living conditions of neighbouring residents or highway safety.
22. In the interests safeguarding residential amenity, a condition is necessary restricting the hours of construction works.

## **Conclusion**

23. For the reasons given above, the appeal is allowed.

*Alexander Walker*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) Details of the appearance, landscaping, layout, and scale, (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 reserved matters shall include details of the proposed foul and surface drainage, including details and sizing of any percolation tests carried out and proposed soakaways. The approved details shall be completed prior to the occupation of the first dwelling and shall be retained as such thereafter.
- 5) The reserved matters shall include an updated Arboricultural Impact Assessment and tree protection plan that takes into account the chosen design and proposed site layout of the hereby approved development.
- 6) The development shall be carried out in accordance with the Ecological Assessment prepared by Star Ecology (dated 3<sup>rd</sup> April 2018).
- 7) Prior to the occupation of the hereby approved dwellings, the access, parking and turning facilities within the site shall be properly laid out, hard surfaced and drained. The access, parking and turning facilities shall be maintained thereafter free of any impediment to their designated use.
- 8) 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:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development
  - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - wheel washing facilities
  - measures to control the emission of dust and dirt during construction
  - a scheme for recycling/disposing of waste resulting from demolition and construction works
  - a Traffic Management Plan
- 9) No construction works shall take place before 8 am on weekdays and 9am on Saturdays nor after 6pm on weekdays and 1pm on Saturdays; nor at any time on Sundays, Bank or Public Holidays.