



Appeal Decision

Site visit made on 3 June 2019

by **Beverley Wilders BA (Hons) PgDurp MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th June 2019

Appeal Ref: APP/L3245/W/19/3220169

Land off Sidney Road, Ludlow, Shropshire SY8 1SH

- 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 Connexus against the decision of Shropshire Council.
 - The application Ref 17/05170/FUL, dated 12 October 2017, was refused by notice dated 23 October 2018.
 - The development proposed is construction of 5 No. Independent Living Affordable residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 5 No. Independent Living Affordable residential dwellings at Land off Sidney Road, Ludlow, Shropshire SY8 1SH in accordance with the terms of the application, Ref 17/05170/FUL, dated 12 October 2017, subject to the conditions set out in the attached schedule.

Procedural Matter

2. An updated revised National Planning Policy Framework (the Framework) was published on 19 February 2019. As this pre-dates the determination of the appeal, in reaching my decision I have had regard to the updated revised Framework. Although the appeal was submitted before it was published, the main parties have had the opportunity to comment on the updated revised Framework.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether future occupiers of the proposed dwellings would have satisfactory living conditions having particular regard to privacy and security;
 - whether the proposed parking and refuse facilities are acceptable having regard to the likely future occupiers of the dwellings.

Reasons

Character and appearance

4. The appeal site comprises a reasonably large area of open space located in a prominent position adjacent to Sheet Road, Sidney Road and Charlton Rise. It is grassed and contains 3 mature trees, including a large Maple tree protected by a Tree Preservation Order (TPO) positioned towards the rear of the site and two other Maple trees also protected by TPOs positioned nearer to Sheet Road. There are a number of other trees nearby, including a large belt of mature trees on the opposite side of Sheet Road. The immediate surrounding area is mainly residential in character comprising semi-detached and short terraces of bungalows, including a row of bungalows located adjacent to the rear of the site, together with two and three storey buildings on Charlton Rise. A railway line runs on the opposite side of Sheet Road.
5. The appeal site and the trees contained within it contribute positively to the character and appearance of the area. A sign in place at the edge of the appeal site restricts its use for ball games. At my visit I saw evidence of an informal path across the site but there was no evidence of any formal recreational use of the land.
6. The proposed erection of a terrace of 5 bungalows on the site would require the removal of the large Maple tree positioned towards the rear of the site and the loss of some of the existing open space. However, the bulk of the development would be located towards the rear of the site, close to existing built development and away from Sheet Road and the design, scale and external materials of the proposed bungalows would be similar to existing bungalows nearby. A large amount of open space would be retained and the forward building line of the proposed buildings would be broadly in line with nearby development on Sidney Road and Charlton Rise.
7. Whilst the loss of the Maple tree would result in some harm to the character and appearance of the area, some compensatory planting is proposed as part of the proposal. Though I note that there are some concerns as to whether it could be provided in the positions shown due to existing easements across the site, the site area is such that I am satisfied that it should be possible for satisfactory compensatory planting to be provided to mitigate for the loss of the Maple tree. Furthermore, I am satisfied that the design and appearance of the proposed bungalows adequately reflects and respects surrounding development and that their siting towards the rear of the site ensures that a sufficient amount of open space would remain so as to ensure that the proposal would not be harmful to the character and quality of the area which is one of the main access routes into Ludlow.
8. Taking the above matters into consideration, I conclude that the proposal would not have an adverse effect on the character and appearance of the area. It therefore accords with policies CS6, CS8 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (CS), policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan adopted 17 December 2015 (SAMDev) and to

relevant paragraphs of the Framework insofar as they are relevant to the issue of character and appearance. These policies seek, amongst other things, the protection of open spaces, important trees and other environmental assets and development designed to a high quality and which takes account of local context and character.

Living conditions

9. A pedestrian path would be constructed to the front of the proposed bungalows providing access to the refuse collection area and parking spaces. As it would provide a link between Sidney Road and Charlton Rise it is likely that the path would also be used by members of the public. The path would be positioned to the other side of railings enclosing modest front garden areas and would therefore be separated from the front elevations of the bungalows. Furthermore, windows in the front elevations would serve kitchens and shower rooms with the lounge and bedroom windows on the rear elevations overlooking the communal garden area. The position of the path, set away from the front windows, together with the internal layout of the bungalows means that I am satisfied that future occupiers would not be subject to undue amounts of overlooking from the path or that they would be likely to perceive security issues.
10. Taking the above matters into consideration, I conclude that future occupiers of the proposed dwellings would have satisfactory living conditions having particular regard to privacy and security. The proposal therefore accords with policies CS6 and CS8 of the CS, Policy MD2 of the SAMDev and to relevant paragraphs of the Framework. These policies require, amongst other things, development to safeguard residential amenity and contribute to the health and wellbeing of communities.

Parking and Refuse

11. It appears from the evidence that the proposed bungalows have been designed to be occupied by frail and elderly persons with reference also being made to wheelchair users within the Council's committee report. Due to the positioning of the bungalows away from a road frontage, access to the proposed parking area and refuse collection point would involve travelling along the proposed path in front of the bungalows. As the main parties acknowledge, this is not ideal given that future occupiers of the bungalows are likely to have restricted mobility. However, it appears that the occupation of the properties would be managed by the appellant, a registered social landlord and supported by the local independent living scheme. Under these circumstances it seems that future occupiers would have sufficient support mechanisms in place so as to ensure that the position of the parking and refuse facilities would not be unduly problematic.
12. Though some concerns have been raised regarding the overall number of parking spaces proposed, from the evidence it appears that the proposal accords with the Council's parking standards.
13. Consequently, I consider that the proposed parking and refuse facilities are acceptable having regard to the likely future occupiers of the dwellings and that the proposal accords with policies CS6 and CS8 of the CS, Policy MD2 of the SAMDev and relevant paragraphs of the Framework. These policies seek to ensure, amongst other things, that development proposals have regard to

function, safeguard residential amenity and contribute to the health and wellbeing of communities.

Other Matters

14. In reaching my decision I have had regard to a number of other issues raised by interested parties including the Town Council.
15. Firstly, as stated, there is no evidence of any formal use of the appeal site as open space and it is not designated as such. Consequently, although it appears to have been used informally by local residents for some time, there is no objection in principle to its partial loss as proposed, subject to compliance with relevant development plan policies.
16. Although my attention has been drawn to the fact that there may be other sites available for the proposal which are considered to be more suitable, other alternative schemes are not before me and I must determine the proposal on its own merits. For the reasons stated above, I consider the proposal to be acceptable and the fact that previous proposals on the site have been refused planning permission does not mean that subsequent schemes would necessarily be unacceptable.
17. I am satisfied that the proposal would not result in any harm to highway safety and note that the Highway Authority did not object to the proposal. Though the proposed refuse collection area would be near to the junction with Sidney Road, collections would be relatively infrequent and would also take place from other properties on Sidney Road closer to the junction. The proposal is unlikely to generate a significant amount of additional traffic and would not therefore be likely to result in congestion or to materially add to any existing problems. There is no substantive evidence that the proposal would adversely affect access by the emergency services. Whilst the site may have been previously used by the air ambulance service for landing purposes, I have not been provided with any specific evidence regarding the need to retain the site for this purpose and note the proximity of other green spaces near to the site including Gallows Bank.
18. Concerns have been expressed regarding drainage and sewerage across the site with it stated to have flooded in recent years. No objections have been raised to the proposal by the Council's flood and water management team and I note that the Council have suggested conditions regarding drainage and sewerage in the event that permission is granted. Having regard to a lack of substantive evidence regarding these matters, I consider that the imposition of conditions as suggested by the Council would ensure adequate drainage and sewerage management on the site. The fact that a culvert passes beneath the site does not preclude development above it, subject to appropriate measures being put in place to protect the culvert and to allow sufficient access to it.
19. A public footpath and bridleway run across the site and the footpath would be affected by the proposal. The Council's Rights of Way Team have received an application to extinguish the path and this matter is separate to the consideration of this appeal.
20. Concerns have been expressed regarding the impact of the proposal on protected species and wildlife. Ecological Appraisals have been carried out on the site and conclude that no adverse impact on protected species or habitats

of ecological merit are envisaged and the Council's ecologist did not object to the proposal subject to the imposition of a number of conditions. In light of this I am satisfied that the proposal would not have an unacceptable impact on protected species and wildlife.

21. There is no evidence that the proposal would materially increase noise in the area or that future occupiers would be unduly affected by noise and no objections were raised to the proposal by the Council's regulatory services department. The Council is satisfied that the separation distances to existing bungalows to the rear would be sufficient despite a failure to meet the normal standards and I have seen no evidence to lead me to a different conclusion, particularly bearing in mind that the properties are all single storey.
22. In submitting the application, the appellant has stated that they own the site and despite assertions to suggest that they may not own the entire site, in the absence of any contradictory evidence regarding this issue, I am satisfied based on the evidence before me that the appropriate ownership certificates were completed and that the appeal is valid.

Conditions

23. I have had regard to the conditions suggested by the Council.
24. I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed conditions regarding the external materials to be used for the dwellings; the details of all means of enclosure and regarding the submission and implementation of a landscape scheme. These are required in the interests of the character and appearance of the area and in the case of the landscaping conditions, to ensure biodiversity.
25. A tree protection condition and drainage condition have been imposed in order to ensure that any existing trees and landscaping are adequately protected and that adequate drainage facilities are provided. I have also imposed a condition requiring the submission and implementation of a construction management plan, this is in the interests of the living conditions of nearby residents and highway safety. The nature of the requirements of the tree protection, drainage and construction management plan conditions is such that it is necessary for the required details and measures to be submitted and carried out prior to the commencement of any development. The wording of these conditions has been formally agreed by the appellant.
26. I have also imposed a condition requiring the proposed parking spaces to be made available prior to the occupation of the dwellings. This is in order to ensure adequate parking is provided.
27. I have imposed conditions regarding the provision of bat and bird boxes on the site and regarding external lighting. These are required in the interests of biodiversity. Finally, I have imposed a condition restricting the hours of works on the site. This is in order to protect the living conditions of the occupiers of nearby properties.
28. I have not imposed the suggested conditions regarding the ground floor slab level and the removal of permitted development rights as it is not clear from the evidence that these conditions are justified and meet the test of necessity.

Conclusion

29. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following submitted plans: C-100, C-101B, C-102K, C-205A, C-206D and 2930 17 03 02 E.
- 3) Prior to the commencement of development, details of trees and hedgerows to be retained and measures to protect these from damage during construction shall be submitted to and agreed in writing by the local planning authority. The approved measures for the protection of the trees as identified in the agreed tree protection plan shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation will be made from the approved tree protection plan without the written agreement of the local planning authority.
- 4) No development shall commence on site until a scheme for the discharge of surface and foul water from the site (including surface water from the access/driveway/parking areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the local planning authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.
- 5) 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:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- 6) No works shall take place above damp proof course level until details of the materials to be used for the external walls, roofs and hard-surfaced areas of the approved development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No works shall take place above damp proof course level until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the local planning authority.

- Development shall be carried out in accordance with the approved details prior to the development being occupied.
- 8) Notwithstanding what is shown on the approved plans, no works shall take place above damp proof course level until a landscaping plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
 - b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
 - c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate; and
 - d) Implementation timetables.
 - 9) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.
 - 10) No part of the development hereby approved shall be first occupied until the parking areas shown on the approved plans have been consolidated, surfaced and laid out in accordance with the approved details. These areas shall be maintained and remain available for this use at all times thereafter.
 - 11) Prior to first occupation/use of the buildings, details for the provision of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The following boxes shall be erected:
 - A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.
 - 12) Prior to the erection of any external lighting on the site, 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 consider the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014) or subsequent replacement guidance.

- 13) Demolition, construction works or deliveries shall not take place outside 7.30am - 6pm Monday to Friday, and 8am - 1pm on a Saturday, with no work taking place on Sundays or bank or public holidays.