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## Appeal Decision

Site visit made on 29 July 2019

**by A Denby BA(Hons) DipTP MRTPI**

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

**Decision date: 13 September 2019**

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**Appeal Ref: APP/L3245/W/19/3230291**

**Plot adjoining The Lindens, 25 Duke Street, Broseley, Shropshire TF12 5LS**

- 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 Donald Patter against the decision of Shropshire Council.
  - The application Ref 17/04603/OUT, dated 1 August 2017, was refused by notice dated 12 February 2019.
  - The development proposed is the construction of a new detached dwelling to be in the style of a coach house.
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### Decision

1. The appeal is allowed, and outline planning permission granted for the construction of a new detached dwelling to be in the style of a coach house at Plot adjoining The Lindens, 25 Duke Street, Broseley, Shropshire TF12 5LS, in accordance with the terms of the application Ref: 17/04603/OUT, dated 1 August 2017, and subject to the conditions set out in the attached schedule.

### Procedural Matter

2. Whilst an indicative layout plan has been submitted it is Outline planning permission which is sought, with all matters reserved. I have determined the appeal on this basis and any plans identifying a layout have been considered as indicative only.

### Main Issues

3. The main issues are the effect of the proposed development on the:
  - 1) Character and appearance of the surrounding area, and the setting of the Broseley Conservation area;
  - 2) Living conditions of occupiers of The Lindens, Duke Street, with particular regard to external amenity space.

### Reasons

*Character and appearance.*

4. Whilst The Lindens is within the Broseley Conservation Area (CA) the appeal site, although directly adjacent, is not within the CA. The site is set back from the main road and accessed via a single width access. There is a detached garage and shed within the site which is currently utilised as part of the residential garden for the adjacent property, The Lindens.

5. The surrounding residential development both within and outside the CA has a predominately tight and compact character, with some properties being sited directly at the back of the road with others set back or within a courtyard arrangement. Considering the siting and size of the appeal site the proposal for a single dwelling would not be at odds with the established character of the surrounding area.
6. The existing access road to the site and existing setback of The Lindens does provide a gap within the built development when viewed from Duke Street. However, considering the setback of the site any proposed dwelling would not be overly prominent and the appreciation of this gap within the streetscene would not be substantially altered as a result of the development. I consider sufficient visual separation could be achieved as part of the detailed design, siting and layout to ensure that the development would not result in a cramped appearance.
7. The submission does not indicate the removal of any existing landscaping and garden areas would be retained at both The Lindens and the appeal site. The provision of sufficient green space and relief between built forms to avoid the development appearing overly cramped or congested could be addressed as part of the detailed design.
8. Whilst any dwelling erected on the site may be visible from the wider surrounding area it would be viewed in the context of the existing surrounding compact development. There is therefore no reason, in principle, why a dwelling here would appear incongruous or out of keeping with its surrounds or adversely impact on any views within or to the CA.
9. I therefore find no harm to the character and appearance of the surrounding area or the setting of the Broseley CA. As such the proposals accord with Policies CS6 & CS17 of the Shropshire Core Strategy and MD2 of the Site Allocation and Management of Development (SAMDev) Plan which seek to ensure that developments achieve high-quality design and protect the local character of the built environment. It would also accord with the aims of Section 12 of the National Planning Policy Framework which seeks to achieve well-designed places.

*Living conditions.*

10. Whilst the development of the site would result in a substantial reduction to the current curtilage of The Lindens, the dwelling would still sit comfortably within a large plot. There would be good separation to all site boundaries from the dwelling itself and a substantial rear garden area would also be retained ensuring no resulting harmful impact to the living conditions of the existing occupants.
11. The appeal site is similarly of a reasonable size and I consider that subject to detailed design considerations as part of reserved matters submissions, an acceptable relationship to the adjacent properties could be achieved so as not to have any significant harmful impacts to living conditions.
12. The Council Policies CS6 & CS17 of the Shropshire Core Strategy and MD2 of the Site Allocation and Management of Development (SAMDev) Plan do not specifically address impacts on living conditions and accordingly they do not apply in this case. However as detailed above I have found no conflict with

these Policies which seek to ensure that developments achieve high-quality design and protect the local character of the built environment.

13. I have found that there would be no harm to the living conditions of the occupants of The Lindens and, as such, the proposals accord with the aims of Paragraph 127(f) of the Framework which seeks to ensure that development provides a high standard of amenity for existing and future users.

### **Other Matters**

14. I note references to Policy H5 within the Broseley Town Council Town Plan 2013-2026. Whilst this would reasonably apply to development within the CA, as identified above the site is adjacent to the CA and not within it. Accordingly, the policy does not apply in this case.
15. Although the reason for refusal only refers to the impacts on the occupants of The Lindens I note that concerns have been raised in relation to the impact on the living conditions of other adjacent properties. The existing access provides separation to properties on Duke Street and substantial boundary hedging exists to the properties on Birchmeadow Road and Four Winds Mobile Home Park.
16. There is nothing before me to suggest that a 2-storey development could not be achieved or would be out of keeping with the surrounding area. As above, I consider that subject to detailed design considerations, as part of reserved matters submissions, an acceptable relationship to the adjacent properties could be achieved so as not to have any significant harmful impacts to living conditions.
17. I have noted concerns raised in relation to impacts of construction on adjacent properties and acknowledge the potential for shallow mine working to be present on the site. I have imposed a condition requiring further detail on this matter to be submitted to ensure any impacts are fully considered and addressed.

### **Conditions**

18. The Council has suggested a number of conditions which I have considered against the advice in the National Planning Policy Framework and Planning Practice. As a result, I have amended some of them for consistency and clarity, and omitted others.
19. I have specified the standard conditions relating to the submission and timing of reserved matter applications. I have not included a condition to state which matters are not granted consent as I consider this is addressed by the reserved matters condition to be imposed and is therefore not necessary.
20. Whilst there is reference within the Council's submitted documents to a condition restricting the proposed dwelling to no more than 1 ½ storeys this is not referenced within the Council's appeal statement or suggested conditions. Nonetheless I have considered this condition. As detailed above there is nothing before me to suggest that a 2-storey development could not be achieved or would be out of keeping with the surrounding area. It would therefore be unreasonable, as part of this outline application, to restrict the height of the development and as such I have not included this condition.

21. To protect the living conditions of occupiers of neighbouring properties it is necessary to include a condition in respect of hours of construction. Considering the potential for shallow mine workings to be present within the site it is necessary to secure further site investigations in the interests of land stability. In the interests of biodiversity I have imposed a condition requiring details of bat and bird boxes and any external lighting to be installed. Details of drainage systems are required to ensure satisfactory drainage and water management can be achieved for the site.

### **Conclusion**

22. For the above reasons I conclude that the appeal should be allowed.

*A Denby*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the access, 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) Demolition or construction works shall take place only between 0800 and 1800 hours on Mondays to Fridays and 0800 to 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) Before development commences a scheme of intrusive site investigation shall be undertaken to assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity. A report of the findings arising from this intrusive site investigation, including the results of any gas monitoring, and a scheme of proposed remedial works and how these will be implemented shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 6) 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 lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Bats and artificial lighting in the UK guidance. The development shall

thereafter be carried out and maintained in accordance with the approved details.

- 7) Development shall not commence until drainage works for foul and surface water drainage have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
- 8) Details of the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting and shall include:
  - A minimum of 1 external woodcrete 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 starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

Prior to the first occupation of the dwelling the boxes shall be erected in accordance with the approved details and thereafter retained and maintained in accordance with the approved details.