



Appeal Decision

Site visit made on 25 February 2014

by Siobhan Watson BA(Hons) MCD MRTPi

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

Decision date: 1 April 2014

Appeal Ref: APP/L3245/A/13/2207308

Top Farm, Baschurch, Shrewsbury, SY4 2DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr J Allmark against the decision of Shropshire Council.
- The application Ref 13/01692/VAR, dated 22 April 2013, was refused by notice dated 19 June 2013.
- The application sought planning permission for the erection of one (local need) dwelling to include detached garage and formation of vehicular access; installation of sewage treatment plant without complying with conditions attached to planning permission Ref 12/00827/FUL, dated 12 April 2013.
- The conditions in dispute are Nos 2 and 3 which state that: "The development shall be carried out strictly in accordance with the deposited and amended plans and drawings" (No 2) and "No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details" (No 3).
- The reasons given for the conditions are: "For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details." (No 2) and "To ensure that the external appearance of the development is satisfactory" (No 3).

Decision

1. The appeal is allowed and planning permission is granted for the erection of one (local need) dwelling to include detached garage and formation of vehicular access; and the installation of sewage treatment plant at Top Farm, Baschurch, Shrewsbury, SY4 2DA in accordance with the application Ref 13/01692/VAR dated 22 April 2013, without compliance with condition numbers 2 and 3 previously imposed on planning permission Ref 12/00827/FUL, dated 12 April 2013 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - (1) The development shall be carried out in accordance with the drawings listed on planning permission Ref 12/00827/FUL, dated 12 April 2013 except where superseded by drawing 213.06 01.
 - (2) No hard surfacing shall be laid until full details of the materials to be used have been submitted to and approved in writing by the Local

Planning Authority. Development shall be carried out in accordance with the approved details.

Procedural Matters and Background

2. It appears that the application to remove the conditions was made before the conditions were breached and therefore I am treating this as an appeal under S.73 of the Act. Nevertheless, I saw at my visit that the dwelling has been substantially completed although some parts of the development remained incomplete such as the drive and parking space.
3. The reason for the Council's refusal relates to the use of external materials. The approved plans seem to imply that the garage would be brick and that the main part of the dwelling would have a render finish. The appeal seeks a brick finish along with some minor amendments to the elevations. The Council objects to the use of brick for the main part of the dwelling. It has not made any objection to the other amendments and as they are small I have no reason to find otherwise.
4. On 6 March 2014 the planning guidance was published and came into force. I have considered the content of the guidance, but in light of the facts in this case, it does not alter my conclusions.

Main Issue

5. The main issue is the implications that the variation of the conditions would have on the character and appearance of the area.

Reasons

6. The site is located in the countryside where buildings are sporadic. There are a few other buildings in the vicinity of the appeal site but they are generously spaced apart. The buildings that can be seen from the site are constructed of various materials including render, brick and metal cladding. I acknowledge that the 3 dwellings closest to the appeal site have a render finish but there are large brick agricultural buildings nearby and brick dwellings in the wider locality of Marton. The context within which the appeal building is set is therefore one of a variety of materials with none presenting a dominant feature, even within the immediate vicinity of the site. Therefore, I consider that the brick finish, including its specific colour, respects the character and appearance of the area.
7. I therefore conclude that the variation of the conditions would not harm the character and appearance of the area and I find no conflict with the Shropshire Local Development Framework Adopted Core Strategy, 2011(CS) Policy CS6 which seeks to ensure that development is designed to a high quality which respects and enhances local distinctiveness. The Council has referred to CS Policy CS11 and its Type and Affordability of Housing Supplementary Planning Document in its decision notice but these policies are primarily concerned about the provision of housing and are not directly relevant to the main issue.
8. I have considered the Council's suggested conditions against the advice in Planning Practice Guidance *Use of Planning Conditions*. As the house has already been constructed conditions are not required in respect of the external materials of the dwelling. I have therefore deleted Condition 3 of the original

permission and replaced it with the new condition requiring details of hard surfacing materials as the drive and parking spaces had not been constructed at the time of my visit. I have also deleted Condition 2 and replaced it with a new plans condition to replace the original floor plans and elevations with the appeal ones.

9. For the above reasons I allow the appeal.

Siobhan Watson

INSPECTOR