



Appeal Decision

Site visit made on 3 September 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/L3245/W/19/3230499

37 Park Lane, Shifnal TF11 9HD

- 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 David White against the decision of Shropshire Council.
 - The application Ref 18/03761/FUL, dated 11 August 2018, was refused by notice dated 9 January 2019.
 - The development proposed is the erection of a four bedroom dwelling with parking off existing access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a four bedroom dwelling with parking off existing access at 37 Park Lane, Shifnal TF11 9HD in accordance with the terms of the application, Ref 18/03761/FUL, dated 11 August 2018, subject to the schedule of conditions to this decision.

Main Issue

2. The main issue is whether the site can be brought forward for development having regard to its location and designation as safeguarded land.

Reasons

3. Notwithstanding the address provided on the appellant's application form the appeal site as edged red¹ comprises land adjacent to 37 Park Lane and was formerly part of the garden to this property. It now forms a gap between ribbon development along Park Lane, on the southern fringe of Shifnal. The site is largely bound by hedges and includes a number of protected trees along its southern boundary.
4. The site is located outside of the Shifnal development boundary, on land that is excluded from the Green Belt and has been safeguarded for the future development needs of Shifnal in the Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDev). SAMDev Policy S15 states that this land is safeguarded for development needs beyond the current plan period (to 2026) and that only development that would not prejudice its potential future use to meet Shifnal's longer term development needs will be acceptable. This approach is broadly consistent with the National Planning Policy Framework (the Framework).²

¹ As shown on Location Plan 1/1250 - Drawing No. 37Park01, which includes inset drawing titled 'Tree Location and Protection Plan 1.11.2018'

² Paragraph 139

5. However, part of the safeguarded land to the rear (east) of the site is being developed for a major residential development. In particular, the rear boundary of the site is contiguous with that of a new detached dwelling and its garden. To the north and south the site adjoins established residential properties fronting Park Lane.
6. Consequently, the site forms a small parcel of enclosed land surrounded by residential development. Most notably, despite incorporating a highway frontage, access to the undeveloped safeguarded land to the south-east of the site would be via the adjacent property (37 Park Lane) which is an established dwelling in separate ownership to the site. There are also development constraints associated with the afore mentioned protected trees. These circumstances would be likely to limit the future use of the site to either a residential use or a use that would not materially affect the living conditions of occupiers of the residential properties that adjoin the site and also safeguards the protected trees.
7. Moreover, in this case the specific circumstances of the site and the development to the rear of it have overtaken the adopted SAMDev. Most notably, the site has a restricted functional role in respect of the larger area of safeguarded land to the south-east and therefore is of limited strategic importance.
8. The Council can demonstrate a five-year supply of deliverable housing sites as required by the Framework. Under these circumstances, the decision-taking criteria contained in paragraph 11 of the Framework are not engaged. Nonetheless, the Framework also seeks to boost significantly the supply of housing and the ability to demonstrate a five-year housing land supply should not be seen as a maximum. Irrespective of such a supply being available, the Framework advocates a presumption in favour of sustainable development and the application must be considered in these terms.
9. Although the site is outside the development boundary of Shifnal it is enclosed within the residential built up area of the town. A footway directly outside the site allows access by walking to the centre of the town. Further, on the evidence available to me and my observations, Shifnal offers a wide variety of facilities and services, along with access to public transport with regular rail and bus services to the wider area including Telford, Wolverhampton and Shrewsbury.
10. Drawing on the above factors and its location, the site could be developed without prejudice to the development of the larger area of safeguarded land to the south-east. Also, given the overall sustainability of the site an additional dwelling would add to the local supply of housing consistent with the aims and objectives of the Framework and therefore in this site-specific case would contribute to Shifnal's longer term development needs. For the above reasons, I conclude that the proposal would not conflict with Policy S15 of the SAMDev.

Other Matters

11. Based on my observations and the available evidence, I am satisfied that the scheme for a single dwelling would not lead to any significant adverse impacts on the local transport network in terms of access, parking and highway safety. My conclusions on these matters are supported by the lack of objection from the Council's Highway consultee. Also, on the available evidence it has not

been clearly shown that the proposal alone or cumulatively with other residential development in the area would result in any significant material harm to the town's infrastructure, facilities or services.

12. The proposed amended scheme, in terms of design, layout and retained landscaping would be consistent with the varied character and appearance of residential plots along Park Lane.

Conditions

13. I have considered the conditions put forward by the Council in light of the requirements of the National Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawing as this provides certainty. Conditions requiring details of proposed materials and landscaping are necessary to ensure the satisfactory appearance of the development. However, I have simplified the Council's suggested landscaping requirements to reflect the modest scale of the proposal. I have also imposed a tree protection condition to safeguard retained landscaping including protected trees.
14. A condition requiring a Method of Construction Statement is needed in the interests of the living conditions of neighbours and highway safety. The surfacing of the access is also necessary in the interests of highway safety. The condition to control the hours of construction is imposed to safeguard the living conditions of neighbours. In the interests of the living conditions of future occupants a condition is required in relation to foul and surface water drainage. To safeguard and enhance the ecology of the site I have imposed conditions 5, 9 and 11.
15. Conditions 3,4,5 and 6 which prevent any development approved by the planning permission from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

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

M Aqbal
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. 37Park01, which includes inset drawing titled 'Tree Location and Protection Plan 1.11.2018'.
3. The development hereby approved shall not commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP 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. wheel washing facilities v. traffic management. The approved CMP shall be adhered to throughout the construction of the approved development.
4. The development hereby approved shall not commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all proposed landscaping, a programme for its implementation and the means to provide for its future maintenance. Thereafter the approved landscaping scheme shall be undertaken and maintained in accordance with the approved details. Any trees or plants which within a period of 3 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
5. Prior to the development hereby approved commencing an Ecological Clerk of Works (ECW) shall be appointed to ensure that the Great Crested Newt Method Statement and other ecological mitigation and enhancement measures are adhered to. The ECW shall provide notification to the local planning authority of any pre-commencement checks and measures.
6. The development hereby approved shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details before the development is first brought into use.
7. Prior to any above ground works commencing details of all external materials to be used in the construction of the dwelling 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.
8. All tree protection measures detailed in the approved Arboricultural Impact Assessment and Arboricultural Method Statement (Forester & Arborist Services Ltd, Single Dwelling Option 23.05.2018) and the approved Tree Location and Protection Plan as shown on Drawing No. 37Park01 shall be fully implemented, before any development-related equipment, materials or machinery are brought onto the site. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development and until all equipment, machinery and surplus materials have been removed from the site.

9. All site clearance, development, landscaping and biodiversity enhancements shall be undertaken in accordance with the Preliminary Ecological Assessment prepared by Salopian Consultancy Ltd (28/09/2018).
10. Before the dwelling hereby approved is first occupied, details of the surfacing of the access driveway 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 before first occupation.
11. 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 Guidance Note 08/18: Bats and artificial lighting in the UK, prepared by the Bat Conservation Trust and the Institution of Lighting Professionals. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.
12. No construction work shall commence outside of the following hours:
Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays, public and bank holidays.