

---

## Appeal Decision

Site visit made on 25 November 2014

**by Christa Masters MA (Hons) MRTPI**

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

**Decision date: 8 December 2014**

---

**Appeal Ref: APP/L3245/A/14/2225806**

**Land to the west of Bryn Road, The Mount, Shrewsbury, Shropshire**

**SY3 8PG**

- 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 Shropshire Homes Ltd against the decision of Shropshire Council.
  - The application Ref 14/00743/OUT, dated 18 February 2014, was refused by notice dated 6 May 2014.
  - The development proposed is the construction of 16 houses and 4 apartments with associated garaging and parking, serviced by a new adopted road.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 16 houses and 4 apartments with associated garaging and parking, serviced by a new adopted road at land to the west of Bryn Road, The Mount, Shrewsbury, Shropshire SY3 8PG in accordance with the terms of the application, Ref 14/00743/OUT, dated 18 February 2014, subject to the conditions as set out on the attached schedule.

### Procedural matters

2. The application is in outline form only, with all matters reserved except for access. I have considered the appeal on the same basis.
3. There is an executed Unilateral Undertaking (UU) which was submitted with the appeal dated 10 November 2014. This document sets out a commitment to the provision of a scheme for affordable housing. I have taken this document into account in reaching my conclusion below.
4. A previous appeal decision on the site (appeal reference T/APP/B3220/A/89/143117/P5) has been supplied by the Council. I have taken into account the content of this decision in reaching my conclusion below.

### Main Issue

5. From the evidence presented and from what I saw on the site visit, I consider the main issue in this appeal to be whether the development would preserve or enhance the character or appearance of the Mount Conservation Area.

## Reasons

6. The appeal site is an area of agricultural land fronting The Mount. The site is undulating. There is an extensive steep banking to the northern boundary of the site which then lies alongside further open land which abuts the appeal site as it falls towards the river. A public footpath runs along the external perimeter to the west of the site. From both approaches along the Mount, the site is well screened by existing established vegetation. The general built character of the area is varied with a number of detached dwellings set in elevated spacious plots, as well as a flatted development opposite the southern tip of the site known as Brickfield House. The remainder of the land opposite the site on the southern side of the The Mount comprises detached dwellings, some of which are bungalows as well as a Petrol Filling Station.
7. The Mount Conservation Area Appraisal (2006) identifies qualities and elements that contribute to, as well as detract from, the special character of the Conservation Area. In terms of the appeal site, the existing hedges to the main road frontage are noted as being a significant characteristic; however the document does not identify any views across the appeal site. The Heritage Statement which was submitted in support of the appeal also supports this view. I concur with this analysis which is reflective of the topography of the land as it falls away to the north.
8. Given that the application is in outline form only, the only matters for consideration at this stage are the principle of the development proposed and the access. The site is enclosed to the western, eastern and southern boundaries by residential development. The scale of the development proposed would in my view have the ability to provide a spacious development in a landscaped setting. As indicated by drawing TM-P-02 Rev C, the plots could be laid out in a pattern which would be reflective of the general pattern of development within the immediate environment. Furthermore, the proposal provides the opportunity for the existing boundary treatment fronting the Mount to be strengthened which would benefit the Conservation Area.
9. The Landscape Statement prepared in support of the application also notes that the proposal could provide opportunities to open up the view from the appeal site to the north and beyond. This would in my view be a welcome addition and would have a positive effect on the character and appearance of the Conservation Area as a result. The statement also makes further recommendations regarding improvements to the existing Severn Way public footpath which runs along the boundary to the north western corner of the site. These improvements would provide a positive enhancement to the Conservation Area and I will return to this matter in further detail below.
10. In terms of the view back towards the site from the public footpath, I was able to see on the day of my site visit that the site is framed by the housing along Bryn Road, as well as the pockets of housing on the southern side of the Mount which are visible in part. However there is also an extensive area of open land to the northern boundary which would remain as part of the development proposal, ensuring the dwellings retain the existing spacious setting which lies alongside the Conservation Area boundary.
11. The Heritage Statement states that the existing levels on the site would be remodelled to accommodate the dwellings proposed. I agree that such works would be necessary to ensure the appearance of the development, which would

be determined at the reserved matters stage, is satisfactory in the context of the wider Conservation Area.

12. The Council have referred to a previous appeal decision on the site. This decision was taken 24 years ago. It is inevitable that in that time, the character and appearance of the area will have changed to some degree. Moreover, planning policy has also changed. I have determined this case on the basis of the evidence before me and on its merits.
13. I therefore conclude the proposal would be in keeping with the character and appearance of the area, and therefore accords with policies CS6 and CS17 of the Shropshire Council Core Strategy (CS) 2011. Policy CS6 requires proposals to protect, restore, conserve and enhance the natural, built and historic environment and to be, amongst other things, appropriate in scale, density, pattern and design taking into account local character and context. Policy CS17 reinforces the objectives of policy CS6 by ensuring that all new developments, amongst other things, protect and enhance the local character and high quality of the built and historic environment.
14. Taking the above into account, the proposal would therefore be consistent with paragraph 132 of the National Planning Policy Framework (the Framework) which anticipates that great weight should be given to the conservation of heritage assets. For these reasons, I conclude that the proposal would preserve both the character and appearance of the Conservation Area, in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Other matters*

15. The Council have also referred to the effect of the proposed development on the recreational and ecological value of the site. However, no detailed evidence to substantiate these concerns has been provided. There is no public access to the site although the Severn Way public footpath, which would remain, runs outside the boundary of the site. On this basis, I conclude that the proposal would not adversely effect the existing recreational value of the site.
16. Turning to consider the ecology issue, the application was supported by an Ecological Assessment dated February 2014 and prepared by Star Ecology. This report concluded that there are 3 trees on the site which have bat roosting potential. None of these trees would be effected by the proposed development. The County Ecologist has recommended a condition to secure additional bat boxes on the site. I consider these measures to be reasonable and necessary and can be secured by appropriately worded conditions and accordingly I will attach a condition to this effect.
17. The executed UU which is before me relates to the provision of a scheme for affordable housing. This is to address the requirements of policy CS11 of the CS which states that the Council will seek to ensure that all new market housing makes a contribution towards, amongst other things, the provision of local needs affordable housing. The measures identified by the UU are therefore necessary, related to the development and fairly related in scale and kind. As such, it would also accord with the tests for planning obligations set out in the Framework. Therefore, a significant measure of weight can be apportioned in favour of the proposal.

18. The Council's appeal statement states that the Council can now identify 5 years' housing land supply. The appellant disagreed with this view. However, both parties agree that the site is within a sustainable location and would represent a sustainable form of development as supported by the Framework. As I have found no harm in relation to the main issue, I also conclude that the proposal would accord with the Framework in this regard.
19. Concerns have been raised by a number of third parties regarding drainage, noise, air and light pollution and effect on the river. However, these comments are not substantiated by any technical evidence. In order to protect the amenity of future residents, the issue of noise pollution will be addressed as a separate matter as part of the conditions set out below.

### **Conditions**

20. I have considered the conditions as suggested by the Council in light of the evidence presented as well as the advice contained within paragraph 206 of the Framework. In so far as the plan relates to access only I attach a condition requiring the development be carried out in accordance with the access details as identified by plan TM-P-01 Rev C. However as there is no plan which indicates the access only, I have amended the condition to ensure that the reference to this plan relates to the access only and not the layout as shown. This is for the avoidance of doubt and in the interests of the proper planning of the area.
21. As the layout, scale, materials and landscaping (including boundary treatment) and the maintenance of the landscaping will be addressed as part of the reserved matters submission, I am not attaching any additional conditions relating to these matters.
22. As highlighted above, the appellant has offered to undertake enhancement works to the Severn Way public footpath which runs along the north western boundary of the site. Such improvements, including the widening of the footpath which could be addressed at the reserved matters stage, would vastly improve the recreational value of the existing footpath and thereby positively enhance the Conservation Area. Accordingly, I have attached a condition to this effect. The Council have questioned whether the appellant should also be required to contribute towards the maintenance of the footpath. However, I do not consider this requirement would be either reasonable or necessary to make the development acceptable in planning terms.
23. The Council has requested that the timescale for the submission of the reserved matters details be reduced to one year. This is on the basis that the site's development would not be supported by the SAMDev DPD. I have considered this request in light of the guidance contained within the Planning Practice Guidance. Given the particular circumstances of this case, this is a reasonable request and accordingly I have amended the time period as suggested by the Council.
24. A further condition requiring details of the existing floor levels and proposed finished floor levels has been included to ensure the appearance of the area is satisfactory. A standard condition has also been included to require details of the proposed drainage at the site to be provided. This is necessary and reasonable to ensure that the development is constructed in accordance with

the standards of the local planning authority. I have reworded these conditions in the interests of enforceability and precision.

25. A condition requiring a Flood Risk Assessment to be provided is required to ensure a satisfactory standard of development, in particular to ensure that the site will not be subject to flooding and to prevent the risk of flooding elsewhere.
26. A further condition has been suggested requiring a noise assessment to be submitted. This is necessary to protect the amenities of future occupiers and accordingly, I have attached a condition to this effect. A condition has been suggested to provide full engineering details of the new access road. This condition is necessary to ensure the development is completed to an acceptable standard in the interest of highway safety. The requirement for a tree protection plan to be submitted has also been included. I agree that this condition is necessary to safeguard the trees on the site.
27. The Council have suggested a condition requiring a programme of archaeological work in accordance with a written scheme of investigation. A desk based study and walkover survey was undertaken on behalf of the appellants in April 2014 and has been submitted to the Council. This report concluded that there is no reason to believe the site has been used for anything other than agriculture. The Council maintain that a condition requiring a programme of archaeological work based on surviving earthworks is required. Taking into account the advice contained within paragraph 141 of the Framework, I have attached a condition to this effect.
28. As outlined above, I am also attaching condition requiring the provision of bat boxes on the site. A further condition requiring the provision of artificial nests for small birds has been suggested by the Council. This is in order to provide nesting opportunities for wild birds. This condition would not meet all the tests as identified by the Framework, as it is not necessary to make the development acceptable in planning terms and it is therefore not included. However, a condition requiring details of a lighting plan to be submitted is deemed necessary in order to take into account the bat roosting potential of the trees on the site.

### **Conclusion**

29. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be allowed.

*Christa Masters*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: TM-P-01 Rev C. For the avoidance of doubt, the approval of drawing TM-P-01 Rev C relates to the access only as shown and does not purport to grant consent for the layout as shown.

- 2) Prior to the first occupation of any of the units hereby permitted, a scheme for improvements to the stretch of the Severn Way public footpath which runs along the north-western boundary of the site shall be submitted and approved in writing by the local planning authority. The approved scheme shall include for the resurfacing of the existing footpath along this boundary. The approved scheme shall be implemented prior to the first occupation of any of the units hereby approved.
- 3) Details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) An application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.
- 5) The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 6) The development shall not commence until plans detailing the existing and proposed ground levels of all the land contained within the redline site plan have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 7) The development shall not commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. Such a programme must be prepared and carried out under the supervision and with the agreement of an archaeologist approved in writing by the Local Planning Authority.
- 8) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
- 9) A Flood Risk Assessment in accordance with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework should be completed and submitted to the Local Planning Authority for approval with the first of the reserved matters.  
The FRA should include, as a minimum:
  - Assessment of the Fluvial flooding (from watercourses)
  - Surface water flooding (from overland flows originating from both inside and outside the development site)
  - Groundwater flooding
  - Flooding from artificial drainage systems (from a public sewerage system, for example)
  - Flooding due to infrastructure failure (from a blocked culvert, for example)
  - The potential impact of flood water from the new site on adjacent properties should be considered, and mitigation proposals described.
- 10) Prior to construction, a noise assessment shall be submitted to the local planning authority for approval in writing and shall include details of any

mitigation required to meet target levels for noise. Target levels are those specified in the World Health Organisation Guidelines on Community Noise.

- 11) Prior to the commencement of the development full engineering details of the new access road, existing highway/road works, structures, foot/cycleways, surface water drainage, street lighting and carriageway markings/signs, shall be submitted to and approved by the planning authority. The works shall be fully implemented in accordance with the approved details prior to the development hereby permitted being first brought into use.
- 12) A Tree Protection Plan shall be submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.
- 13) 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 take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.
- 14) A total of 5 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first occupation of the residential units hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.