

---

# Appeal Decision

Site visit made on 25 June 2015

**by Mr A Thickett BA(Hons) BTP MRTPI DipRSA**

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

**Decision date: 13 July 2015**

---

**Appeal Ref: APP/L3245/W/15/3002657**

**Moreton Grange, Moreton Street, Prees, Shropshire, SY13 2EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Ms Anne Taylor against Shropshire Council.
  - The application Ref 14/02482/OUT is dated 3 June 2014.
  - The development proposed is a single open market dwelling. The application is in outline with all matters reserved.
- 

## Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the Schedule at the end of this decision.

## Procedural Matter

2. An application for costs has been made by Ms Taylor against Shropshire Council. That application is the subject of a separate decision.

## Main Issue

3. The appeal site comprises part of the garden to Moreton Grange which includes the vehicular access serving that property and a car port. The Council's statement submitted in relation to this appeal indicates that its only objection to the proposed development is the lack of any contribution to the provision of affordable housing. The main issue is; whether the proposed development should contribute to the provision of affordable housing.

## Reasons

4. Policy CS11 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 seeks to ensure that all new open market housing development makes an appropriate contribution to the provision of local needs affordable housing. Developments under 5 dwellings are expected to make a financial contribution. The reasoned justification at paragraph 5.20 states that for developments of less than 5 units '*provision will be in the form of equivalent contributions towards provision elsewhere in the local area, unless the developers wish to make the provision on site*'.
5. The Council's 'Type and Affordability of Housing Supplementary Planning Document (SPD)' explains out how the Council will implement Policy CS11. Off site contributions are tariff based. The SPD at paragraph 4.21 states that; '*The financial contributions for off-site affordable housing will be pooled to be spent*

*on facilitating the delivery of additional and/or supported housing in Shropshire*'. This conflicts with the adopted Core Strategy which, as indicated above, states that off site contributions will be directed towards provision in the local area.

6. In order to be lawful planning obligations must meet the requirements set out in the Community Infrastructure Regulations 2010<sup>1</sup>. Planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. I do not doubt that there is a need for affordable housing in Shropshire but I have read nothing to indicate that the contribution the Council seek in this case would lead to the provision of affordable housing in the local area. Nor have I seen anything to indicate a need for supported housing in this area.
7. Further, National Planning Policy Guidance (PPG) states that affordable housing contributions should not be sought from developments of 10 units or less<sup>2</sup>. The Written Ministerial Statement (WMS) which introduced the 10 unit threshold states that the threshold is designed to lower the construction cost of small scale new build thereby helping to increase housing supply. The Council argues that Policy CS11 has not inhibited the delivery of new housing on small sites. I don't doubt that small sites continue to come forward but the National Planning Policy Framework (NPPF) at paragraph 47 seeks to significantly boost the supply of housing. I have seen no analysis to show that more housing would not have been built had Policy CS11 operated as envisaged by the PPG and WMS.
8. No evidence is submitted to counter the Council's argument that a 10 unit threshold will have a serious impact on the delivery of affordable housing in Shropshire. However, the PPG post dates the Core Strategy and sets out the most up to date national policy position in this regard and, insofar as they relate to sites of 10 dwellings or less, neither Policy CS11 nor the SPD accord with national planning policy guidance.
9. The Council draw my attention to its Site Allocation and Management of Development Plan which is nearing the end of its examination. At my request the Council indicated the policies and main modifications it considered are relevant to this appeal. Although material generally, in my view, none are relevant to this issue.
10. To conclude; nothing is submitted to indicate that the contribution sought by the Council would meet a need in the local area and, consequently, I do not consider that the planning obligation sought by the Council satisfies the requirements of the Community Infrastructure Levy Regulations. That conflict alone would be sufficient to outweigh the requirements of Policy CS11. That Policy CS11 and the SPD do not accord with national policy insofar as they relate to 10 units or less adds weight to my conclusion that the failure to contribute to the provision of affordable housing should not prevent planning permission being granted for the proposed development.

---

<sup>1</sup> Regulation 122

<sup>2</sup> Ref ID: 23b-012-20150326

## **Conditions**

11. I have considered the conditions suggested by the Council in light of the advice in the National Planning Policy Framework and the PPG. The site plan was amended at the suggestion of the Council prior to the appeal being made. The amendments relate to a change to the red line to secure the provision of vehicular access and it is necessary, in the interests of highway safety, to ensure that the development accords with the details shown on this plan. However, given that the appeal application is in outline with all matters reserved, I see no need to impose further conditions relating to access, visibility or parking. Nor do I consider it necessary to state that the layout shown on the submitted plans is not approved by this permission.
12. I am not persuaded that it is necessary to place a limit on the height of any building. To do so may stifle good design and as appearance is a reserved matter the Council can resist a building of an inappropriate height or design. I have seen nothing to indicate why foul drainage cannot be left to Building Regulations but will, in order to prevent flooding, require details of surface water drainage. The Council's ecologist is satisfied that a bat survey is not required and given that conclusion the requirement for a lighting plan appears to me to be unduly onerous.
13. In 2013 the Council granted planning permission for the conversion of Moreton Grange to a residential care home and the appeal site was to provide car parking to serve that use. A planning condition cannot be used to revoke a planning permission. However, it seems to me that if the planning permission I hereby grant is implemented then the permission for the residential home cannot be implemented in accordance with the approved plans, leaving the appellant with a choice of which development to pursue.

## **Conclusions**

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

*Anthony Thickett*

Inspector

## **Schedule**

### **APP/L3245/W/15/3002657**

15. The appeal is allowed and outline planning permission is granted for a single open market dwelling at Moreton Grange, Moreton Street, Prees, Shropshire, SY13 2EF in accordance with the terms of the application, 14/02482/OUT dated 3 June 2014, dated, and the plans submitted with it, subject to the following 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 begins 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 three years from the date of this permission.
  - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
  - 4) This permission relates to the site as denoted by the red line on Drawing No. MG003 Rev A.
  - 5) No development shall take place until details of a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. Development shall take place in accordance with the approved details.