

## Appeal Decision

Site visit made on 5 October 2015

**by Tom Cannon BA DIP TP MRTPI**

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

**Decision date: 2 November 2015**

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**Appeal Ref: APP/L3245/W/15/3028166**

**Station Road, Albrighton, Shropshire WV7 3QH**

- 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 planning permission.
  - The appeal is made by Mr Peter Gwilt against Shropshire Council.
  - The application Ref 14/03279/FUL, is dated 21 July 2014.
  - The development proposed is the change of use of vacant units to 5 no self-contained flats.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of vacant units to 5 no self-contained flats at Station Road, Albrighton, Shropshire WV7 3QH in accordance with the terms of the application, 14/03279/FUL, dated 21 July 2014, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3199/14/03 (Plans as proposed) and 3199/14/04 (Elevations as proposed).
  - 3) No development shall take place until details of all external materials, including hard surfacing have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 4) No windows or doors shall be installed at the development before plans and sections at a scale of 1:20 of all new windows and doors have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 5) No dwelling shall be occupied until space has been laid out, drained and hard surfaced within the site in accordance with drawing no. 3199/14/03 for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

### Procedural Matters

2. A completed Unilateral Undertaking (UU) securing the provision of on-site affordable housing has been provided following the submission of the appeal.

3. The appellant's final comments confirm that the costs application originally made in respect of the appeal proposal has been withdrawn.

### **Main Issue**

4. The main issue is whether the proposal makes adequate provision for affordable housing.

### **Reasons**

5. Policy CS11 of the *Shropshire Local Development Framework: Adopted Core Strategy 2011* (CS) requires that developments of 5 dwellings or more should make provision for affordable housing on site. This is calculated on a geographical basis, with the appeal site located within Area B, where 15% of the total number of dwellings to be provided should be affordable. The development for 5 flats therefore has an affordable housing requirement of 0.75 dwellings, rounded up to 1 unit under the CS.
6. On the 28 November 2014, the *Written Ministerial Statement* (WMS) was published which set out national policy on S106, including setting a threshold beneath which affordable housing contributions should not be sought. As the development fell under this threshold the appellant initially considered that a contribution towards affordable housing was not necessary to make the development acceptable in planning terms.
7. However, following the High Court's judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015, the policies in the WMS must not be treated as a material consideration in development management. Consequently, *Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990* apply, requiring that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
8. The appellant has since reviewed his position in light of the above judgement which was handed down after the appeal was lodged. A completed UU has subsequently been provided, with 1 of the 5 proposed units to be affordable in accordance with the requirements of Policy CS11 of the CS. Therefore the delivery of affordable housing on small developments, either directly on site, or indirectly through financial contributions is essential to the effective delivery of much needed affordable housing in Shropshire, and the housing and community aspirations enshrined in the CS.
9. Thus, the proposed contribution would satisfy the 3 tests in *Regulation 122 of the Community Infrastructure Regulations* (CIL), as it would be necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.
10. In September 2015 the *Department for Communities and Local Government* (DCLG) was granted permission to appeal the 31 July 2015 judgement. The main parties in the appeal have both commented on this matter. I understand that the hearing into the appeal by DCLG has been listed for 15 March 2016. Therefore, at the time of writing, the judgement and declaration order stands. As such, I must make my decision based on the Court's Order and evidence

before me, which is that there is a development plan policy requirement for the provision of on-site affordable housing.

11. For these reasons, there are also material differences between this case and the other appeal decisions referred to by the parties which were made prior to the 31 July 2015 judgement.
12. I therefore conclude that the proposal makes adequate provision for affordable housing and satisfies the 3 tests in Regulation 122, and paragraph 2014 of the *National Planning policy Framework* (the Framework). It would also accord with Policies CS9 and CS11 of the CS and guidance in the *Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document 2012* (SPD).

### **Other Matters**

13. Albrighton is identified as a key market town in the CS, where the principle of new residential development such as that proposed in this appeal is acceptable, subject to its appropriate design and scale.
14. The appeal site comprises of an eclectic mix of modern inter-connecting storage units, which are situated to the rear of, and physically enclosed by existing built development on Station Road and High Street. Given its secluded location, and the minor improvements proposed to the external appearance of the buildings, I also therefore agree with the Council that the proposed conversions would preserve the character and appearance of the area, including the setting of the adjacent Albrighton Conservation Area.

### **Conditions**

15. I have considered the conditions suggested by the Council and the appellant in light of advice in paragraphs 203 and 206 of the Framework and the *Planning Practice Guidance*.
16. In addition to the standard time limit condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. Details of external materials, including hard surfacing and windows and doors are required to ensure the satisfactory appearance of the development. To provide adequate on-site parking provision, and in the interests of highway safety, it is also necessary for the car parking layout shown on the approved plans to be implemented prior to the first occupation of the proposed dwellings. The submitted UU provides a satisfactory mechanism to secure the provision of on-site affordable housing. A condition to this affect would therefore be unnecessary.

### **Conclusion**

17. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should succeed.

*T Cannon*

INSPECTOR