



Appeal Decision

Site visit made on 5 November 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/L3245/W/19/3235789

77 Lyth Hill Road, Bayston Hill, Shrewsbury, Shropshire SY3 0HA

- 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 Mr Peter Konieczny against the decision of Shropshire Council.
 - The application Ref 19/02287/OUT, dated 21 May 2019, was refused by notice dated 12 July 2019.
 - The development proposed is the erection of one single storey dwelling with vehicular and pedestrian access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form with all matters reserved with the exception of access. Whilst the block plan shows the siting of the dwelling this is labelled as indicative only. I have determined the appeal on this basis.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character of the locality; and,
 - the living conditions of nearby residents and future occupiers.

Reasons

Character

4. The site lies within an established settlement area of predominantly residential development characterised by mixed housing types and ages. The site is currently part of the rear garden associated with a detached dwelling fronting Lyth Hill Road, with new access from Betley Lane for the proposed dwelling. The properties on this section of the road benefit from deep, narrow plots, the rear boundaries of which generally form a screen boundary along the undeveloped side of the northern arm of Betley Lane, a private road of about 9 properties.
5. The substantially regular widths of plots on this part of Lyth Hill Road show some variation in lengths, generally increasing northwards where they meet Betley Lane. The dividing boundaries between gardens are mostly well-established mixed hedging of varying heights. The majority of plots have maintained the integrity of the rear boundaries but the appeal site is an example of where a rear vehicular access point has been created. Other

examples of rear vehicular access points, parking areas and ancillary buildings are present on the southern arm of Betley Lane where there are some commercial buildings and a newly built bungalow set behind properties fronting Lyth Hill Road.

6. The proposed development would introduce a scale of built form that is currently absent from the rear garden areas of this part of Lyth Hill Road. The buildings here are generally limited to small-scale ancillary garden sheds or greenhouses. Whilst the scale of development would appear subordinate to no 77 and the houses on the developed side of Betley Lane, it would contrast significantly with existing built development on this section of the lane.
7. This effect would be emphasised by the presence of development across a significant width of the garden and the subdivision of the existing plot. Whilst the subdivided plot sizes would be comparable to others in the wider locality, they would be at odds with the regularity of the plots on this length of Lyth Hill Road where they back on to the northern arm of Betley Lane.
8. It is suggested by the appellant that a detached building could be erected here under permitted development rights. However, I have seen nothing to suggest that if this were possible, the appellant would genuinely pursue this option if the appeal failed. As such, it is a matter of negligible weight in the determination of this appeal.
9. Furthermore, the proposed provision of vehicular access across the full width of the Betley Lane boundary would create an open frontage in contrast to the otherwise well screened boundaries present along this side of Betley Lane. Again, I acknowledge that removal of existing screen fences or vegetation along the Betley Lane frontage could potentially arise without a requirement for planning permission; however, the current examples of where this has taken place are in the minority and therefore do not define the prevailing character of the locality.
10. Taken together these aspects of the proposed development would be at odds with the existing layout and grain of development and therefore fail to reflect the prevailing character of development in this part of Lyth Hill Road or Betley Lane.
11. In support of the proposed development, my attention has been drawn to a recent appeal decision¹ for two dwellings to the north of Betley Lane and a recently built single-storey dwelling on the southern arm of Betley Lane. I have taken these into account. However, in the absence of full details of those cases within the evidence, I am unable to ascertain the circumstances of those decisions. I am therefore unable to conclude that they provide justification for overcoming the harm I have identified here; a proposal which I have considered on its own planning merits.
12. For the above reasons I consider that the development would conflict with policies MD2 and MD3 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (MDP) and policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy (2011)(CS) which, amongst other things, seek to protect local character.

¹ APP/L3245/W/19/3224092

Living Conditions – nearby residents

13. Whilst the proposed development would create a new focus for domestic activity, given the distances to nearest residential dwellings and length of the adjacent garden areas, any effects in terms of noise, disturbance or lighting would be consistent with that of existing activity in this primarily residential area. For the same reason, noise or disturbance from the use of the parking area would not be so different from that arising from the existing arrangement or nearby residents' use of parking areas existing elsewhere on Betley Lane.
14. The distance between the proposed plot and neighbouring dwellings would also limit effects with regard to outlook. Although any dwelling would be partially visible from neighbouring dwellings and garden areas above the existing hedges, or alternative boundary treatments, the intervening distance is likely to be an alleviating factor. However, this is substantially a matter for further consideration at the detailed design stage of development proposals.
15. Although one effect of the proposed development would be to significantly reduce the garden area available to residents of no 77, it would retain a single area of enclosed private amenity space commensurate with the level of existing accommodation and other examples found close by. This would be sufficient to maintain a suitable standard of living conditions for current or future occupiers of that property with respect to private outdoor amenity space provision.
16. For those reasons I conclude that the effect of the proposed development on the living conditions of nearby residents would be acceptable in principle and therefore consistent with the aims of Policy CS6 of the CS as it relates to safeguarding the living conditions of local residents.

Living Conditions – future occupiers

17. The dimensions of the site are such that suitable standards of living space, outdoor amenity space and parking could be achieved within it. Interface distances to the front and rear of the proposed dwelling are demonstrated sufficient to indicate that a suitable standard of living conditions for future residents is achievable.
18. Further consideration as to the effects on living conditions as a consequence of the details arising from the layout, scale and appearance of the proposed development fall outside of the scope of this appeal. Whilst the issue of outlook for future occupiers is referred to in the Council's reason for refusal, this is a matter for consideration at the relevant reserved matters stage. It has not therefore been attributed weight in this determination.
19. For the above reasons, I conclude that the effect of the proposed development on the living conditions of future occupiers would be acceptable in principle and therefore consistent with the aims of Policy CS6 of the CS as it relates to providing suitable living conditions for future occupiers.

Other Matters

20. The Council's report and reason for refusal includes reference to a number of policies relating to the delivery and distribution of housing development across the administrative area. The main parties agree that the Council is able to demonstrate a five-year housing supply. However, in the absence of detailed evidence in respect of housing delivery rates by either party, I have been

unable to ascertain if the presumption in favour of sustainable development as described in paragraph 11d of National Planning Policy Framework (the Framework) has been engaged, or if the qualifying criteria listed in part 2 of Policy MD3 of the MDP are applicable by virtue of local oversupply.

21. However, the policies indicate that housing figures are approximate and are intended to be flexible. The proposed development would provide a single residential unit and contribute to local housing delivery, mix and density in a Community Hub settlement area, identified as appropriate for additional housing. It is also relevant that the housing figures include provision for windfall sites and infilling within the settlement.
22. The proposed development would therefore be consistent with the revised Framework which continues to support the Government's objective of boosting the supply of homes including the promotion of small sites. Furthermore, whilst not determinative, I note that the recent appeal (APP/L3245/W/19/3224092) referred to by the appellant raised no concerns in respect of housing supply.
23. Based on the evidence before me, the proposed development would contribute to the delivery of housing and is therefore consistent with Policies MD1 and MD3 of the MDP and CS1, CS3 and CS11 of the CS as they relate to housing delivery. However, the small benefit to housing supply and any associated economic benefits would not, to my mind, outweigh the significant harm arising from the effect of the proposed development on the character of the locality even if it were the case that paragraph 11d of the Framework was engaged.
24. The Council's decision notice also refers to policy MD12 of the MDP relating to the natural environment in its reason for refusal. The Officer's report indicates that this is based on concerns that tree planting to compensate for potential biodiversity losses is unlikely to be achievable within the site. The site does not appear to have any formal ecological designations or protection. The balance of biodiversity value within it is therefore a matter for detailed consideration at the relevant reserved matters stage when biodiversity losses and gains can be accurately identified. From my site inspection and based on the evidence before me, I consider there are no grounds for an in-principle objection to outline planning permission in that respect and therefore the proposed development complies with policy MD12 of the MDP.
25. The appellant has referred to the acceptability of the use of Betley Lane as a means of access to the proposed development. There is no dispute between the main parties in that regard. However, this and the matters of housing land supply and biodiversity, taken singularly or cumulatively, do not outweigh the harm that I have identified in relation to the effect on the local character and the conflict with the development plan in that regard.

Conclusion

26. Whilst I have found in favour of the appellant with regard to the effect of the proposed development on living conditions of existing & future residents, I do not consider this outweighs the identified harm in relation to its effect on the character of the locality. I therefore conclude the appeal should be dismissed.

R Hitchcock

INSPECTOR