



Appeal Decision

Hearing held on 18 September

Site visit made on 18 and 19 September 2019

by B Bowker Mplan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2019

Appeal Ref: APP/L3245/W/18/3217667

Development Land East of Shaw Lane, Albrighton WV7 3DS

- 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 Jessup against the decision of Shropshire Council.
 - The application Ref 17/03774, dated 31 July 2017, was refused by notice dated 3 August 2017.
 - The development proposed is construction of 74 extra care apartments and associated facilities, 6 bungalows and 58 houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on highway safety; and,
 - the effect of the proposal on the character and appearance of the surrounding area and the setting of a nearby listed building.

Reasons

Highway safety

3. The appeal site is located to the east of Albrighton and comprises part agricultural land and land used in conjunction with a former gas works. Of the 138 dwellings proposed, 110 would be affordable houses and the proposal would allow future connectivity to safeguarded land to the east. Under the Site Allocations and Management of Development Plan (SAMDev) Albrighton is identified as a key centre that will deliver 250 dwellings over the plan period. The site forms part of a wider housing allocation (ALB002) which makes provision for 180 dwellings. Of relevance, the SAMDev development guidelines for the housing allocation states that proposals must provide for the long-term comprehensive development of this site and facilitate an eventual through road between Kingswood Road and the northern end of Shaw Lane.
4. Although the proposal includes a highway up to the site boundary, the adjoining development to the south would not. In addition, the appellants and adjoining developer have not reached an agreement to ensure that a through road is delivered, nor was the planning permission at the adjoining site subject

to a legal agreement to deliver a through road. Based on the evidence submitted and what I heard at the hearing, the likelihood of future connectivity (including for pedestrians and cyclists) between the sites is low. Thus, despite the appellants' efforts, the proposal would not facilitate a through-road as anticipated by the Development Guidelines in SAMDev Schedule S1.1a. The Statement of Common Ground (SoCG) sets out that the main parties agree that Policy S1 ALB002 and its associated proposals map does indicate any specific requirement or preference for the means of access to the allocation. In any event, the development would be served solely by a vehicular access onto Shaw Lane, and it is on this basis that the appeal has been submitted and determined.

5. St Mary's Primary School currently utilises the proposed site access. A road sign and 'keep clear' road markings indicate its presence. Near the site is a railway station and a medical centre. The site access would be altered, widened and improved to adoptable standards and remain in use by the school. The trip rates in the Transport Assessment¹ (TA) are based on high car ownership figures. In addition, the nearby railway station would offer residents an alternative to vehicular transport. The TA does not account for 'non-development' traffic and is based on 69 extra care apartments rather than 74. This aside, the comings and goings, junction data and survey methodology were agreed with the Highway Authority. Although concerns were raised by the Highway Authority during the application process, it did not object to the proposal.
6. During my early evening site visit, Shaw Lane was subject to limited traffic and on street parking was available. However the concerns of the Council and local residents primarily relate to highway activity associated with the primary school during the morning and mid-afternoon, and the railway station and medical centre. I observed traffic and highway activity during the morning and noted that parents and pupils arrived predominantly on foot to the school from 0810 and particularly from around 0840 onwards when increased numbers arrived. I understand that the school headteacher has to be present in the mornings to ensure highway safety, and she was near the school entrance during my site visit. Vehicular traffic was relatively limited but included a school coach passing by to pick up pupils at a bus stop on Station Road and a van that drove up onto the footway. However, I appreciate that my site visit provides a snapshot only of local highway conditions and activity.
7. There has been no record of highway accidents over the past five years and beyond. However, considerable local concern has been raised regarding the safety of the existing highway network. Furthermore, based on the photographs and representations of local residents, owing to on street parking, vehicles driving up the pavement is not an unusual occurrence at Shaw Lane. In response, the appellants set out that any such instances are a highway offence that require the involvement of the police and highway authority. However, discussion during the hearing indicated that the police have been involved. Moreover, regardless of its legality, the evidence indicates that vehicles do drive and park along the footway in response to highway conditions along this section of Shaw Lane. Furthermore, the movements of children, which can include the use of bicycles and scooters, can be difficult to manage. Local representations also indicate that some children are dropped off by

¹ Undertaken by Savoy Consulting, dated July 2016.

vehicle, that safety concerns have been raised by the school bus provider, and arrivals at the school begin from 0800 owing to a breakfast club. Overall, the evidence indicates that existing conditions present safety risks to highway users.

8. Based on census data and the predicted employment location of future residents, the TA assumes that the majority of journeys associated with the development will have occurred by 0800, thus outside the school period. The appellants also state that traffic counts indicated that commuters travelling along Shaw Lane had left for work before any children were seen to be arriving for school. In this light, I observed relatively limited vehicular traffic during my morning visit. However residents could work closer to home, morning start times could vary (depending on employment type), and vehicles would also arrive to the site during the morning peak time. Moreover there would be no way to ensure that the majority of morning journeys would occur outside peak morning school traffic times. Thus I give limited weight to this assumption.
9. The appellants contend that traffic generation associated with the proposal would be modest. In addition, future residents could utilise the railway station for journeys, a Travel Plan could be secured by condition, and although concern was set out by the headteacher at the hearing, the mitigation measures to the access road have received support from the school. However the morning vehicular traffic associated with the proposal would not be modest in the context of existing highway conditions. Whilst Manual for Streets compliant visibility splays are proposed, vehicles would still have to pull close to the junction to achieve visibility and into an area that would have an increased and high concentration of vehicular and pedestrian activity. In this light, as the risk to highway safety does not relate to vehicular speeds, the proposed raised table would not fully mitigate the risk of conflict. Nor would the proposed pedestrian barrier or removal of on street parking at the site and to the front of terraced properties at Shaw Lane fully prevent the risk of conflict and collision at the junction, or the increased likelihood of vehicles driving along the footway to the south.
10. Parking retained for railway users could reduce on-street parking in the area and opening up the access to the site provides the possibility for drop off parking for the school to help alleviate congestion along Shaw Lane as identified at paragraph 4.38 the Albrighton Neighbourhood Plan 'Light' (ANPL). However, paragraph 4.41 of the ANPL notes that the Kingswood Road access would facilitate a more long-term integrated solution to the whole site. Furthermore parking opportunities at the site would necessitate additional activity at the site access on Shaw Lane.
11. Drawing the above together, the increased vehicular activity associated with the development at the site access junction with Shaw Lane would unacceptably increase the risk of conflict and confusion between highway users, to the detriment of highway safety. It is put to me that many primary schools in Shropshire front directly onto roads with far higher traffic flows. In addition and as set out above, the site forms part of a larger housing allocation. The appellants also suggested that provision of a through road could make traffic worse. However, I must determine the appeal on its own individual merits. Moreover these factors do not justify or prevent the unacceptable impact the proposal would have on highway safety along Shaw Lane.

12. Therefore the proposal would have a harmful effect on highway safety. Consequently the proposal would be contrary to Core Strategy (CS) Policy CS6 and paragraph 109 of the National Planning Policy Framework (the Framework) which seek to ensure that development is designed to be safe and accessible to all and does not have an unacceptable impact on highway safety.

Local character and appearance and built heritage

13. The Council's concern relates to the effect of the proposed apartment building on local character and appearance, and on the setting of the Railway Station Building and footbridge (Grade II listed). Based on all I have seen and read, I have no reason to disagree with the Council's assessment.
14. Development along Shaw Lane and Station Road (including the part single and two storey Railway Station) is predominantly two storeys in scale, comprising detached and terraced properties. The local area does not have a definitive architectural style and includes some commercial uses. In addition there are some three storey buildings in wider Albrighton. However, owing to the predominant height and mass of properties that surround the appeal site, the local area has a domestic scale and relatively spacious character. This is a locally positive characteristic that is appreciable along Shaw Lane, Station Road, and the access to the Railway Station. The design and materials utilised in the Railway Station Building and footbridge and their early association with the wider railway network is of architectural and historic significance. Owing to the comparatively open nature of the appeal site, it makes a neutral contribution that preserves the significance of the heritage asset.
15. Although set away from development along Shaw Lane, the overall scale and mass of the apartment building would be an incongruous sight when seen from the access to the Railway Station, Station Road and its junction with Shaw Lane. Despite the materials, stepped height and articulated design proposed, from the noted vantage points the apartment building would be a dominant feature that would exceed the site boundaries. The bulk, scale and visual presence of the apartments would materially harm the domestic scale and relatively spacious character of the area. Furthermore the proposal would not represent good design, nor would it be sympathetic to local character or add to the overall quality of the area as sought by the Framework.
16. The heritage asset is set at a higher level than the appeal site and is intervened by a boundary fence and vegetation treatment. Nonetheless the apartments would be in close proximity and an imposing sight when viewed from the Railway Station and its vehicular access and parking area. Owing to the scale and mass of the apartments, the effect of the nearby caravans and intervening boundary on the heritage asset is not comparable. In addition, although the observer would be in motion, the apartments would be a dominant sight from the footway bridge. From the railway platforms, the apartments would not be particularly visible. However, the proximity, height and mass of the apartments in contrast to the modest scale of the Railway Station and footbridge would materially harm their significance.
17. Limited details have been provided regarding a similar scale of development approved near in a two-storey setting near a Grade II* listed building. Moreover I must determine the appeal on its own individual merits. Owing to the scale of the apartments, the use of landscaping would not fully mitigate or prevent the harm identified to local character and appearance or to the

heritage asset. Nor does the status of the appeal site as a housing allocation in the SAMDev justify this harm.

18. The harm to the heritage asset would be less than substantial in the context of the Framework. Paragraph 196 of the Framework advises that less than substantial harm to a heritage asset should be weighed against the public benefits associated with the proposal. The development would contribute towards housing land supply (as anticipated by the SAMDev) and provide both short and long-term employment. It would also deliver vehicular parking spaces for railway users, public open space accessible to the wider community, increase natural surveillance, and involve the reuse of some contaminated and previously developed land. In addition, future occupants would be served by sustainable means of transport and have access to nearby services and facilities. Some public benefit would also arise from the delivery of energy efficient homes and biodiversity enhancements. Particularly important public benefits associated with the proposal is the delivery of affordable housing (in excess of policy requirements, and in the context of high housing need and funding secured from Homes England) and the delivery of extra care accommodation².
19. However, I have identified harm in relation to highway safety and local character and appearance. Furthermore, the proposal would result in less than substantial harm to the significance of the Railway Station and footbridge. The Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that heritage asset harm should be given considerable importance and weight, whilst the Framework sets out that great weight should be afforded to the conservation of an asset, irrespective of whether the harm is less than substantial.
20. I have concerns that using planning conditions to secure affordable housing would be contrary to the Planning Practice Guidance. Furthermore, a compelling case has not been made to demonstrate that there would be sufficient legal certainty to transfer the properties to an affordable housing provider and secure affordable housing in perpetuity. In any event, the totality of harm identified above would outweigh the combined public benefits associated with the proposal, including its provision of extra care homes and affordable housing. On this basis the appeal must fail.

Other matters

21. Concerns have been raised regarding a number of other matters, including flooding. However, as I am dismissing the appeal on the above cited grounds it is not necessary that I consider the other matters raised in my decision.

Conclusion

22. For the reasons given above, the proposal would not accord with the development plan when taken as a whole and no considerations are before me that would alter this finding. As such, the appeal is dismissed.

B Bowker

INSPECTOR

² Particularly in the light of the Planning Practice Guidance section on 'Housing for older and disabled people' and local evidence of need.

APPEARANCES

FOR THE APPELLANTS:

Clive Jessup	Appellant
Thea Osmund-Smith	Counsel
Andy Williams	Planning Agent
Steve Faizey	Principal Architect
David Burton-Pye	Historic Environment Consultant
Phillip Taylor	Highway Consultant
Tim Leach	Director at Walkdeck Consulting
Andrea Martin	Senior Development Manager at The Wreckin Housing Trust
Matt Beckley	Client Project Manager at the Wreckin Housing Trust

FOR THE LOCAL PLANNING AUTHORITY:

Tim Rogers	Area Planning Manager
Emma Bailey	Technical Specialist Planning Officer
Becky Jones	Senior Conservation and Design Officer

INTERESTED PARTIES:

Peter Collins	Local resident and member of Albrighton Development Action Group (ADAG)
Peter Woodman	Chair of Albrighton Parish Council and ADAG
Cllr Malcom Pate	Ward member
Amanda Skidmore	Headteacher of St Mary's CE Primary School
William Wilkinson	Local resident
Mark Yeonans	Manging Director at Boningale Homes Ltd
Pauline Hill	Chair of Governors at St Mary's CE Primary School
David Dale	Local resident

EVIDENCE SUBMITTED AT THE HEARING:

- 1) Extract from section 19 report.
- 2) ADAG submission in respect of the appeal.
- 3) Submissions on behalf of the appellant.
- 4) Place Plan for Albrighton & surrounding area.
- 5) Planning Practice Guidance section regarding housing for older and disabled people.
- 6) Appellants' comments on the Council's suggested conditions.
- 7) Severn Trent email response to developer enquiry.

EVIDENCE SUBMITTED AFTER THE HEARING:

- 1) Email from Albrighton Parish Council, including correspondence from Severn Trent Water and response from the appellants, including signed SoCG with Severn Trent Water.