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## Appeal Decision

Site visit made on 19 May 2020

**by L Page BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> June 2020**

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**Appeal Ref: APP/Q4625/W/20/3246571**

**19 Nebsworth Close, Shirley, Solihull B90 3NS**

- 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 and Mrs R. D. Doogood against the decision of Solihull Metropolitan Borough Council.
  - The application Ref PL/2019/00898/PPOL, dated 1 April 2019, was refused by notice dated 9 August 2019.
  - The development proposed is for outline planning permission for the demolition of the existing dwelling and the erection of up to three dwellings with associated access and parking.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of the existing dwelling and the erection of up to three dwellings with associated access and parking at 19 Nebsworth Close, Shirley, Solihull B90 3NS in accordance with the terms of the application, Ref PL/2019/00898/PPOL, dated 1 April 2019, and the plans submitted with it, subject to the attached conditions schedule.

### Application for Costs

2. An application for costs was made by Mr and Mrs R. D. Doogood against Solihull Metropolitan Borough Council and is the subject of a separate decision.

### Procedural Matters

3. The planning application was submitted in outline form with only access being assessed at this time. All matters of appearance, landscaping, layout and scale are reserved for future approval(s). From the description of development, it is clear that quantum of development being sought is up to three dwellings. The appeal is determined on this basis, treating the submitted site plan as illustrative only, in so far as it indicates a possible layout of up to three dwellings.
4. The Council has confirmed in their appeal statement that they find no conflict with Policy P7 of the Solihull Local Plan 2013 (SLP) which was the basis of the second reason for refusal. As such there is no longer a dispute regarding the location of the proposal, I do not need to consider this matter further within the appeal.

## **Main Issue**

5. The main issue is the effect of the development on the character of the area.

## **Reasons**

6. The area is characterised by large detached dwellings on plots that vary in size and density. Nebsworth Close has larger plots and lower density compared to Brobury Croft adjacent which has relatively smaller plots and higher density. Generally, the Nebsworth Close dwellings have open frontages and building lines are set back from the street, creating substantial driveways and landscaped garden areas.
7. The appeal site is located at the end of a cul-de-sac, comprising a large detached dwelling on a plot that is proportionally larger in size than what is typical for the area. The frontage is heavily landscaped and, apart from the driveway leading into the site, largely enclosed. Views into the site from the highway are therefore limited.
8. Considering the generous size of the plot, it is reasonable to suggest the site is capable of accommodating more than the single dwelling that currently exists without being fundamentally at odds with the prevailing character of the area. For example, even modest backland development would likely result in plots that were larger than some of the smaller plots in the area such as those at Brobury Croft, and therefore still remain indicative of the area's urban grain.
9. The point of access proposed is not dissimilar to the existing access point. Accordingly, the enclosed character of the site's frontage would not be affected by the access point alone. Furthermore, effects on the site's frontage relating to the layout of the dwellings and landscaping can be satisfactorily controlled by the reserved matters.
10. Policy P5 of the SLP supports housing on unidentified sites within accessible locations. This appeal scheme is a previously unidentified site within close proximity to Shirley town centre. The provision of up to three dwellings presented in the appeal proposal would make a modest contribution to housing supply.
11. Overall, based on the matters being assessed at this stage, the proposal would not cause fundamental harm to the character of the area. Consequently, it accords with Policies P5 and P15 of the SLP. These policies, amongst other things, seek to ensure that in meeting housing need, development will enhance local character and distinctiveness.

## **Other Matters**

12. A range of other matters have been raised by the Council, statutory consultees and interested parties. These include human rights, highway safety, noise, trees, ecology, drainage, living conditions and financial gain.
13. It is recognised that some developments can have an impact on an individual's or family's privacy. In this regard, due consideration has been given to Article 8(1) of the European Convention on Human Rights, as enshrined in the Human Rights Act 1998, which states that everyone has the right to respect for his private and family life, his home and his correspondence.

14. In this case, the site is large enough to facilitate the development in principle and matters of detail that could affect living conditions will be covered at the reserved matters stage and as such are not within the scope of this appeal.
15. The number of vehicles using the development will be proportionate to the final layout, determined at reserved matters. Consequently, although the point of access has been a matter for consideration under this appeal, detailed parking arrangements and associated highway impacts, in respect of traffic movements and similar, have not.
16. With an appropriate design and layout for up to three dwellings, to be assessed at the future reserved matters stage, there is no reason why there would be an unacceptable level of noise and disturbance associated with the proposal.
17. The Arboricultural Impact Assessment 2019 provides sufficient detail on trees and their root protection areas, for the purposes of informing details of layout and landscaping to be determined at reserved matters. Consequently, a specific planning condition relating to trees is not necessary.
18. The appellants submitted evidence on bats demonstrates the existing building supports two common pipistrelle bat day roosts. Furthermore, a Bat Survey Report 2019 details how demolishing the building could be mitigated to protect these European Protected Species. A planning condition is necessary to secure the implementation of these mitigation measures.
19. The scale of development would have minimal impact on foul drainage. Similarly, there would be minimal impact on surface water drainage. Consequently, it is reasonable to conclude that there is a technological solution to water management and a planning condition is necessary to ensure details are appropriate for the site.
20. Comments regarding financial gain or current condition of the property do not relate to the planning merits of the case and consequently are outside the scope of this appeal.
21. There is no dispute that the Council cannot demonstrate a 5-year housing land supply. Although the presumption in favour of sustainable development as set out in the Framework is engaged, as I have not found conflict with the development plan this material consideration does not need to be explored in further detail.

## **Conditions**

22. All of the suggested conditions have been considered in relation to the Framework and Planning Practice Guidance. Some of the appellants' suggested conditions were already covered by the Council's suggested conditions, or would be subsequently covered by reserved matters, and therefore were not necessary. Some of the Council's suggested conditions have been amended in the interests of precision and two further conditions have been added. These relate to the time limit for submission of reserved matters and compliance with mitigation measures for bats. As such the main parties were given the opportunity to comment on the draft conditions. All conditions attached are deemed necessary to make the development acceptable.

23. The standard conditions setting out the scope of reserved matters and the time limits for implementation of development together with specifying the approved plans are necessary to provide certainty. Securing compliance with the mitigation set out in the Bat Survey Report 2019 is necessary because the bats are a European Protected Species. Given the location of the appeal site within an urban cul-de-sac, the layout of the exiting built environment in this case therefore means that managing construction activity is necessary in the interests of ensuring that impact on the living conditions of existing occupiers and highway safety is managed effectively. Managing drainage is necessary to control surface water in a sustainable manner.

### **Conclusion**

24. The appeal proposal would not be contrary to the development plan when taken as a whole and there are no material considerations to suggest a decision other than in accordance with the development plan. For these reasons, the appeal is allowed, and outline planning permission is granted subject to the conditions set out in the attached Schedule.

*Liam Page*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of 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 takes place 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans references; 121374/001, 121374/009 and 121374/012 E, in so far as it relates to the access only.
- 5) The development hereby permitted shall be carried out in accordance with the mitigation measures detailed in the approved Bat Survey Report 2019.
- 6) Before commencement of development a Construction Method Statement shall be submitted to and approved in writing by the local planning authority to include details of:
  - (a) the parking of vehicles of site operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials used in constructing the development
  - (d) the erection and maintenance of security hoarding including decorative displays
  - (e) wheel washing facilities
  - (f) measures to control the emission of dust and dirt during construction
  - (g) details of haul routes; and
  - (h) contact details for the appointed site agent that can be contacted in the event of any problems arising during construction activities.

The scheme shall be implemented throughout the construction of the development in accordance with the details so agreed.

- 7) The development shall not be commenced until such a time as a scheme to manage the surface water runoff from the development has been submitted to and approved in writing by, the local planning authority, with no occupation until the scheme is operational.

The submitted details should include:

- (a) results of infiltration tests carried out in accordance with BRE 365 or similar to determine the suitability of the site for infiltration. If infiltration is deemed to be suitable, the proposed soakaway(s) should be designed in accordance with BRE 365 also.
- (b) a plan indicating the size and location of the proposed soakaway

- (c) if a soakaway is demonstrated to not be suitable then details of an alternative SuDS system should be submitted.
- (d) construction details.
- (e) maintenance plan for the whole drainage system in accordance with the SuDS manual.

**End of Schedule**