



Appeal Decision

Site visit made on 2 February 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2022

Appeal Ref: APP/L3245/W/21/3282044

Sandy Lane, Stoke Heath, Market Drayton TF9 2LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Martin Cheese against the decision of Shropshire Council.
 - The application Ref 21/00156/VAR, dated 12 January 2021, was refused by notice dated 8 March 2021.
 - The application sought planning permission for the erection of 1no dwelling and alteration to existing vehicular access without complying with a condition attached to planning permission Ref 20/02727/FUL, dated 17 September 2020.
 - The condition in dispute is No 3 which states that:
The external materials shall match in colour, form and texture to those specified on the approved drawings.
 - The reason given for the condition is:
To ensure that the works harmonise with the existing development.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 1no dwelling and alteration to existing vehicular access at The Corner Stone, Rose Hill Road TF9 2LF in accordance with the application Ref 21/00156/VAR dated 12 January 2021, without compliance with condition No 3 previously imposed on planning permission Ref 20/02727/FUL dated 17 September 2020 and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The site address in the banner heading above is taken from the planning application form however this is not reflective of the address included in the Council's decision notice or the appeal form. The appellant has subsequently confirmed that the Local Authority and Royal Mail have given the appeal site an official address as 'The Corner Stone, Rose Hill Road TF9 2LF'. Given the discrepancies between the submitted documents and this clarification, I have adopted the official address in my formal decision.
3. At the time of my site visit the dwelling was under construction however the development was not yet fully completed. I shall return to this matter later.

Background and Main Issue

4. The original planning permission¹ approved a new dwelling subject to a number of conditions. Condition no 3 specified that the external materials shall be in

¹ Council ref: 20/02727/FUL

accordance with the approved drawings, which indicated the use of brick for the walls. The appellant submitted a variation of conditions application² in order to change the material of the external walls from brick to render. The Council refused this application in the interests of the character and appearance of the rural location.

5. Accordingly, the main issue is whether condition no 3 is necessary with regard to the character and appearance of the area.

Reasons

6. The appeal site is a prominent corner plot in a predominantly rural area. The approved dwelling would be of a considerable scale and mass and, given its siting, would be readily apparent from public vantage. Although there are traditional brick properties in the locality, I nevertheless observed numerous examples of properties within the immediate vicinity and further along Rose Hill Road which were either fully rendered or incorporated rendered elements on their elevations, and some that included the use of timber cladding. Even if these examples were smaller properties than the approved dwelling, they were nevertheless visible in the street scene. Therefore, although brick may be the prevailing material, the area is not without exceptions.
7. Although it is acknowledged that brick may generally be a softer material in appearance, I note that the design of the dwelling includes significant amounts of glazing which would assist in breaking up any perceived substantial expanse of render. The colour of the render has also been specified as off-white which would be more muted and softer in appearance than white. Accordingly, it would not be overly stark. Taking this into consideration and the character of the area, the dwelling would not appear as an incongruous feature in the street scene.
8. Therefore, the use of render on the external walls would not cause unacceptable harm to the character and appearance of the area and would therefore accord with policies CS6 and MD2 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) and the National Planning Policy Framework which seek to ensure that developments are sympathetic and appropriate in design to local character. I shall therefore vary condition No 3.

Conditions

9. The Planning Practice Guidance (the PPG) makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. The Council has provided a list of conditions they suggest in the event that the appeal is allowed, and I note that these largely reflect the conditions imposed on the original planning permission. As I have no information before me regarding the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which would be addressed between the main parties.
10. For clarity and precision, and to ensure compliance with the PPG, I have undertaken some minor editing of the suggested conditions where necessary.

² Council ref: 21/00156/VAR

11. The development underway on site appears to be in accordance with the original planning permission. Therefore, as it has already been started I do not need to reimpose the standard time limit condition. This has subsequently resulted in a renumbering of the previously attached conditions.
12. Although it is open to me to reverse or vary any part of the Council's decision, the PPG is clear in relation to proposals under section 73 of the 1990 Act that I should consider only the disputed condition (Reference ID: 21a-031-20180615). That relates solely to materials rather than other matters of design, noting that there are certain plans before me which differ in other respects than those supporting the original permission. To consider alternative plans in other respects would be beyond the remit of this decision, notwithstanding that conditions attached to the original permission do not expressly include a list of plans. Any ambiguities in that respect are for the main parties to resolve as necessary.
13. The Council has suggested a condition requiring the submission of samples/details of the render and roofing materials for written approval. Notwithstanding the above, given that the roofing materials are included on the plans and there is a separate condition confirming that the external materials shall match those specified on the plans, there is no need for me to attach this condition. With regards to the render, I consider it sufficient to amend condition No 2, so as to make it clear that the external walls shall be rendered in off-white. I consider this detail is sufficient. I have therefore amended the wording of condition No 3 of the original planning permission to take into account the use of render.
14. A condition regarding the protection of retained trees during construction is necessary in the interests of the character and appearance of the area. Conditions relating to the access point, parking and turning areas are necessary in the interests of highway safety. Conditions requiring the provision of roosting and nesting opportunities for bats and birds and the submission of details of any lighting scheme are necessary in the interests of ecology.

Conclusion

15. For the reasons given above, and having regard to all relevant material considerations, the proposal would accord with the development plan therefore the appeal should be allowed.

H Ellison

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development shall be carried out strictly in accordance with the approved plans and drawings.
2. The external materials shall match in colour, form and texture to those specified on the approved drawings, excluding the walls which shall be finished in off-white render.
3. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted AK solutions Tree Protection Plan

and Arboricultural Method Statement, and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction – Recommendations" (or successor document). The protective fence and temporary ground protection shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development.

4. The access apron shall be constructed in accordance with the Shropshire Council's specification currently in force for an access. It shall be fully implemented prior to first occupation of the dwelling and retained thereafter.
5. Visibility splays shall be provided at the access point at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43 metres in both directions from the access along the highway. These visibility splays shall be provided prior to first occupation of the dwelling hereby permitted and thereafter retained and kept free of all growths and structures above carriageway level.
6. Prior to first occupation of the dwelling hereby permitted, the access, parking and turning areas shall be implemented in accordance with the Proposed Site Plan Drawing No. A102 published on 11 August 2020. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.
7. Prior to first occupation of the dwelling hereby permitted, a minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting, and retained thereafter.
8. Prior to first occupation of the dwelling hereby permitted, a minimum of 1 artificial nest of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), starlings (42mm hole, starling specific), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups) shall be erected on the site. The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and retained thereafter.
9. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking and re-enacting that Order with or without amendment, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary in association with the dwelling hereby permitted.
10. Prior to its installation, details of any external lighting to be installed on site shall be submitted to and approved in writing by the local planning authority. Any scheme of external lighting shall be designed in accordance with the advice set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and Artificial Lighting in the UK. The scheme shall be implemented in accordance with the approved details and retained thereafter.