



Appeal Decision

Site visit made on 27 July 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/L3245/W/22/3291942

Quercus Domus, Pound Lane, Hanwood, Shrewsbury, Shropshire SY5 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A 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 Jack Goodall against the decision of Shropshire Council.
 - The application Ref 21/03707/VAR, dated 20 September 2021, was refused by notice dated 14 December 2021.
 - The application sought planning permission for erection of a 2-bed affordable dwelling and detached double garage without complying with a condition attached to planning permission Ref 13/01656/FUL, dated 18 June 2014.
 - The condition in dispute is No 2 which states that: *"The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan Number 01/01 Rev D received on 21st May 2014."*
 - The reason given for the condition is: *"For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details."*
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Decision

1. The appeal is allowed and planning permission is granted for erection of a 2-bed affordable dwelling and detached double garage at Quercus Domus, Pound Lane, Hanwood, Shrewsbury, Shropshire SY5 8JR in accordance with the application Ref 21/03707/VAR, dated 20 September 2021, without complying with condition no 2 set out in the planning permission Ref 13/01656/FUL dated 18 June 2014 by Shropshire Council, but otherwise subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The development has been constructed on site. However, the building constructed is different to that which was originally approved. Therefore, the appeal seeks retrospective planning permission to vary planning permission ref 13/01656/FUL, which was granted for the erection of a 2-bed affordable dwelling and detached double garage. The revision sought is to vary the plans in respect of the location, size and design of the detached building.
3. The appeal site has been subject to a previous appeal decision (APP/L3245/W/19/3222930). The appeal was allowed and removed conditions no 8, 9 and 10 previously imposed on planning permission ref: 13/01656/FUL.
4. The appellant has submitted a revised S106 agreement, dated 3 March 2023. This variation to the original S106 agreement (dated 11 June 2014) was necessary to ensure that the development continues to be defined as an affordable dwelling, should this appeal be granted permission.

Main Issue

5. The main issue is whether varying condition 2 would be acceptable, having regard to the character and appearance of the site and the surrounding area.

Reasons

6. The appeal building is in the north-eastern part of the appeal site, close to the boundary with the A488 and adjacent to the main dwelling. Opposite the appeal building is an area of garden to an adjoining property which comprises an outbuilding.
7. The nearby dwellings and outbuilding adjacent to the appeal site form a cluster of buildings. The character of the surrounding area is, however, predominantly spacious and verdant, due to the areas of open agricultural land.
8. The size of the appeal building's footprint remains the same as the original approval. Whilst the development's positioning has changed from the original approval, it is sited close to the existing buildings on site and would therefore not appear out of place in the context of these neighbouring buildings. Furthermore, the scale and height of the development is comparable in scale to the neighbouring outbuilding, and given its closer relationship to this outbuilding, the development would not appear unduly prominent.
9. The appeal building is visible in public views taken from the A488, both to motorists and pedestrians. However, the appeal building's road facing elevation is partly screened by the mature boundary vegetation adjacent to the A488. The development's pitched roof integrates with the gable roof forms of the nearby dwellings. As a result, it is not particularly prominent in height or appearance when viewed from the road. Furthermore, the clustering of the buildings, of which the appeal building forms a part of, reduces the visual impact of the development from the road. In comparison, the original approval would have been sited further away from the existing buildings, but still sited close to the road. In my judgement, this would have made it appear more prominent than the proposal before me.
10. The appeal building is constructed in brick and the roof structure is covered with plain tiles. The use of matching construction materials contributes to the appeal building being seen as a natural addition to the host dwelling rather than an incongruous new feature. Furthermore, the development's external materials also relate well to the neighbouring buildings.
11. The Juliette balcony in the front elevation and the roof-lights in the westerly facing roof pitch give the first floor of the building a simple domestic appearance and would maximise natural light and ventilation into the building. In addition, there are limited public views of the Juliette balcony, given its positioning and orientation away from the road. The external staircase fixed to the north elevation has an unobtrusive design.
12. For the reasons above, I find that the development does not cause unacceptable harm to the character and appearance of the site or the surrounding area. As such, the development complies with Policy CS6 of Shropshire Council's Local Development Framework: Adopted Core Strategy (March 2011), and Policy MD2 of Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015). Collectively, these

policies, amongst other things, seek to ensure development is designed to a high quality which respects local distinctiveness.

13. I therefore conclude that, having regard to the development plan and all other material considerations, the variation of condition 2 would be acceptable.

Other Matters

14. The appellant has indicated that they wish to seek approval for an extension of the residential curtilage into land west of the original approval. However, this would need to be subject to a separate planning application for a change of use. Therefore, this is not a matter for consideration under this appeal.
15. Concern has been raised about potential overlooking to neighbouring properties, particularly from the external staircase and the balcony. However, the development does not result in a loss of privacy to neighbouring residents due to the sufficient separation distances between the appeal building and the neighbouring dwellings. Furthermore, the external staircase at first floor level leads to an entrance that has a solid composite door with no vision panel.
16. The Parish Council has raised concern about maintaining the appeal building as an affordable home. However, for the reasons set out in the Preliminary Matters section above, the revised S106 agreement that sits alongside the planning permission I intend to grant by allowing this appeal, will ensure that the dwelling will continue to be defined as an affordable dwelling.

Conditions

17. I have deleted the disputed condition 2 as indicated above and replaced it with an amended one which specifies new approved plans for the development allowed. As suggested by the Council, I have imposed a new condition to restrict the use and/or occupancy of the garage block for purposes ancillary to Quercus Domus. This condition is necessary to prevent occupancy of the garage block as a separate dwelling.
18. The Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
19. Due to the previous appeal decision (APP/L3245/W/3222930), conditions 8, 9 and 10 have been removed from the original permission. Accordingly, I do not need to re-impose these conditions.
20. The Officer's report states that conditions 3 (External Materials), 4 (Boundary Treatments), 5 (Foul & Surface Water), and 6a (Land Contamination) of the original permission have been discharged (14/04658/DIS). Therefore, these conditions are no longer necessary.
21. With the exception of the standard time limit, which is no longer required as the development permitted has already been substantially implemented, I have no information before me to suggest that any of the other conditions are no longer necessary or relevant. I have therefore imposed all the other conditions attached to the original permission (13/01656/FUL), with only minor drafting modifications where this has been necessary.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed.

Helen Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - a) Proposed Site Plan, Drawing No: 121.001
 - b) Proposed Drawings, Drawing No: 121.002
 - c) Location, Block, Floor Plans & Elevations, Drawing No: 01/01 Rev D, except in respect of those details relating to the garage block shown on Drawing No 01/01 Rev D
- 2) The development hereby permitted shall be constructed to a minimum of an equivalent to the Code for Sustainable Homes Level 3, for energy and water efficiency and thereafter maintained as such.
- 3) The garage block hereby permitted shall only be used and/or occupied for purposes ancillary to the residential occupation of Quercus Domus.

****End of Conditions****