



Appeal Decision

Site visit made on 6 March 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3RD April 2023

Appeal Ref: APP/L3245/W/22/3307027

37 BAKER CLOSE, LUDLOW, SHROPSHIRE SY8 1XJ

- 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 MICHAEL HUNT against the decision of Shropshire Council.
 - The application Ref 21/05109/OUT, dated 25 October 2021, was refused by notice dated 21 March 2022.
 - The development proposed is 'Outline application (all matters reserved) for the erection of one dwelling with garage'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been made in outline form with all matters reserved. The application form describes the dwelling as having a minimum of 4 bedrooms. The indicative site layout plan PC21/xxx/TCP provides a useful illustration of one way that the site might be developed for this relatively large family dwelling. The same applies to the indicative elevations, ground floor plan and artist impressions. However, as all matters are reserved, I have afforded only limited weight to these details. I shall consider the appeal on this basis.
3. The Appellant asserts that the Council was wrong to consider the effect of the proposal on the Oak tree as this is a detailed matter requiring consideration at the Reserved Matters stage. However, the assessment of an outline proposal must satisfy the decision maker that the scheme can be accommodated on site. This is required to satisfy the issue of principle as the outline permission is the planning permission for the scheme. As such, whilst detailed matters (such as tree impact mitigation) could be resolved at the reserved matters stage, it is incumbent upon me to assess at the outline stage, any material considerations that might jeopardise whether acceptable development could be capably devised following outline consent being given. I shall approach my decision in this manner.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Planning policy

5. The Council's development plan includes the Site Allocations and Management Development Plan - 2015 (DP) and the Core Strategy (CS). The CS establishes the Council's approach to the distribution of housing across the district. The site is within the development boundary of Ludlow within an established residential area. CS policy S10 relates to residential development in Ludlow. This identifies a guideline figure for new housing in the area. Although not a ceiling to new housing, the Council demonstrates that the guideline figure has been exceeded.
6. The appeal site is separated from the adjacent commercial area by a small road and is therefore within a development block that is residential in character. The appeal site could contribute further housing to the area as a windfall site. It is within the boundary of a large settlement, providing easy access to a range of goods and services. As such, the site would be suitable for housing in spatial planning terms.

Character and appearance

7. Baker Close is a suburban residential road that consists of housing within a large modern estate. Housing within the area consists of a variety of styles and sizes. The pattern of development is arranged in clusters around cul-de-sac estates with Parys Road acting as a main route through the area. Alongside Parys Road are various tree and shrub groups in incidental pockets of green space. These areas are non-uniform in size and distribution but collectively create pleasant visual breaks in the built form. The appeal site is a relatively large and open area of green space that contains three trees subject to Tree Preservation Orders. This area is required, by planning condition¹ of the original consent for the estate, to be retained as open space. The site is adjacent to Parys Road and overlooked by several adjacent houses and of high amenity value. The site therefore makes a positive contribution to the verdant character and appearance of the area.
8. The Appellant's Tree Constraints Plan (Appellant's appendix A) identifies the Oak is a category B tree and that its root zone covers a large section of the middle of the site. The indicative plan shows a dwelling located adjacent to the western boundary of the site, close to Parys Road. The tree protection plan (appendix B) shows protective fencing tightly drawn around the indicative footprint of the dwelling and its driveway. The indicative footprint of the dwelling shows a building that would affect a sizeable segment of the tree's root protection area.
9. The Oak is an impressive specimen, in the centre of the site, of substantial girth, age and height. It is highly visible in the street and makes a significant contribution to the character and appearance of the area. It is contested, between main parties, whether the tree is of veteran status. I understand that the tree has a girth of around 3.8 metres and has signs of retrenchment.

¹ Condition 16 of Planning Application Reference: 1/06984/P

Nonetheless, there is limited evidence to substantiate the Council's assertion that the tree is of exceptional biodiversity, cultural or heritage value. Accordingly, based on the evidence submitted, the tree would not comply with the definition of a veteran tree within the glossary of the Framework, but is nevertheless a significant feature of the site.

10. The Appellant asserts that the Arboricultural Report concludes that a proposed dwelling, aligning with the footprint shown on the indicative plan, could be constructed without harming the Oak. The Council concurs that a detailed and micromanaged process informed by an arboricultural method statement might limit detrimental impacts on the tree during construction. Based on the evidence before me I am satisfied that a dwelling could be constructed on site without detrimental harm being caused to the tree.
11. Nonetheless, I am equally satisfied that the close proximity of any dwelling to the tree would result in future occupiers seeking its reduction or removal due to overshadowing and general inconvenience issues. The Oak would be located within the private garden of the dwelling. This would compromise the use of the garden and its ability to provide a good quality private amenity space for future occupiers due to shading. Also, the tree's retrenchment state may cause alarm to future occupiers which would apply greater pressure to the Council to concede to tree works being undertaken. As a result, the anticipated inconvenience and concern cause to the future occupiers would be likely to result in a request to the Council to allow for the tree to be felled, due to the incompatible siting of the tree and dwelling.
12. Furthermore, the proposed development would result in the enclosure of an area of private amenity space that provides high amenity value to the local area as a verdant parcel of open space. The loss of most of this parcel, and the anticipated loss of the Oak tree, would erode the verdant character of the area in conflict with the design and layout of the original estate.
13. Although it is proposed to retain a third of the parcel of land as open, the proposed residential use of the site would substantially erode the existing site's sense of openness. Furthermore, whilst the Appellant asserts that the site could be enclosed without requiring any further planning approval this may not be possible by virtue of condition 16 of the original consent. In any event, enclosing the site without a dwelling, would not reduce the openness of the site to as great an extent as the effect of a proposed dwelling. As such, the Appellant has not demonstrated that any fall-back position would result in greater harm to the character of the area than that proposed.
14. Consequently, for the above reasons, the proposal would harm the character and appearance of the area. Accordingly, the proposal would conflict with DP policies MD12 and MD2, and CS policy CS6. These seek, among other matters, for development to respond appropriately to the form and layout of existing development and encourage development that conserves natural assets.

Other Matters

15. Chapter 11 of the Framework seeks development to make effective use of land. To achieve this, it encourages using suitable brown field land within settlements for homes, to make efficient use of land and to optimise densities. However, whilst recognising these goals, the appeal site is not previously

developed and was planned within the original estate layout as an area of public amenity land, it would therefore not garner support by chapter 11.

16. The proposal would include the addition of mulch and ground decompaction as ground amelioration to revitalise ground fauna, flora and colonies reflecting good tree management. These proposed enhancement measures would provide some, albeit limited, benefit to the longevity of the tree.

Planning balance and conclusion

17. The Government's objective is to significantly boost the supply of housing. The proposal would provide a dwelling in an accessible location with adequate access to goods and services. Nonetheless, given the small scale of the proposal and the supply of deliverable sites in the District, the provision of one additional house attracts limited weight. Also, the ground works proposed to the base of the tree would confer some, albeit limited, benefit in support of its future growth. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment.
18. Conversely, the location of the proposal within a parcel of high public amenity value would demonstrably harm the character and appearance of the area, eroding the verdant and open character of the site and jeopardising the future retention of the Oak tree. These matters attract significant weight and outweigh the benefits associated with the proposed development.
19. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. For the reasons outlined above, I conclude that the appeal should be dismissed.

Ben Plenty

INSPECTOR