



Appeal Decision

Site visit made on 28 June 2022 by G Sibley MPLAN MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2022

Appeal Ref: APP/C3240/W/21/3289241

3 Davenport Drive, Admaston, Telford TF5 0DY

- 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 Mr & Mrs Davies against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2021/0858, dated 19 August 2021, was refused by notice dated 2 November 2021.
 - The development proposed is described as 'New dwelling and access on land adjacent 3 Davenport Drive'.
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Decision

1. The appeal is allowed and planning permission is granted for new dwelling and access at 3 Davenport Drive, Admaston, Telford TF5 0DY in accordance with the terms of the application, Ref TWC/2021/0858, dated 19 August 2021, subject to the conditions contained in Schedule 1 of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Applications for costs

3. An application for costs has been made by Mr & Mrs Davies against Telford and Wrekin Council and is the subject of a separate decision.

Main Issue

4. Whether the appeal site would be suitable for the proposed development with regard to the effect of the proposal upon the Green Network and its functions, and on the local built and natural environment.

Reasons for the Recommendation

5. The appeal site is an area of land, mainly laid to grass, located at the end of Davenport Drive, a cul-de-sac within the built-up area of Telford. To the west of the site is the Silkin Way, a public right of way and part of a Green Network which includes the appeal site. The Green Network is defined in the supporting text for Policy NE6 of the Telford and Wrekin Local Plan (LP) (adopted 2018) as a strategic interconnected network of open spaces within the urban areas of Telford and Newport, and the Silkin Way forms a green corridor route through Telford. It passes through developed areas, pockets of woodland, meadow and mature parkland.

6. Policy NE6 of the LP states that the Council will only support new development within the Green Network where it identifies, protects and enhances the Green Network and its functions. Alternatively, where adverse impacts are identified, it states that development will need to demonstrate that the benefits of the development outweigh any adverse impacts on the Green Network and its functions. The six functions of the Green Network are set out in the supporting text to that Policy.
7. There are no views over green open areas, water bodies or woodland from the Silkin Way adjacent to the appeal site. The appeal site does not provide open land to meet the recreational needs of the population. Nor does it maintain, protect or enhance geological or architectural features. Accordingly, the site does not perform functions 1, 3 or 5 of the Green Network.
8. This part of the Silkin Way is largely bound by trees and hedgerows which give it a verdant character and create a visual separation from the residential areas either side, which vary in separation distance from the path. There are sections of the route where nearby development is well screened by the trees and hedgerows, but the depth of the vegetative screening varies, and views of the rear or flank walls of dwellings are possible in some places.
9. Therefore, the Silkin Way and its associated vegetation provides separation between the built-up areas either side, which helps to retain and enhance the individual identity of local communities. The trees and hedgerows also provide a natural habitat and an ecological corridor through which wildlife can move. The appeal site is an open area adjacent to the hedge alongside the Silkin Way. It adds to the separation and ecological corridor of green spaces between built development. It therefore contributes to functions 2, 4, and 6 of the Green Network.
10. The proposal would bring built development closer to this side of the Silkin Way and therefore reduce the separation between the built-up areas slightly. None of the dwellings along Davenport Drive are located as close to the Silkin Way as the proposed house but there are other dwellings nearby that are similarly close and are visible from the path. Partial views of a flank wall of a house would not therefore appear alien from the Silkin Way. The dwelling would be set back from the Silkin Way and the proposed new hedgerow would, over time, create a more robust visual buffer between the flank wall of the house and the path.
11. Nevertheless, the proposal would replace an open area of land with a two-storey dwelling. This would adversely affect the positive contribution this site currently makes to the second function of the Green Network. However, given the modest size of the plot and the limited contribution that it makes to this function, the proposed built development would only have a limited adverse impact upon this second function of the Green Network.
12. At present, the appeal site is largely laid to grass and has a limited ecological value. However, the evidence before me suggests that it was previously well vegetated, and that trees on the site have been removed. The Planning Practice Guidance¹ (PPG) states that the existing biodiversity value of a development site will need to be assessed at the point that planning permission is applied for. It may also be relevant to consider whether any deliberate harm

¹ Paragraph 026 Refence ID: 8-026-20190721

to this biodiversity value has taken place in the recent past, and if so, whether there are grounds for this to be discounted in assessing the underlying value of the site (and so whether a proposal would achieve a genuine gain).

13. The Council's Officer Report states that the trees were not covered by a Tree Preservation Order and their removal did not require the Council's consent. There is no substantive evidence before me that their removal was contrary to the requirements of a previous planning permission. From the information before me, it would appear that they were removed approximately five years ago. The Officer Report notes that an application for residential development of the site was made in 2021 but there is no evidence before me of applications prior to this. It therefore appears that there was several years between the removal of these trees and the submission of the first residential application. Consequently, it has not been demonstrated that these actions were directly related and, therefore, has not been shown that deliberate harm to the biodiversity value of the site has taken place in the recent past. I will therefore consider the biodiversity value of the site as it is now.
14. The loss of the existing grass would have limited adverse ecological impact as its biodiversity value is low. The proposal would not result in the loss of any of the trees and hedgerows outside of the appeal site, which are of ecological value. These can also be protected during development by appropriate planning conditions. A dwelling in this location would result in the intensification of the use of the site for residential purposes. Additional lighting and noise could adversely affect the use of the trees and hedgerows in the adjacent green corridor by wildlife, however lighting can be controlled by condition. On that basis, there is no substantive evidence before me that the proposal would harm protected species known to be in the wider area.
15. The siting of the proposed dwelling would not directly affect the usability of the Silkin Way for pedestrians or cyclists. The fact that the flank wall of the house would be visible from it would not materially harmfully alter the character of this section of the Silkin Way, or harm the contribution it makes to the accessible 'green ways' through Telford. Nevertheless, the development of this site would result in a small adverse effect on the extent and openness of the ecological corridor and therefore the fourth and fifth Green Network functions.
16. Balanced against these adverse effects, the proposal contains several measures to mitigate and enhance the ecological value of the site. These include bird and bat boxes and bee bricks, which would provide new habitats that the site, in its current condition, does not provide. Provision of a hedgehog highway would retain the ability for wildlife to pass through the site. The proposed hedgerow, wildflower strips and the native planting beds would also increase the biodiversity value of the site. The new hedgerow would also increase the depth of the landscape buffer alongside the Silkin Way, reinforcing the visual screen and wildlife corridor.
17. Overall, therefore, the proposal would result in a net gain to biodiversity compared to the existing situation and enhance the quality of the natural environment. This would be supported by paragraph 174 d) of the National Planning Policy Framework (the Framework) (revised 2021) and LP Policies NE1 and BE1. Accordingly, I attach moderate weight to these benefits.
18. Furthermore, the proposal would incorporate a number of environmental benefits through the use of an air source heat pump, car charging point, solar

voltaic panels, heat efficient aluminium windows and doors, and proposes to only use mains electric. These measures would help to reduce the greenhouse gas emissions associated with the use of the dwelling. This would be supported by paragraphs 110 a), 112 e) and 152 of the Framework and LP Policy BE1. Therefore, I attach modest weight to these benefits.

19. The proposal would contribute an additional dwelling in a location supported by LP Policy SP1, which states that Telford will be the principal focus for growth to meet the borough's housing development needs during the plan period. The LP also identifies that the Council expects unallocated windfall sites to deliver part of the housing provision. Furthermore, the proposal would support the Government's objective of significantly boosting the supply of homes. There would also be economic benefits during the construction of the dwelling and from the household living in the area. Although all such contributions are valuable, given that this scheme would deliver only a single house however, I attach limited weight to these benefits.
20. The scale of the dwelling and plot size would be similar to the other houses along the street. The use of render and the proposed architectural features of the two-storey gable and the mono-pitched roof over the internal garage and front door are common within the street scene and the wider estate.
21. The dwelling would directly address Davenport Drive, as do the properties on the other side of the road. While the two dwellings along the southern side of the road do not, the proposal would nevertheless be set back a similar distance from the road. The proposal would introduce new built form at the end of the road and greater enclosure, given that it is currently open. However, the driveway in front of the dwelling, the large frontage of No 20 and the remaining open space between No 20 and the Silkin Way would ensure that the open character of this end of the road would not be significantly reduced. There would be a consistent line of development which would allow views down Davenport Drive towards the Silkin Way. The landscaping of the site would also provide some visual enhancements to offset the impact of additional built form.
22. Consequently, the proposal would relate well in visual and architectural terms to surrounding development and respond positively to its context. It demonstrates an integrated design approach incorporating landscaping and biodiversity enhancements into the layout and design, respects the landscape setting and preserves the street pattern. Overall, therefore, it would have a neutral impact on the character and appearance of the area.
23. Therefore, the proposal would result in limited adverse effects on the functions of the Green Network but, balanced against this, it would result in ecological, environmental, social and economic benefits as set out above.
24. Accordingly, the cumulative identified benefits of the development would, in this instance, outweigh the adverse impacts on the Green Network and its functions. Therefore, the proposed development would comply with LP Policy NE6. The proposal would also accord with the requirements of LP Policy BE1 and therefore benefit from its support. Furthermore, the proposal would accord with the Framework's general design policies and those related to ecology and the environment.

25. Therefore, I consider that the appeal site is suitable for the proposed development with regard to the effect of the proposal upon the Green Network and its functions and the local built and natural environment.

Other Matters

26. The site is located in Flood Zone 1 and as such is an area with a low probability of flooding in relation to river and sea flooding. The Lead Local Flood Authority has identified that the site is in an area at low risk from surface water flooding, with no records of surface water flooding at this site itself. Moreover, the area is served by foul and surface water sewers. In view of this, and in the absence of any substantive evidence to lead me to conclude that any additional surface water generated by the development could not be adequately disposed of, I am satisfied that surface water disposal matters could be adequately addressed by a condition. Subject to the approval of an acceptable foul and surface water management scheme, I find that the proposed development would not pose any significant risk through surface water flooding.
27. The proposed dwelling would face the front of 18 Davenport Drive. The distance between these elevations would be similar to other dwellings along the street, albeit in those instances the dwellings face a flank wall. The outlook from No 18 is currently of the open site and the trees and hedgerows that bound it. The proposed two-storey building and associated parking area would be clearly visible and materially alter the outlook from No 18, however looking towards another dwelling across a road is not an unusual relationship in a residential area. The two dwellings would be far enough away from each other to ensure that the proposed house would not create a substantial or harmful sense of enclosure when seen from No 18.
28. Although first-floor windows would face each other across the road, the separation distance would also ensure that both dwellings would retain a level of privacy commensurate with other houses in a built-up residential area, where some intervisibility is to be expected. The proposed dwelling would be even further from other dwellings on this road. Consequently, the proposal would not result in a harmful loss of privacy or outlook to the occupants of other dwellings.
29. The proposed driveway would be wide enough for a vehicle to pass over it without having to enter the parking areas of neighbouring properties. The proposal would provide car parking and turning spaces within the site. These were determined to be acceptable by the Council's Highways Officer, and based on the submitted evidence I see no reason to disagree. There is no technical evidence before me indicating that the required number of spaces cannot be achieved within this site. Accordingly, the parking needs associated with this dwelling would be provided within the site and can be secured by condition.
30. The site is located at the end of a cul-de-sac where vehicular movements are limited, and the proposal would only generate a small number of additional traffic movements per day. Vehicles could enter and exit the site in a forward gear with good visibility. There is no substantive evidence before me that the very limited volume of traffic that would arise from this development, even combined with traffic from nearby larger residential schemes under construction, would result in any significant or harmful impacts on the transport network or on highway safety.

31. The site is located on a residential street with street lighting and where some ambient light from dwellings is to be expected, but lighting can harm neighbouring living conditions depending on the type and location. The Ecological Appraisal has however identified that bats may use the Silkin Way as a migratory corridor as well as for foraging, and could be affected by light from the proposal. External lighting should therefore be controlled by condition to ensure there are no adverse impacts on wildlife, including protected species, or on neighbouring occupiers' living conditions.
32. There is anecdotal evidence of protected bird species active near to the site, however neither the appellants' Ecological Survey or the Council's ecology officer identify that these species are present on site or are at risk from the proposed development. Furthermore, there is no substantive evidence before me that there is currently a badger sett on or close to the site, or that the site is used by Great Crested Newts. There is therefore no compelling evidence before me that the proposal would harm protected species subject to appropriate conditions.
33. Given the proximity of the site to neighbouring dwellings, activities at all stages of construction have the potential to significantly adversely affect the living conditions of surrounding occupiers through noise and disturbance. This can however be mitigated by ensuring that appropriate site management measures are agreed before development commences and are adhered to from the start of construction, which can be secured by planning conditions. The appellants have agreed that a pre-commencement condition is necessary in this regard.
34. The boundary between this site and the Silkin Way is currently hedgerow owned by the Council and an additional hedgerow is proposed to be planted alongside this. Measures to secure appropriate planting, establishment and retention of the landscaping can be secured by condition. The removal of permitted development rights to erect fencing, gates or walls along this boundary is however necessary to ensure that the proposal would not result in the vegetation along this section of the Silkin Way being adversely affected by inappropriate boundary treatments.
35. Whilst this site was not built on as part of the original estate development, that does not preclude the site from being built upon in the future. Moreover, the circumstances of this case are specific to this scheme and each case must be assessed on their own merits. Accordingly, permitting this scheme would not necessarily set a precedent for other sites to be developed along the Green Network.
36. I note that other major residential schemes are currently being developed in Telford that would deliver a large number of new homes. However, this does not justify refusing development elsewhere within Telford on suitable sites.
37. I also note concerns raised regarding matters related to acquiring the site and the relationship between the appellants and the Council as well as any covenants affecting this site. These are however outside of the remit of this planning appeal.

Conditions

38. I have considered the planning conditions suggested by the Council and the appellants, having regard to the tests set out in the Framework. Where

appropriate, I have amended the wording to ensure they are reasonable given the scale of the development and site context and to ensure that they meet all other Framework tests for conditions.

39. In addition to the conditions discussed above, and further to the statutory commencement condition, it is necessary in the interest of certainty that the development is carried out in accordance with the approved plans. I have excluded the submitted 3D images from this list as they are not scaled drawings and as a result are not precise or enforceable.
40. In the interest of the character and appearance of the area a condition is necessary to secure appropriate external materials. Full hard and soft landscaping details are also necessary in the interest of the character and appearance of the area and to ensure the ecological enhancements are delivered. While a planting plan has been provided it lacks detail such as plant sizes and numbers, so further information is required. Some drainage information has been provided but a full drainage scheme and measures to ensure management and maintenance are needed to ensure that the site and area are not at risk of flooding. However, none of this information is necessary before development commences so I have amended the suggested conditions accordingly.
41. A condition to secure other ecological enhancements including bat and bird boxes is necessary to secure the associated benefits. To ensure protected and priority species are not harmed by the proposal, it is necessary that the development is undertaken in accordance with the recommendations of the Greenspace Environmental Ecological Appraisal. A condition is also necessary to protect the trees and hedgerows next to the site during development, as these positively contribute to the Green Network's functions and the character and appearance of the area.
42. The provision of car parking and turning areas are necessary in the interests of highway safety. The car charging point, solar panels and ground source heat pump contribute to the benefits of the scheme and are necessary and relevant to the development to be permitted. A condition to secure them is necessary in the interests of mitigating the adverse effects of the development on the Green Network and to make a positive contribution towards reducing greenhouse gas emissions, as supported by the Framework.
43. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights (PD) unless there is clear justification to do so. Given the limitations associated with PD, extensions and alterations to the house or roof built under PD would be limited in scale and appearance. The site is large enough to ensure that the size of outbuildings allowed as PD would not overdevelop the site. Future changes to windows and doors are again limited by the PD legislation and the site is not located in an area that is particularly sensitive to such development. The type of hardsurfacing used will be an integral part of the drainage scheme and would be required to be maintained and retained to ensure its effectiveness. Consequently, there is no clear justification for removal of these PD rights as suggested by the Council.
44. The site is located at the end of a cul-de-sac in a predominantly residential area where hard surfacing, fencing, gates and walls are common features. However, the hedgerow that bounds the western side of the site makes a

positive contribution both visually and ecologically. Erection of inappropriate boundary treatments could harm this contribution. Therefore, there is a clear justification for removal of permitted development rights to erect boundary treatments close to that boundary of the site, so that consideration could be given to such development through a planning application. There is however no clear justification to remove such rights elsewhere on the site.

Conclusion and Recommendation

45. The proposed development would comply with the development plan and there are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to conditions.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

46. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed subject to the conditions in the following Schedule.

L McKay

INSPECTOR

Schedule 1

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Block Plan DWG No. 3152/1; Proposed Plans DWG No. 3152/2; Proposed Elevations DWG No. 3152/3; Proposed Block Plan DWG No. 3152/4; and Tree Protection Plan DWG No. 1002 Rev A.
3. The development hereby permitted shall not commence until a Site Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:
 - a) Location of any site compound.
 - b) Loading and unloading of plant and materials.
 - c) Storage of plant and materials in constructing the development.
 - d) Storage of oil, fuel and chemicals.
 - e) Prevention of mud being deposited on the highway.
 - f) Measures for the control and reduction of noise from construction works.
 - g) Hours of operation of construction works and other works on the site.

The agreed Site Environmental Management Plan shall be adhered to throughout the construction period and shall not be amended unless the amendments are submitted to and approved in writing by the Local Planning Authority.

4. All existing trees shall be retained, unless shown on the approved drawings as being removed. All trees, hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site, by the erection of protective fencing in accordance with British Standard 5837:2012 and any subsequent update or replacement of these standards. Any trees, hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following completion of the approved development, shall be replaced as soon as is reasonably practicable and, in any case, by no later than the end of the first available planting season, with plants of such size and species and in such positions as approved in writing by the Local Planning Authority.
5. Prior to their installation on the building hereby approved, details of the types and colours of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and shall be retained thereafter.
6. The dwelling hereby approved shall not be occupied until a scheme for both foul and surface water drainage has been implemented in full, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The details of the proposed surface water drainage scheme shall include:

If soakaway drainage is proposed:

 - a) The results of soakaway tests carried out 3 times in accordance with BRE Digest 365 and any subsequent update or replacement of this edition.

- b) Soakaway calculations, based on the worst-case result from the on-site tests.
- c) A detailed drainage design including a plan showing the location of any soakaway. Soakaways should be located no less than 5 metres from any building or boundary.
- d) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
- e) Include a timetable for its implementation.
- f) Provide a management and maintenance plan for the lifetime of the development which shall include, if necessary, the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

If drainage to a water course, sewer or other waterbody is proposed:

- a) A detailed drainage design restricting surface water discharge to 5 litres per second per hectare and attenuating all flows up to and including the 1 in 100 year event + 40% for climate change.
- b) A drainage layout showing the location of any attenuation and flow control features. Any attenuation or flow control features serving more than one property should be located in an area of shared space or Public Open Space.

Once implemented the approved details shall be retained thereafter and managed and maintained in accordance with the approved details.

7. Prior to the first occupation of the dwelling hereby approved, full details of both hard and soft landscaping proposals shall be submitted to and approved in writing by the Local Planning Authority.

These details shall include:

- a) Existing and proposed finished levels or contours
- b) Means of enclosure
- c) Car parking layouts
- d) Other vehicle and pedestrian access and circulation areas.

Soft landscape details shall include:

- a) Written specifications including cultivation and other operations associated with plant and grass establishment
- b) Implementation timetables
- c) Planting plan
- d) Schedules of plants, noting species, planting sizes and proposed numbers/densities
- e) Location and specification of the hedgehog highway and hedgehog house

- f) The specification of the bee brick as shown on the Landscaping Plan dated 30 July 2021.

All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of the development hereby approved or in accordance with the timetable agreed in writing by the Local Planning Authority. Any trees or plants that within a period of 5 years after planting, are removed, die or become in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of a similar species, size and number by the end of the first available planting season.

8. The development hereby approved shall be undertaken in accordance with the details and recommendations as set out in the submitted Ecological Appraisal by Greenspace Environmental, reference 20-08 236.1R and dated 25 March 2021.
9. The dwelling hereby approved shall not be occupied until the following artificial nesting and/or roosting boxes have been installed in accordance with details of their specific type and location, which shall have been submitted to and approved in writing by the Local Planning Authority. These features shall thereafter be permanently retained:
- a) A minimum of one integral woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species.
 - b) A minimum of one woodcrete artificial nest box suitable for bird species such as robin, blackbird and tit species.
 - c) A minimum of one woodcrete artificial nesting box suitable for house sparrow.
10. The development hereby permitted shall not be occupied until the areas shown on the approved plan (DWG No. 3152/4) for parking, loading, unloading and turning of vehicles have been properly laid out, hard surfaced and drained. These spaces shall thereafter be maintained free of any impediment to their designated use.
11. Prior to the first occupation of the development hereby permitted, the car charging point, solar panels and ground source heat pump as shown on the approved plan (DWG No. 3152/3) shall be installed and made available for use in accordance with the approved plans. They shall thereafter be retained and maintained so as to be available for use.
12. No external lighting shall be installed within the appeal site or on the building hereby approved unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The details shall include a lighting plan and the number, specification, luminance and siting of each light or luminaire and shall be designed to take into account of the advice on lighting set out in the Bat Conservation Trust Interim Guidance: "Recommendations to help minimise the impact of artificial lighting" and any subsequent update or replacement of this guidance.
13. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no fencing, gates or walls shall be erected within 3 metres of the western boundary of the site.