



# Appeal Decision

Site visit made on 27 February 2024

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 05 April 2024

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**Appeal Ref: APP/L3245/W/23/3319866**

**Stone Lee, Calcutts Road, Jackfield TF8 7LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr N Thiara against the decision of Shropshire Council.
  - The application Ref is 22/02056/FUL.
  - The development proposed is 7 dwellings.
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## Decision

1. The appeal is allowed, and planning permission is granted for 7 dwellings at Stone Lee, Calcutts Road, Jackfield TF8 7LG in accordance with the terms of the application, Ref 22/02056/FUL, subject to the conditions in the attached schedule.

## Preliminary Matters

2. At the time of my visit construction had commenced on the northern part of the site and two dwellings were partly erected. It is understood that this follows permission granted by the Council<sup>1</sup> for three dwellings at the site. Units 1, 2 and 3 of the appeal proposal are reported to be very similar to those that have been approved. Additionally, Unit 8 is reported to be similar to a previous scheme for a replacement dwelling that the Council previously approved at the site<sup>2</sup>. The appeal proposal is a resubmission of a scheme<sup>3</sup> that was refused for a single reason relating to ecology. The appellant advises that the appeal proposal is a resubmission of the previous scheme but with additional information to overcome the ecology issue.
3. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. The Ironbridge Gorge World Heritage Site Supplementary Planning Document was also adopted after the Council had made its decision. The main parties have been given the opportunity to make extra representations on these matters, and any comments received have been considered in my determination of the appeal.
4. Amended drawings were submitted with the appeal. These revise the proposed design for the porches of Units 1-3 and 5-7. This change is minor. I am satisfied that no party would be prejudiced if I take the amended plans into account. Accordingly, I have determined the appeal on the basis of the amended plans.

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<sup>1</sup> Council Reference: 20/01162/FUL

<sup>2</sup> Council Reference: 15/00512/FUL

<sup>3</sup> Council Reference: 21/02180/FUL

## **Main Issue**

5. The effect of the proposal on the character and appearance of the area, including the Ironbridge Gorge World Heritage Site and the Severn Gorge Conservation Area.

## **Reasons**

6. The appeal site is in a hilly and wooded area with a scattering of low density development that is generally set back from the road and not prominent to view. Nearby built form is mostly modern and of no defining style or layout, with isolated historic buildings.
7. The site is within the Ironbridge Gorge World Heritage Site (WHS). The industrial revolution had its roots in the WHS area. It focuses on a steep-sided mineral-rich river valley that provided the necessary raw materials and resulted in a concentration of mining, foundries, factories, workshops and warehouses which coexist with an old network of lanes, paths, roads, ramps, canals and railways as well as the substantial remains of a traditional landscape and housing. The appeal site relates to Jackfield, which is one of six major areas of interest and is described as a small town located on the south bank of the Severn that made its living from coal mining, clay production and navigation.
8. The appeal site does not feature any above ground heritage assets that contribute to the OUVs of the WHS. The woodlands and generous tree and vegetated boundaries of the immediate area, including those that remain at the appeal site, are characteristics that contribute to the OUVs of the WHS.
9. The appeal site is also within the Severn Gorge Conservation Area (CA). The CA is a broad area that is dominated by its valued landscape and internationally significant industrial heritage. The spacious layout of buildings within the vicinity of the appeal site, and mature trees and woodland blocks are defining characteristics of the area that contribute to its significance. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
10. In terms of density, the proposal would relate comfortably to the scale and density of development established locally and would relate well to the 1940s housing opposite. The proposal would see two dwellings erected at the front of the site, with a generous gap alongside for open space. I accept that these units would be more prominent from the road than The Woodlands; however, this would accord with the low density of nearby road facing development, which would be further softened by the proposed planting, and the open space would allow for the retained tree to continue to grow.
11. The proposed dwellings would have a reasonably uniform design, however with some variety arising from their layout. The four dwellings that would stand at the rear of the site and the replacement dwelling would be set away from the road and not prominent to view. The consistency to the design of the proposed road facing dwellings would be similar to the pairs of 1940s dwellings opposite. At this modest scale, this degree of uniformity would not appear out of place.
12. Trees would be retained across the front of the proposed replacement dwelling. Tree planting to the front of Units 1 and 2 would be modest, however the site would still be viewed within a wooded context, and there are local examples of

development that fronts the road directly such as the pairs of dwellings opposite, so this arrangement would not appear obtrusive or out of place.

13. In summary, the proposal would not harm the character or appearance of the area or the OUV of the WHS. The proposal would also preserve the character and appearance of the CA and would thus accord with the requirements of the LBCA and paragraph 205 of the Framework, which establishes that great weight should be given to the conservation of heritage assets. It would also accord with Policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 and Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDP). Together these Policies seek to ensure that development proposals are well designed to respect local distinctiveness including the built and historic environment.

### **Other Matters**

14. Although not included as a refusal reason, the officer report refers to the need for a legal agreement to secure a financial contribution towards off site open space. There is nothing before me that would secure this contribution, and no mention of this matter is made by the main parties as part of the appeal process. Policy MD2 of the SAMDP requires adequate open space of at least 30m<sup>2</sup> per person. The proposed development would therefore require 780m<sup>2</sup> of open space.
15. In its assessment the Council subtracted the amount of open space required by the extant permission for Units 1-3, which would reduce the required area to 420m<sup>2</sup>. The development would include an area of 306m<sup>2</sup> of open space. The difference between the two figures is not huge. The proposed area would be well laid out. It would be central to the development and would be alongside retained trees, thus making it a space that would be attractive for the use of future residents. It would be sufficiently sized for the development. I am satisfied that this provision would be acceptable, and that it would accord with the aims of the Policy. On this basis this matter should not form a main issue of the appeal.
16. I note the various objections to the scheme that are before me. In terms of privacy, the distance between the rear of the proposed dwellings and the front elevations of dwellings in The Woodlands development is sufficient to ensure an acceptable level of privacy, especially when the public nature of the intervening space with its existing access road means that the area is already not private.
17. With regard to parking, I note that the Highway Authority did not object to the proposal, and I see no reason to take a contrary view. The development includes sufficient parking for each dwelling and a condition can be used if the appeal is allowed to ensure that the estate road is properly surfaced and fit for use before the dwellings are occupied.
18. I note that a previous scheme for the same development was refused solely because updated bat surveys were required. These were submitted and were sufficient to overcome the Council's concerns. If the appeal is allowed, conditions can be used to further ensure that protected species are not harmed by the development.
19. On this basis there are no other matters that weigh against the proposal.

## **Conditions**

20. I have had regard to the conditions suggested by the Council. I have considered these against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed condition 2 to specify the approved plans, to give certainty.
21. Condition 3 is necessary to ensure that archaeological interest at the site is properly understood before work commences.
22. Conditions 4 to 8 are necessary to ensure that site conditions are properly understood in relation to drainage, contamination, and land stability. The provision of details shall ensure that the development does not increase the risk of flooding, secures appropriate remediation if contamination is found, and appropriately addresses matters relating to land instability. Details of foul and surface water drainage design were submitted to the Council. However, conditions are still necessary to require the submission of further details as matters raised by the Council's consultee remain unresolved.
23. Conditions 9 to 11 are necessary to ensure that measures are in place to avoid harm to protected species and provide future roosting and nesting opportunities.
24. Conditions 12 to 15 are necessary to ensure that existing trees to be retained are properly protected during the construction phase and that the proposed landscaping is implemented. Such measures will safeguard the character and appearance of the area and ensure that the development is well integrated.
25. Condition 16 and 18 are necessary to manage the external appearance of the dwellings hereby approved, to safeguard the character and appearance of the area, and safeguard protected species.
26. Condition 17 is necessary to ensure the safe operation of the highway network.
27. The Council's officer report refers to the need for a condition to restrict permitted development rights for the formation of new openings on Plot 3 to protect the living conditions of the occupants of No. 7 The Woodlands. The side gable of the proposed garage that would be attached to the dwelling would face towards this neighbour. Given the form of the garage roof and the way it would abut with the side of the two storey dwelling, there would be very little opportunity for new openings to be formed that would look out towards the neighbour. I am therefore of the view that a condition relating to this would not be necessary.

## **Conclusion**

28. For the reasons given above the appeal should be allowed.

*A Tucker*

INSPECTOR

### **Schedule of Conditions**

- 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: 531-19-02, 3078/1a, 3078/2a, 3078/3g, 3078/12, 531-19-25 Rev A, 531-19-30 Rev C, 531-19-15 Rev B, 531-19-05, TS93-C-007b Rev02, TS93-C-007 Rev06, TS93-C-008 rev05, TS93-C-009 rev05, 3078/4a, 3078/5, 3078/6a, 3078/7a, 3078/8a, and 3078/9 rev a.
- 3) No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority (LPA) prior to the commencement of works.
- 4) No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the LPA. The approved scheme shall be fully implemented before the development is occupied.
- 5) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance – Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the LPA before development commences.
- 6) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the LPA. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the LPA. An investigation and risk assessment must be undertaken in accordance with the above requirements, and where remediation is necessary a remediation scheme must be prepared in accordance with the above requirements, which is subject to the approval in writing by the LPA.

Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the LPA that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land

under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

- 7) No development shall commence until remedial stabilisation works to address land instability arising from recorded mine shaft 368302-036 have been implemented on site in full to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.
- 8) Prior to the first occupation of the dwellings hereby approved, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the LPA for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.
- 9) No development shall take place to the bungalow, including demolition works, until:
  - a) a European Protected Species (EPS) Licence with respect to bats has been obtained from Natural England and submitted to the LPA; or
  - b) a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the LPA explaining why a licence is not required and setting out any additional mitigation measures required for prior approval. These measures will be implemented as approved.
- 10) A minimum of 4 Roosting opportunities shall be created prior to the occupation of the dwellings hereby approved in accordance with Section 4.3 of the Bat Roost Assessment (Turnstone Ecology, July 2022). The roosting opportunities shall thereafter be maintained for the lifetime of the development.
- 11) Prior to first occupation of the dwellings hereby approved, the makes, models and locations of bird boxes shall be submitted to and approved in writing by the LPA.

This shall include a minimum of 6 artificial nests, of either integrated brick design or external box design, suitable for Swifts (Swift bricks or boxes with entrance holes no larger than 65 x 28 mm can accommodate a wide range of species (CIEEM, 2019)), Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development.

The boxes shall be sited in suitable locations and at least 2m from the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.
- 12) All pre-commencement tree works and tree protection measures as detailed in Section 1.11 (Arboricultural Method Statement), Appendix 1 (Tree Survey Schedule) and Appendix 2 (TS93-C-004 Rev04, TS93-C 005 Rev04 and TS93-C-006 Rev04: Tree Protection and Removal Plans) of the approved BS5837: 2012 Pre-development Tree Condition Survey (TS93-C Issue 4, Access2trees, September 2021) shall be fully implemented to

- the written satisfaction of the LPA, before any development-related equipment, materials or machinery are brought onto the site.
- 13) The development shall be implemented in accordance with the Arboricultural Method Statement (Section 1.11) and Tree Protection and Removal Plans (TS93-C-004 Rev04, TS93-C-005 rev04 and TS93-C-006 Rev 04, Appendix 2) of the approved BS5837: 2012 Pre-development Tree Condition Survey (TS93-C Issue 4, Access2trees, September 2021). The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.
  - 14) All services will be routed outside the Root Protection Areas indicated on the approved plans or, where this is not possible, a detailed method statement and task specific protection measures shall be submitted and approved in writing by the LPA prior to any work commencing.
  - 15) The approved landscaping scheme shall be implemented as specified in the Landscape Proposals drawings (TS93-C-007 Rev06 and TS93-C 007b Rev02), Planting Schedule (TS93-C-008 Rev05) and Planting Specification (TS93-C-009 Rev05). It shall be completed prior to occupation of the first dwelling. If within a period of five years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the Local Planning Authority becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.
  - 16) Prior to commencement of the relevant works full details of all external materials including walls, roofs, doors, windows, guttering and facias shall be submitted to and approved in writing by the LPA.
  - 17) Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted to, and approved in writing by, the LPA.
  - 18) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the LPA. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.