

Appeal Decision

Site visit made on 7 September 2016

by Nicola Gulley MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2016

Appeal Ref: APP/Q4625/W/16/3151669

Rear of 159 Solihull Road, Shirley, Solihull, West Midlands, B90 3LQ

- 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 J Harte against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2016/00463/COU, dated 16 February 2016, was refused by notice dated 6 May 2016.
 - The development proposed is described as the change of use of amenity land to rear garden of 159 Solihull Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the planning application differs from that on the appeal form. However, I note that Council has considered the proposal on the basis of the description on the appeal form and I will determine the appeal on the same basis.

Main Issue

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

Reasons

4. Policy P15 of the adopted Solihull Local Plan (LP) (2013) requires that, amongst other things, proposals for new development conserve and enhance the local character, distinctiveness, streetscape and landscape quality of an area and do not have an adverse effect on green infrastructure. In addition LP Policy P20 seeks to ensure the retention of open space, sports and recreation facilities unless it can be demonstrated that it is surplus to requirements or the need or benefit from the development outweighs the loss. In this instance the development proposes the change of use of an existing area of amenity space, the clearance of the removal of trees and shrubs from the central section of the site and its incorporation into the rear garden curtilage of 159 Solihull Road.
 5. The appeal site comprises a roughly triangular area of land located to the rear of 159 Solihull Road that forms part of an area of public open space between Swinbrooke Way cul-de-sac and Ashwell Drive. The site is occupied by a
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number of mature trees that form part of a larger copse which is the subject of a Tree Preservation Order (ref no. 205). The position of the mature copse and associated public open space, in a prominent position at the junction of Ashwell Drive and Solihull Road, assists in screening the views between Solihull Road, Ashwell Road and Swinbrooke Way cul-de-sac and contributes to the sense of openness in the surrounding residential estate. Whilst I note that the appellant proposes to retain the trees on the perimeter of the appeal site, I nevertheless consider that the loss of the trees and shrubs in the interior of the site would reduce the dense verdance of the protected copse and, as a consequence, its amenity value, increase the inter-visibility between the surrounding streets and diminish the sense of spaciousness in the area surrounding Ashwell Drive.

6. With regard to the loss of amenity space, whilst I note the appellants comments I am mindful that no substantive evidence has been presented to demonstrate that the appeal site is surplus to requirements or that the need or benefit of the development outweighs the loss of the space
7. In light of the above I consider that the proposed development would have an adverse effect on the local character, distinctiveness, streetscape and landscape quality of an area, diminish the amenity value of the protected copse and result in the unjustified loss of public open space. As such the proposal would be contrary to the objectives of LP Policies 15 and 20.

Other Matters

8. In addition, I note that the appeal site would remain in the ownership of the Council and that the appellant contends that as part of the leasing arrangements it would retain control over the use of the land. However, issues in relation to the title and ownership of land are matters of private interest which are not material to my decision on the planning merits of the scheme.
9. In reaching my decision I have had regard to all the matters raised in support of the proposal. However, none of these factors are sufficient to alter my overall conclusions.
10. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Gulley
INSPECTOR