
Appeal Decision

Site visit made on 24 October 2016

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 28th October 2016

Appeal Ref: APP/V4630/W/16/3154689

Land adjacent 21A Millfield Avenue, Bloxwich, Walsall WS3 3QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr P Cheema against Walsall Council.
 - The application Ref 15/1229 is dated 29 October 2015.
 - The development proposed is construction of 3 No apartments.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal is against the failure of the Council to issue a decision in respect of application Ref 15/1229 within the prescribed period. Following the submission of the appeal the Council resolved that, were it in a position to determine the application, then permission would be refused. From my reading of the evidence and my site visit I consider the main issues for this appeal are the effect of the proposed development on the character and appearance of the area, taking particular account of the effect on protected trees, and the effect of the proposed development on highway safety.

Reasons

Character and appearance

3. The appeal site is part of the former garden of 38 Selmans Hill, and is situated behind Nos 32 and 34 Selmans Hill and adjacent to properties on Millfield Avenue. It is a grassed area with trees. Properties on Selmans Hill generally comprise detached and semi-detached properties in generous plots. Mature trees to the rear of these properties make a positive contribution to the appearance of the area. There are a number of trees on the southern and eastern boundaries of the site that are visually significant and which are the subject of Tree Preservation Order 22:1990 (the TPO).
 4. Planning permission was granted for a 2 bedroomed detached bungalow on the appeal site Ref 12/1513/FUL. The proposed building would be sited in a similar position with a similar footprint and ridge height although it would have a gable rather than hipped roof and would incorporate 5 dormer windows for first floor accommodation. The proposed parking and turning area would be significantly larger than was the case with the approved scheme and would be in close proximity to trees protected by the TPO. In particular the edge of the parking
-

and turning area would be very close to the trunk of two of the protected Lime trees. The submitted Arboricultural Report and Statement suggest measures could be put in place to protect the trees during construction and that a "minimum dig" approach could be used.

5. Most of the site is about 1m higher than Millfield Avenue and the trees are situated on the higher level. Some alteration of ground levels would be necessary to provide the parking and turning area. I have seen no evidence of proposed levels or the engineering works that might be necessary. Based on the evidence before me, I cannot safely conclude that the trees could be satisfactorily protected during construction or that the proposal would not adversely harm their future health. Moreover, there would be little space within the proposed layout for replacements for those protected trees which are dead or declining as required by the Town and Country Planning Act 1990.
6. The appellant indicates that the proposed development would incorporate pruning to protected trees that would address concerns expressed by neighbours about the stability of branches. Works in accordance with the TPO legislation could take place without this particular development and I therefore give this point little weight.
7. The proposed development would bring into use a site that is currently neglected which may improve property values in the area. However, there are other ways in which the site could be used that would have less effect on the protected trees and so I give this point little weight in my considerations.
8. For the reasons given above I conclude that due to the effect on protected trees the proposed development would unacceptably harm the character and appearance of the area. It would therefore not conform to Policy ENV3 of the Black Country Core Strategy (CS); Saved Policies GP2, ENV18 and ENV32 of the Walsall Unitary Development Plan (the UDP); Policies NE7 and NE8 of the Supplementary Planning Document "Conserving Walsall's Natural Environment" or those principles of the National Planning Policy Framework (the Framework) that seek to protect trees and the character and appearance of the local area.

Highway safety

9. Access to the appeal site would be from an unadopted cul de sac owned by Walsall Housing Group. The cul de sac serves No 21A, a detached bungalow and gives vehicular access to garages/parking areas in the rear gardens of Nos 23–49 (odds) Millfield Avenue. The cul de sac is about 4m wide. There are footpaths on both sides. These are about 1.2m wide, which is narrower than the 2m width preferred by the Department of Transport Guidance Manual for Streets 2007 and by Department of Transport Inclusive Mobility Guidance, although the presence of grassed areas along significant stretches of the cul de sac provides additional space particularly for pedestrians.
10. I saw some vehicles parked on Millfield Avenue and photographs of vehicles parked on the footpaths and in front of the appeal site. However, subject to satisfactory parking and turning facilities being provided within the site, I consider the additional traffic generated by three properties would not significantly affect existing access arrangements or significantly compromise highway safety for vehicles, including emergency vehicles, or for pedestrians or wheel chair users. Some owners may park their vehicles, inconsiderately but I

have no reason to suppose that occupiers of the proposed development would do so.

11. Refuse bins could be placed at the boundary of the appeal site and refuse collection vehicles could access these in the same way as from other properties along the cul de sac. Cycle parking within the site could be secured by a planning condition.
12. The Framework says that development should only be refused on transport grounds where the impacts of developments are severe. The grant of planning permission does not override the responsibilities of developers in respect of damage to other property and any damage to the road surface would be a private matter between the developer and the land owner.
13. For the reasons set out above I therefore conclude that highway safety would not be prejudiced to such an extent as to justify planning permission being withheld on highway safety grounds. The proposed development would therefore not conflict with Saved Policy GP2 of the UDP; Policy TRAN4 of the CS; the Department of Transport Guidance or those principles of the Framework that require developments to provide safe and suitable access for all.

Conclusion

14. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the appeal should not succeed.

SDHarley

INSPECTOR