
Appeal Decision

Site visit made on 10 January 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 09 February 2017

Appeal Ref: APP/C4615/W/16/3160197

Land between 111 and 117 Cotwall End Road, Sedgley, Dudley, West Midlands DY3 3YQ

- 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 Ray Westwood against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P16/0774, dated 24 May 2016, was refused by notice dated 15 August 2016.
 - The development proposed is to construct two new dwellings on a vacant plot of residential land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have altered the description of the development in the banner heading to remove the superfluous description that is not an act of development.
3. For the purposes of clarity and accuracy the address used in the banner heading is taken from the appeal form.
4. The application was submitted in outline with all matters reserved for future consideration. I have dealt with the appeal on this basis, treating the proposed site plan¹ as indicative only.

Main Issue

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

Reasons

6. The appeal site comprises an undeveloped, mainly turfed, piece of land between existing residential properties. It slopes up appreciably away from the Cotwall End Road frontage. There is a public right of way (PROW) that traverses through the site in close proximity to the site boundary with 111 Cotwall End Road.
7. The area in the vicinity of the appeal site is characterised by a variety of age and style of buildings. The majority appear to be modern and they are made up of a mixture of bungalows and houses. However, despite this variety there is a clear linear pattern of development with well-spaced, mainly detached dwellings set in generous plots. The majority of dwellings are set back behind

¹ Drawing Ref : 2 WEST OP1

front gardens and have large rear gardens. This gives the area an open and spacious character and appearance, which is further enhanced by the presence of established trees within gardens.

8. I note that the appellant considers that the site is large enough to accommodate 2 dwellings whilst meeting the Council's guidelines in its New Housing Development Supplementary Planning Document (SPD). However, due to the confines of the site, including the PROW, if 2 dwellings were to be positioned both directly fronting Cotwall End Road the proposal would create a more closely spaced pattern of development than that, which predominates in the surrounding area.
9. The indicative layout shows a bungalow positioned behind a proposed dwelling that would directly front onto Cotwall End Road. I acknowledge that as access is reserved for future consideration that the dwellings could have separate access drives and as such the proposal may not be defined as 'tandem' in the SPD (page 42). I also note that the bungalow to the rear of the site would not be directly behind an existing property.
10. However, a dwelling in that position would be to the rear of the proposed dwelling at the front of the site and it would not have a direct road frontage. As such, I consider that it is reasonable to state that the dwelling to the rear would be in a backland location. I note that the dwelling at the rear would be in close proximity to the dwellings on Barn Avenue. However, the positioning of a dwelling behind the frontage property would be at odds with the predominant pattern of development in the vicinity of the appeal site, in which dwellings are arranged in a linear way and directly face the public highway.
11. Furthermore, although the dwelling at the rear would be set well back from the road and is indicated to be a bungalow on the indicative layout, it would be seen in views along a new access drive and from the PROW, neighbouring properties and gardens. The proposed development with the indicative layout or another layout for 2 dwellings would not be consistent with the established pattern of building in the area and in comparison with adjacent properties would appear cramped. The proposal would thus detract from the spacious character of the locality. Consequently, it would result in significant harm to the character and appearance of the area.
12. I acknowledge that the site does not appear to be part of a residential garden. The appellant has stated that the site is brownfield land even though it has not been previously developed. However, based on the information submitted as part of the appeal and my observations at the site visit, I have no evidence that there is or has been a permanent structure or fixed surface infrastructure on the site. Even if there was either a permanent or fixed surface structure on the site the remains of it have blended into the landscape. Consequently, the site cannot be treated as being previously developed as defined in the Glossary at Annex 2 to the National Planning Policy Framework (the Framework).
13. Policy HOU1 of the Black Country Core Strategy (CS) states that at least 95% of new housing will be built on previously developed land. However, even though the policy prioritises housing development on previously developed land the scheme would only make a small contribution to housing supply. As such the proposal would not conflict with CS Policy HOU1.
14. Bearing in mind this is an outline application, a reserved matters scheme could be appropriately designed, in relation to the architectural style and materials, which would be in keeping with the locality. I acknowledge that the proposal

would not harm the public footpath but these findings of no harm are neutral factors which do not weigh for or against the proposal.

Other Matters

15. The appellant has drawn my attention to other developments that have been built or approved in the area. However, I do not have the full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. Moreover, since the matter under consideration in this appeal is specific to the site and its immediate surroundings I have given them limited weight. In any case I have considered the appeal proposal on its own merits.
16. In terms of the three dimensions to sustainability set out in paragraph 7 of the Framework, the proposal would make a modest contribution to the local economy including the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts. I acknowledge that there would be sustainability benefits associated with the proposal. There is no dispute between the parties that the appeal site is in a sustainable location. The dwellings would have a social role by making a small contribution to the housing supply.
17. I have found that the proposal would result in significant harm to the character and appearance of the area. As such it would not accord with the environmental dimension of sustainable development. Given that the 3 roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development.

Conclusion

18. Taking into account all of the above, the development would result in significant harm to the character and appearance of the area. Consequently the proposal would be contrary to Policies CSP4, HOU2, ENV2 and ENV3 of the CS and Policies DD1 and DD4 of the Dudley Unitary Development Plan which collectively include, amongst other things, requirements for high quality design that ensures that spaces and buildings will be influenced by their context, protect local distinctiveness and that there is no adverse effect on the character of the area.
19. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
20. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR