
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/P1805/W/16/3157759

Land adjacent to 2B Cherry Hill Road, Barnt Green, Bromsgrove, Worcestershire B45 8LB

- 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 David Dodgson and Mrs Beryl Bellingham against the decision of Bromsgrove District Council.
 - The application Ref 16/0028, dated 6 January 2016, was refused by notice dated 19 April 2016.
 - The development proposed is demolition of existing garages, construction of single storey detached apartment and parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended plan¹ in relation to the parking layout was submitted during the appeal process but the appeal process should not be used to evolve a scheme. The revised parking layout also appears to alter the floor plan of the proposed dwelling and as such it involves revisions that are not of a minor nature and as such I cannot guarantee that no party would be prejudiced by my consideration of its content. Therefore, I have not taken it into account in the determination of this appeal.
3. It has been brought to my attention that the Bromsgrove District Plan 2011-2030(BDP) was adopted on the 25th January 2017. The BDP replaces the saved policies of the Bromsgrove District Local Plan referred to in the Council's reasons for refusal. Both parties are aware of this and have had a chance to comment. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.

Main Issues

4. The main issues are:-
 - The effect of the proposed development on the character and appearance of the Barnt Green Conservation Area (BGCA);
 - The effect of the proposed development on the living conditions of the occupiers of the adjacent apartments with regard to outlook and privacy;

¹ Plan No 0347/2A

- The effect of the development on highway safety.

Reasons

Character and appearance

5. The appeal site comprises part of the grounds to 'The Woodlands' which was originally built as a large house but has been converted into 3 apartments. The site is within BGCA and an area identified as Fiery Hill within the Conservation Area Document (CAD). Whilst not an adopted Conservation Area Appraisal the CAD states that BGCA varies in character from the lower density more sporadic pattern of well-crafted 3-storey palatial dwellings on the west side, to the higher density 2-storey early 20th century more formal housing layout on the eastern flanks.
6. With some exceptions, much of the development in the immediate vicinity of the site comprises large detached dwellings which together with generous gardens and mature landscaping results in a spacious and verdant character. I acknowledge that there is variety in the age and architectural style of the dwellings. However, from the details provided and my own observations, I consider that the significance of BGCA is mainly drawn from the historic buildings it contains, the extent of open space and trees and the relationship of the buildings to each other and the spaces between and around them.
7. The overall area of land associated with 'The Woodlands' stretches from Fiery Hill Road through to Cherry Hill Road. The main building is set well back from and fronts Fiery Hill Road. The proposal would involve the construction of a detached single storey building fronting Cherry Hill Road replacing existing blocks of garages. Even though the description of the development relates to a detached apartment the proposal would essentially have the appearance of a bungalow. The proposal would be seen, in conjunction with the rear elevation of 'The Woodlands', in views from Cherry Hill Road through the gateway to the site and above the existing boundary hedges.
8. I acknowledge that the existing garage blocks and parking areas do not make a positive contribution to the character and appearance of BGCA and that there are modern dwellings facing Cherry Hill Road. However, the proposal would extend across the majority of the site's frontage and due to the irregular shape of the site it would be in close proximity to part of the rear elevation of 'The Woodlands'. As such, there would be little space between the proposal and the existing apartment building and it would result in uncharacteristically small open areas between 'The Woodlands' and the proposed dwelling. This would erode the spacious character of this part of BGCA.
9. There is an extant planning permission² on the site for a 2-storey extension to the rear of the main building. There would be a reasonable prospect of the extant permission being implemented if the appeal is dismissed. This constitutes the fallback position and as such I give the fallback position considerable weight.
10. The 2-storey extension would be linked to and in close proximity to the main building. However, as an extension to the main building, visually it would be ancillary to that building and would not necessitate the permanent subdivision of the site associated with 'The Woodlands'. Moreover, it would be well

² 16/0638

contained within the area fronting Cherry Hill Road and as a result it would have an appreciable amount of space around it.

11. Whereas, the proposal would represent a departure from the established pattern of development and it would significantly reduce the spaciousness of this part of Cherry Hill Road and BGCA. Consequently, it would appreciably erode the character, appearance and significance of BGCA.
12. The proposed dwelling would be constructed in materials and of an architectural style that would reflect those used locally and the hedges and trees on the site boundary would be retained. However, a lack of harm in these respects are neutral considerations and do not outweigh the harm that I have identified.
13. Taking all the above points into consideration, the proposed development would have a negative impact on the character and appearance of BGCA. Thus, it would fail to preserve or enhance the character or appearance of BGCA and the significance of the designated heritage asset would be harmed. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
14. In the language of the National Planning Policy Framework (the Framework), the harm the proposal would cause to the significance of the BGCA would be less than substantial on the basis that, although adverse, the impact would be on a relatively small area of BGCA and would not compromise its designation. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
15. The economic and social benefits arising from the supply of one dwelling, its occupation and construction works and the energy efficiency of the dwelling can be treated as public benefits. However, these limited benefits would be insufficient to outweigh the harm to BGCA.
16. In conclusion, the proposal would fail to preserve the character or appearance of BGCA, thereby causing less than substantial harm to its significance as a designated heritage asset. As the public benefits would not outweigh this harm it is therefore contrary to BDP Policies BDP1, BDP 19 and BDP 20 and paragraph 134 of the Framework. The BDP policies seek development that, amongst other things, delivers high quality design by ensuring development enhances the character and distinctiveness of the local area and preserves or enhances the character or appearance of the Conservation Area.

Living Conditions

17. The Council's Residential Design Guide Supplementary Planning Guidance Note 1 (SPG 1) states that privacy of houses and gardens can be achieved by distance and design. It goes on to state that a minimum separation of 21 metres is required to achieve a degree of privacy between conventional 2-storey dwellings but where there are main living rooms above ground floor level such as with flats a minimum separation of 27.5 metres is required.
18. The Council's Officer Report states that the proposal would not meet the minimum separation distances and I have no reason to dispute this. I acknowledge that the rear elevations of the proposal and 'The Woodlands'

would be at a slight angle to each other, that the parts of the proposal nearest to the existing building have been designed without windows and that boundary treatments could assist in mitigating overlooking at ground floor level.

19. However, there are main living room windows at first floor level on the rear elevation of 'The Woodlands' and the windows that would be on the rear elevation of the proposal would have a view, albeit at an angle, into those first floor windows. Furthermore, the proposed dwelling would be at an appreciably higher ground level than 'The Woodlands'. The proximity of these windows to each other would mean that occupiers of the first floor apartments would suffer from a substantially reduced level of privacy. I consider that planning conditions could restrict the use of the first floor and any dormer windows/rooflights in the rear roof slopes of the proposal if I was minded to allow the appeal. However, this would not mitigate the harm that I have identified.
20. The ground floor windows of the existing apartment, which would be in closest proximity to the proposal, currently have a relatively open aspect overlooking a grassed bank and the smaller block of garages. The proposal would be slightly closer to those windows than the existing garages and it would be taller due to the pitched roof. However, the roof would slope away from the windows and as such I do not consider that the proposal would be experienced as overbearing by the occupiers of 'The Woodlands'. Moreover, the outlook from those rooms would be no worse than that with the fallback position taking into account the proximity of the proposed 2-storey extension to them.
21. Nonetheless, I conclude that the development would cause material harm to the living conditions of the occupiers of 'The Woodlands' in terms of privacy. This factor outweighs my findings regarding outlook. Accordingly, the development would be contrary to BDP Policy BDP1 which, amongst other things, seeks development that has regard to the impact on residential amenity. Furthermore, the proposed development would not comply with the guidance in SPG1 and it would conflict with the Framework as it would not secure a good standard of amenity for all existing occupants of land and buildings as required by paragraph 17.

Highway safety

22. The dwelling would have a double garage and sufficient space to park and manoeuvre a number of cars. The existing gateway and drive to Cherry Hill Road, albeit widened, would be utilised to access the site and a parking area for one of the existing apartments. I acknowledge that this gateway and drive currently provides access to the main parking area for the apartments. As such the use of this gateway would be no greater than the existing situation. Therefore, even though the drawings do not illustrate what visibility splays can be achieved at the widened access the proposed use would have no greater impact on highway safety than the existing use, in this respect.
23. Nonetheless, the proposal would displace the main parking area for the existing apartments. I note that the Highway Authority have stated that the existing flats would require 2 car parking spaces each. I have not been provided with any adopted parking standards. The two parking spaces P1 and P2 on drawing No 0347/2 would have minimal space to manoeuvre. As such it is likely that drivers would need to reverse in or out of the driveway and due to the limited

manoeuvring space they would be difficult to use. Consequently, I consider that it is unlikely that they would be used on a regular basis.

24. However, I noted at the site visit that there is an access drive and parking area to the front of 'The Woodlands' from Fiery Hill Road. In addition to the extant permission for the 2-storey extension³ which included the subdivision of one of the existing apartments there is an extant planning permission for a subterranean apartment⁴ to the front of 'The Woodlands'. The subdivision of the existing apartment could be implemented without the 2-storey extension and the present proposal would also not impede its implementation.
25. The site plan⁵ submitted as part of subterranean apartment application indicates that 7 parking spaces would be provided as part of that scheme. There would be a reasonable prospect of the extant permissions being implemented if the appeal is dismissed. This constitutes a fallback position and as such I give it considerable weight.
26. Taking into account the 3 existing apartments there is a parking requirement of 6 parking spaces. In a worst case scenario with the extant permissions for the subdivision and the subterranean apartment there would be a requirement of 10 parking spaces. I consider that whilst the parking area shown on the subterranean flat permission is not part of the appeal site the provision of this parking could be controlled by condition. As such if the extant permission was completed and the 2 spaces accessed off Cherry Hill Road are discounted due to my concerns in relation to their use there would be a maximum shortfall of 3 parking spaces.
27. I noted at my site visit that the majority of dwellings in the immediate vicinity of the appeal site have off-street parking provision and that there was little on-street parking. I acknowledge that levels of parking in the evening when some residents return from work could be higher. However, given the availability of off-street parking I do not consider that this would significantly increase the level of on-street parking. Consequently, the possible overspill of 3 additional cars would not create any additional harm to the highway network. I also noted at my site visit that the appeal site is within walking and cycling distance of the train station and the services and facilities within Barnt Green.
28. The Framework has a core principle of making the fullest possible use of public transport, walking and cycling, and advises that parking standards should take account of (amongst other things) the accessibility of development and the availability of public transport (paragraph 39). A revision to this paragraph in the Written Ministerial Statement of March 2015 (WMS) highlights that any local parking standard should only be imposed where there is clear and compelling justification. In this instance as the possible overspill would be limited, there would be no harm to the highway network and taking into account the accessibility of the site no such justification is before me.
29. I note that no cycle parking has been provided for the proposal. However, I consider that this matter could be dealt with by way of a planning condition.
30. Taking into account all of the above I consider that the proposal would not harm highway safety and in this respect it would comply with BDP Policies

³ 16/0638

⁴ 15/0823

⁵ 0252/IV/P2B

BDP1 and BDP19 which, amongst other things, seek development that has regard to the accessibility to public transport options and the ability of the local and strategic road networks to accommodate additional traffic and is accessible to all users.

Other Matters

31. The Council have referred to BDP Policy BDP2 but they have not provided an explanation as to why they consider that the proposal conflicts with the settlement hierarchy outlined in this policy. I acknowledge that the site cannot be treated as previously developed land as it is part of a residential garden in a built up area. However, this policy has not been decisive in my determination of this appeal.
32. In relation to the Framework's three dimensions of sustainable development I acknowledge that there would be sustainability benefits associated with the proposal. Specifically, the appeal site is within the built up area of Barnt Green where there is a range of services and facilities available. One additional dwelling would be provided which would have economic and social benefits.
33. However, I have found that the proposal would harm the character and appearance of the area and it would result in less than substantial harm to the character and appearance of BGCA that is not outweighed by the public benefits of the scheme. I have also found that the living conditions of the occupiers of 'The Woodlands' in terms of privacy would be harmed.
34. As such, in these respects the proposal would not accord with the environmental and social dimensions 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
35. The harm that I have identified above also leads me to conclude that the proposal would conflict with the development plan. 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.

Conclusion

36. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR