
Appeal Decision

Site visit made on 2 May 2017

by B Bowker Mplan MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/R1845/W/17/3167317

Plot to North West of 31 Church Walk, Areley Kings, Stourport-on-Severn, Worcestershire DY13 0AL

- 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 Mrs Gillian Everton against the decision of Wyre Forest District Council.
 - The application Ref 16/0520/OUTL, dated 1 September 2016, was refused by notice dated 18 October 2016.
 - The development proposed is application for outline planning approval for the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application submitted was for outline planning permission with all matters reserved. Access, appearance, layout, landscaping and scale are reserved for later consideration and the appeal has been determined on this basis.
3. The application date in the photocopied version of the submitted application form is illegible. Consequently, the application date used above is taken from the appeal form.

Main Issues

4. The main issues are the effect of the proposal on:
 - The Council's aim of directing development towards brownfield sites; and,
 - The character and appearance of the surrounding area.

Reasons

Local Plan Policies

5. The appeal site comprises a front garden area that serves No 31 Church Walk, a detached dwelling located in a residential area within the settlement boundary of Stourport-on-Severn. The National Planning Policy Framework (the Framework) specifically excludes residential gardens located in built up areas from the definition of previously developed land. Consequently, for planning purposes, the site is not previously developed land.
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6. To promote the regeneration of main towns such as Stourport-on-Severn, Core Strategy (CS) Policies DS01 and DS02 stress the need to concentrate new development on previously developed land. Whilst neither policy categorically rules out development elsewhere, Policy SAL.DPL1 of the Site Allocations and Policies Local Plan (SAP) provides further clarification and states that in order to meet the housing requirement outlined in CS Policy DS01, residential development will only be allowed on allocated sites. Policy SAL.DPL1 lists a number of exceptions to this principle. However, the proposal is not on an allocated site and would fail to meet any of the listed exceptions.
7. Two appeal decisions¹ are cited by the Council in support of its approach to the above local policies. As there has been no material change in circumstances since the two decisions, the conclusions reached in them further reinforce my reasoning above.
8. Therefore the proposal would be contrary to the Council's aim of directing development towards brownfield sites. Consequently the proposal would be contrary to SAP Policy SAL.DPL1 and CS Policies DS01 and DS02, the requirements of which are outlined above.

Character and Appearance

9. The front section of the site and the shared boundary with No 39 is vegetated and includes a number of trees subject to a group Tree Preservation Order (TPO). Irrespective of the varied design of surrounding properties, the trees and vegetation at the front of the site make a positive contribution to the attractive and prevalent verdant character along Church Walk.
10. The submitted block plan annotates the positions of the frontage trees and it is asserted that careful siting of the dwelling would ensure no harm to the group TPO trees. However, no credible evidence is before me to demonstrate that the site could in principle fully accommodate the proposal without harm to the trees. Although layout is a reserved matter, a grant of outline planning permission would establish the principle of the proposed dwelling at the site. Consequently, taking into account the location of the trees and their important contribution to the surrounding verdant character, the need to ascertain the effect of the proposal on them is of particular importance.
11. Therefore, I agree with the Council that a Tree Survey is required to establish and ensure that the proposal, including the construction process, does not have a detrimental effect on the trees. I also note that in order to ensure adequate visibility splays, the Highway Authority indicate that planting along the site frontage might need to be cleared.
12. The parties disagree on whether the appellant had an opportunity to provide further information relating to the proposal's effect on the trees. In any event, this does not remove the fact that the evidence necessary to establish the effect of the appeal on the trees is not before me.
13. Accordingly, based on the evidence before me, I cannot conclude that the proposal would preserve the trees at the site and their important contribution to the verdant character of the surrounding area. The resultant harm to the surrounding verdant character would not be prevented or reduced by the proposed dwelling having a frontage uniform with properties at Church Walk.

¹ APP/R1845/A/13/2205679 and APP/R1845/A/14/2229001

14. Therefore the proposal would have a harmful effect on the character and appearance of the surrounding area. Consequently the proposal would be contrary to CS Policy CP11 and SAP Policy SAL.UP7. Insofar as they relate to this matter, these policies seek to ensure proposals reflect a thorough understanding of the site context, integrate well into the existing street scene and incorporate existing trees.

Other Matters

15. A number of economic benefits are associated with the appeal which includes its support to; the construction industry; local services and increase of local spend. Social benefits would arise via the proposal's contribution to housing supply and support to local services and facilities. In addition, future occupants would have access to non-private vehicular modes of transport and thus some modest environmental benefit would arise. Combined, these benefits carry modest weight in favour of the appeal.
16. I also note that outline planning permission was granted for residential development at the site in 1989. However, as the permission has lapsed and as it pre-dates the policy requirements of the CS, the SAP and the Framework, the 1989 permission attracts limited weight only.
17. With reference to an appeal decision², it is also put to me that a 5 year housing land supply is a minimum figure and not a maximum. Therefore it is contended that the presence of a 5 year housing land supply should not be a reason for refusal in itself and that a presumption in favour of sustainable development exists. However, harm would arise as a result of the appeal proposal as identified in the two main issues above.
18. Furthermore, as the circumstances in paragraph 49 of the Framework have not been met, the presumption in favour of sustainable development in paragraph 14 is not engaged. Moreover, the environmental harm identified in relation to the second main issue would outweigh the combined benefits identified above.
19. Consequently, the proposal would not comprise sustainable development as defined by the Framework. Nor would the modest benefits identified above outweigh the proposal's conflict with CS Policies DS01 and DS02 and SAP Policy SAL.DPL1.

Conclusion

20. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR

² APP/D0840/A/13/2209757