



Appeal Decision

Site visit made on 27 June 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 6 July 2017

Appeal Ref: APP/P1805/W/17/3169630

Land rear of 32, 34 & 36 Lickey Square, Barnt Green, Birmingham B45 8HB

- 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 Peter Norton against the decision of Bromsgrove District Council.
 - The application Ref 16/0190, dated 22 February 2016, was refused by notice dated 19 August 2016.
 - The development proposed is 5 detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 5 detached dwellings at land rear of 32, 34 & 36 Lickey Square, Barnt Green, Birmingham B45 8HB in accordance with the terms of the application, Ref 16/0190, dated 22 February 2016, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The application was submitted in outline form with matters of access to be considered, and all other matters reserved. I have determined the appeal on this basis. Consequently I have given little weight in my decision to the drawings showing the indicative layouts of development or the illustrative house types as layout, scale and appearance are reserved matters.
3. Since the Council's decision the Bromsgrove District Plan (BDP) has been adopted. As such, Policies S7, S8, BG4 and C17 of the Bromsgrove District Local Plan (2004) identified in the Council's decision, are now superseded. The adopted versions of Policies BDP7 and BDP19 of the BDP, which are also referred to in the Council's decision, were provided to the appellant.

Main Issues

4. The main issues are
 - i) the effect of the proposal on the character and appearance of the area including protected trees;
 - ii) the effect on the living conditions of the occupiers of neighbouring properties with regard to their privacy; and
 - iii) whether the development would provide satisfactory living conditions for its future occupiers.

Reasons

Character and appearance

5. The area is characterised by large detached dwellings in verdant and generally spacious plots. The appeal site comprises parts of the large rear gardens of three such properties with its access driveway provided between Nos 34 and 36. The provision of houses behind frontage properties is not uncommon in the area. Indeed opposite the site there are a number of houses in backland positions. Furthermore though the development would be at a higher density than some houses locally, including the retained dwellings at Nos 32 to 36, its density would be comparable with that at Stretton Drive and other backland developments in the wider area. The proposal would therefore not contrast with the pattern of development in the area generally.
6. The site falls sharply from north to south and some levelling works would most likely be necessary to create a functional development. However such details would be submitted as part of a reserved matters application. Notwithstanding this, as much of the surrounding development is on similar topography, localised alterations to ground levels to facilitate the proposal would not necessarily result in the scheme conflicting with its context.
7. Also although the current boundaries within the site are only demarked by vegetation, the five plots could also be divided this way and hence the verdant character of the appeal site could be retained.
8. The site is currently well populated with trees with many of them protected by a Tree Preservation Order¹. The douglas fir (T903 in the submitted Tree Report) is at the front of No 34 close to the existing access to this house. The proposed access would reuse this existing access and so the development would have no greater impact on this tree. Also although the existing hedge to the front of No 36 would need to be repositioned slightly to provide an acceptable visibility splay to the right, this would have a limited impact on the street scene and any works within the Root Protection Area (RPA) of the scots pine (T902) to this side would be minimal and would be very unlikely to threaten its vitality.
9. T203 is a large mature copper beech tree which the driveway would bend around. From the details on the appellant's tree protection plan it appears that, although the driveway would pass under the tree's canopy, it would avoid any encroachment into the RPA. The Council's arboricultural officer has commented that any part of the road which passes within the RPA should not involve excavation and should comprise a porous surface. I do not consider it would be unreasonable for this to be secured by condition in order to protect this tree.
10. Within the main part of the site some trees have already been removed, to which the Council's arboricultural officer has no objection. The indicative layout shown on the tree protection plan shows that some of the houses and areas of hardstanding would encroach into the RPA of some of the remaining protected trees. However the layout shown is not definitive, nor is the scale of the houses. I accept the proliferation of protected trees on site is restrictive, but it is not inconceivable that a scheme could be designed such that the

¹ No (4) 2011

preservation of the trees would be ensured. Hence, due to the outline nature of the proposal, I am unable to conclude that the development would necessarily result in such damage to trees that their vitality would be threatened.

11. In summary I do not consider the outline proposal would adversely affect the character and appearance of the area or would necessarily affect trees that contribute to that. As such the development would accord with Policies BDP7 and BDP19 which both aim to ensure development integrates fully with the local character, and the National Planning Policy Framework (the 'Framework') which seeks the same as one its core principles.

Living conditions – privacy

12. Although there are a number of trees and hedgerows along the boundaries of the site, some views are possible into the neighbouring properties in The Badgers and Stretton Drive. However as the position of the houses, their scale, height, proximity to the boundaries and even the position of the windows on the elevations has yet to be finalised I cannot reasonably conclude that the development would overlook the neighbouring properties such that their living conditions would be unacceptably affected. Indeed any overlooking could be mitigated by supplementary landscaping which would be set out in a landscaping scheme to be considered as a reserved matter.
13. Accordingly the development would not be contrary to Policy BDP19, which encourages proposals to meet people's needs and expectations from their home, the Council's Supplementary Planning Guidance 'Residential Design Guidelines' which advises how privacy can be maintained, and the Framework which requires development to ensure a good standard of amenity for all occupants.

Living conditions – future occupiers

14. Any pressure to remove trees from the future occupiers of the development would be dependent on the position of the houses and their proximity to trees. Similarly the relationship between the proposed dwellings is not currently fixed. As such, at this stage, I cannot conclude that the development would necessarily fail to provide acceptable living conditions for its future occupiers. Consequently the proposal would not conflict with Policy BDP19 as set out above.

Other matters

15. I acknowledge the concerns from neighbours regarding the potential for the development to increase the risk of flooding downhill. However the Council's water management advisor has suggested that subject to further details secured by condition, the site could be satisfactorily drained and I have no evidence to suggest the contrary.
16. The development would undoubtedly increase the amount of noise and activity in an area which currently appears to be generally unused. However I have no reason to consider that general domestic noise would be disturbing to nearby residents and the proximity of vehicle movements to the site boundaries cannot be established until the layout of the development is set out in an application for that reserved matter.

17. The county highways officer raises no objection to the proposed access. Also the likely level of traffic generated by five houses would be limited and would not, in my view, significantly affect the safe operation of Lickey Square.
18. The submitted ecological report found no evidence of protected species on site, and the Council raises no objection to the proposal on ecological grounds.
19. I understand the Council have a five year supply of housing. However this should not weigh against the development. Indeed additional windfall housing such as that proposed can make a valuable contribution to the provision of housing locally.
20. Reference is made to a previous application for residential development on part of the site, however I must consider the proposal before me on its own merits.

Conditions

21. I have considered those conditions suggested by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. Where necessary, in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
22. In accordance with the advice in the PPG and the Framework I have imposed the standard conditions relating to the submission of reserved matters and a condition specifying the relevant plans in order to provide certainty.
23. I have attached a condition relating to the access in the interests of highway safety, and a condition requiring the submission of further drainage details to ensure the satisfactory drainage of the site. In order to safeguard the character and appearance of the area I have attached conditions relating to the protection of trees in proximity to the driveway and access, and provision of bin stores. Some conditions require compliance prior to the commencement of development so that the effects of the proposal are properly mitigated in order to make it acceptable.
24. I have not imposed the suggested conditions relating to the finishing materials of the proposed buildings, layout of the parking and turning areas or biodiversity as these relate to the reserved matters.

Conclusions

25. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed.

Andrew Owen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 14-730-1A, visibility splay and site sections.
- 5) The development hereby permitted shall not be occupied until the vehicular access has been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 6) Prior to the construction of the vehicular access, the visibility splays shall be provided 43 metres from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway. No shrubs, trees or other vegetation shall be allowed to grow above 0.6 metres in height, and no structure or erection exceeding 0.6 metres in height shall be placed, within the visibility splays.
- 7) Prior to the commencement of development details of the method of construction and surfacing materials to be used within all of the Root Protection Areas shall be submitted to and approved in writing by the local planning authority. The works shall then proceed in accordance with the approved details.
- 8) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 9) No development shall take place until a scheme for foul and surface water including SUD's drainage measures has been submitted to and approved in writing by the local planning authority. The details as approved shall be fully implemented prior to the first occupation of the development.
- 10) Prior to development commencing full details of refuse storage/bins facilities shall be submitted to and approved in writing by the Local Planning Authority. The details thus approved shall be fully implemented prior to first occupation.