



Appeal Decision

Site visit made on 4 July 2019

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

Appeal Ref: APP/V4630/W/19/3226537

Land between and rear of 52 and 55 Elmore Green Road, Bloxwich, Walsall, WS3 2HW

- 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 A Handley against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 18/1066, dated 28 August 2018, was refused by notice dated 28 February 2019.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues to be considered are i) the principle of tandem development and the impact of the proposal upon the character of the area, ii) the residential amenity of future occupiers and neighbouring properties, iii) the impact of coal mining hazards present on site and iv) the impact of the proposal upon highway safety.

Reasons

Principle and character of the area

3. The appeal site is located on land to the rear of No. 52 and No. 55 Elmore Green Road with access between these two properties which is currently secured by a metal gate. The proposal seeks to demolish an existing garage block and is, therefore, previously developed land which the National Planning Policy Framework 2018 (the Framework) encourages except where this would conflict with other policies in the Framework.
4. The surrounding houses on Elmore Green Road are two-storey properties with a variety of traditional terraced and modern semi-detached properties. Modern two and three storey flats adjoin the rear of the site in Signal Grove which vary in spacing and orientation. The development pattern was likely previously characterised only by dwellings that directly front the highway in long gardens, however, the development to West at Signal Grove has changed this but I do note that the separation between the residential development at Signal Grove and Elmore Green Road has been maintained.

5. The spacing between the proposed dwelling and the existing dwellings on Elmore Green Road and Signal Close, would be considerably less than within existing plots. The proposed dwelling is located in close proximity to the boundary fence to the South West which is likely as a result of the proposal being designed to accommodate parking for the proposed dwelling, two other properties and a garden. The dwelling, which would be 5.8m to the ridge, would be within 1m – 2m of the boundary fence which does not contribute positively to the area when considering the proposal's visual appearance. Overall, the scale, size and massing of the proposal, and the resulting layout with six parking spaces, I find to appear cramped and overcrowded.
6. The visual impact of the proposal may not be direct within the street scene of Elmore Green Road, however, it would be prominent given its size compared to the size of structures more commonly found to the rear of residential properties. The proposal would be a visually cramped form of development which would cause unacceptable harm to the character of the area. This, in turn, would fail to contribute to the quality of the built environment.
7. I note the appellant's submission of other sites local to the appeal site, however, the information is varied and limited for each site which limits the weight I am able to place upon them within this appeal. Each case must, in any case, be considered on its own merits and other development does not set a precedent.
8. The proposal would conflict with Walsall Unitary Development Plan 2005 (UDP) Policy ENV32 which requires development proposals to take account of the context or surroundings, UDP Policy ENV14 which encourages the reclamation and development of derelict and previously developed land where it is accordance with other policies of the plan and UDP Policy GP2 which expects developments to make a positive contribution to the quality of the environment.

Amenity of future and neighbouring occupiers

9. The proposal would be accessed between No. 52 and No. 55 Elmore Green Road, however, I do not consider this to be detrimental to the amenities of these properties. I do not find that access to a single residential dwelling, even with parking for two other properties, would have any greater impact on privacy or cause increased overlooking at close proximity given that vehicular access, to the existing four garages, is already in place or could be utilised. Furthermore I do not see that the proposal exposes the private gardens of No. 52 or No. 55 to the public realm. The gardens in question are fenced with timber panelled fencing and when stood within the appeal site I was unable to see into either garden.
10. The height of the dwelling, at 5.8m to the ridge, is large for a bungalow. The proposal will be between 7m and 8.5m away from the windows of the nearest properties at Signal Grove which I find would result in the proposal appearing obtrusive to these properties as a result of height and proximity. The proposal would also appear obtrusive from properties along Elmore Green Road but with reduced impact compared to those on Signal Grove which are much closer. Properties within the immediate area, with views of the proposal, would be looking out to the proposal at distances below recommended separation distances.

11. In relation to the future occupiers of the proposed dwelling the site is located very close to the adjoining development on Signal Close. Photographs taken from a property (which has unobscured windows) on Signal Grove, submitted with an objection, show very clear views into what would be the garden space adjacent to the dwelling to the North East. Despite this I acknowledge that there is limited garden space, which would be more private, to the rear of the proposal so would not consider this reason sufficient to warrant refusal on its own but there is evidence of potential overlooking which would be detrimental to the residential amenity of future occupiers.
12. The appeal site would be located in close proximity to neighbour's parking areas in that the appeal site also provides parking for No. 55 and No. 52. The small size of the site is such that it is likely that the comings and goings of a further four vehicles, not associated with the proposed dwelling itself, and use of the proposed turning area immediately in front of the dwelling would have a negative impact on the amenity of future occupiers utilising the immediately adjacent bedroom.
13. Overall, for the reasons discussed above, I consider that the proposal would impact upon the amenities of neighbouring properties as well as fail to secure an appropriate level of amenity for future occupiers of the proposal itself. The proposal would be contrary to UDP Policy GP2 which requires proposals to consider visual impact, overlooking and loss of privacy and UDP Policy ENV32 which requires an assessment of the co-ordination of buildings and external space. The proposal would also conflict with SPD¹ guidance which seeks to ensure that all occupants have a satisfactory level of amenity.

Coal Mining

14. The site is located within a Development High Risk Area for coal mining. The Coal Authority, as consultee, have requested a coal mining risk assessment and object to the proposal. Their response highlights fundamental concern as a result of likely historic unrecorded underground coal mine workings at shallow depth. Paragraph 178 of the Framework requires decisions to ensure that a site is suitable for its proposed use taking account of any ground conditions and any risk arising from land instability. This includes risk arising from former activities such as mining.
15. A residential mining report has been submitted which highlights evidence or potential of past and future underground coal mining, but it does not contain a risk assessment report. Any risks to the proposal posed by past activity cannot, therefore, be assessed and I consider it of importance to have such information up front to ensure the proposal can be safely accommodated within the site.
16. The development to the rear will have had to submit such information and adverse mining issues can often be overcome, however, the impact of them needs to be assessed. This approach is supported by National Planning Practice Guidance that states that applications in a Development High Risk Area must be accompanied by a coal mining risk assessment. It is not appropriate

¹ Designing Walsall Supplementary Planning Document for Urban Design (Adopted February 2008, SPD Revised July 2013)

to condition a requirement for such information and this approach would be contrary to national guidance.

17. The proposal would conflict with UDP Policy GP2 which requires an assessment of potential problems of land stability. There would also be conflict with UDP Policy ENV14 which requires that applications are accompanied by a site investigation report which identifies the hazards and assesses the level of risk for the proposed development where the site, or adjoining land, may have been occupied or underlain by uses or activities which may have affected the stability of the site. The proposal also would be contrary to paragraph 178 of the Framework, as outlined above.

Highway Safety

18. The submitted site plan demonstrates six spaces, two for the new dwelling and the remaining spaces provided to serve No. 55 and No. 52. Despite this, I do not find that the spaces are easily accessible and that they will result in a requirement for manoeuvring, not only to 'swap' vehicles around if required, (given that the parking for the proposed dwelling and No. 52 result in one vehicle being blocked in) but also to be able to enter and exit the site in a forward gear.
19. Even if there was a reduction in vehicle movements, I do not find the perception of risk is reduced. The site is materially changed by the proposal and the space, for any existing vehicle movement, is greatly reduced by the proposal. It is of particular importance that vehicles are able to safely turn around within the site as vehicles reversing on or off the site into Elmore Green Road would represent a risk to highway safety on what I noted to be a busy road. I do not find that there is sufficient manoeuvring space in order to ensure this can be carried out without vehicle conflict based upon the plans before me.
20. I have no copy before me of a Highway Authority (HA) response which states that have no adverse comment. The Council's delegated report confirms a verbal objection to the proposal. I have no evidence before me to suggest the HA support the proposal.
21. The proposal would be contrary to UDP Policy T7 which requires an adequate level of car parking to meet operational needs and UDP Policy T13 which requires that it is demonstrated that there will be no adverse effect on highway safety and that provision is made for adequate circulation space. The proposal would also conflict with paragraph 109 which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. I note two letters of support for the proposal however, these can be attributed little weight as they do not contain any material considerations which outweigh the policy conflict I have identified.
23. Comments relating to the number of neighbour consultations, are related to the process and are not matters which fall within the scope of this appeal. Additionally, whilst I note the appellant's comments regarding the handling of the application by case officers, I am satisfied the Council's refusal was in this

case justified and that informal officer comments are without prejudice to the determination of any application.

Conclusion

24. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR