
Appeal Decision

Site visit made on 2 June 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/G4620/W/19/3242702

Land to the rear of Vicarage Road/Ebrington Road/Arlington Road, West Bromwich

- 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 Windyridge Property Investments Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/19/62696, dated 2 February 2019, was refused by notice dated 22 August 2019.
 - The development proposed is erection of nine new dwellings (Use Class C3) comprising 5no 3-bedroom houses and 4no 2-bedroom maisonettes with associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of nine new dwellings (Use Class C3) comprising 5no 3-bedroom houses and 4no 2-bedroom maisonettes with associated infrastructure at land to the rear of Vicarage Road/Ebrington Road/Arlington Road, West Bromwich in accordance with the terms of the application, Ref DC/19/62696 dated 2 February 2019 subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. From the evidence before me it appears that the appellant changed the site address and the development description during the course of the application. However, for clarity I have taken the details from the appeal form.

Application for costs

3. An application for costs was made by Windyridge Property Investments Ltd against Sandwell Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is the effect of the proposed development upon the character and appearance of the area.

Reasons

5. I have been made aware of the planning history for this site which includes several planning permissions that have been granted by the Council and a

previous appeal¹ that was allowed. In summary these include two permissions in 2018 for a total of 8 dwellings across the site, two permissions in 2017 for a total of 9 dwellings across the site and older permissions for between 2 and 4 bungalows.

6. The appeal site comprises a broadly L shaped parcel of land located behind dwellings fronting Arlington Road, Ebrington Road and Vicarage Road. The primary access into the site is next to No 129a Vicarage Road with other narrower accesses between houses on Arlington Road and Ebrington Road. The site is relatively flat and is overgrown.
7. The site is surrounded on all sides by existing residential development and generally parking takes place on street. There is a primary school within close proximity of the site.
8. The development proposes nine residential units in the form of a block of four maisonettes and a row of five dwellings. I am mindful that planning permission has previously been granted for a similar number of dwellings across the site. In my view, the number of units and the layout would not result in a cramped development as there would be adequate spacing between the dwellings within the site and the site boundaries.
9. The density would be appropriate within this location. Moreover, I note that the proposed development would comply with the requirements of the Supplementary Planning Guidance – Revised Residential Design Guide (2014) (SPD) regarding internal layout, separation from neighbouring properties, provision of amenity space as well as vehicle parking.
10. As such, I find that the proposed scheme would not represent an over-development of the site or that the number of units would undermine its overall quality. Indeed, I consider that it would result in an efficient use of land in a sustainable and well-established residential location in keeping with the character and appearance of its surroundings.
11. The Council's decision notice does not allege harm in respect of living conditions of existing occupiers, with regard to a loss of privacy or, indeed, in relation to parking and the safe operation of the local highway, although it is referred to in their statement of case.
12. The proposed development would back onto existing residential development. The SPD requires a minimum distance of 21m between rear elevations and 14m between gables and windowed elevations. The proposed development would accord with the guidance. On this basis there is adequate separation between the proposed development and existing houses and would not result in overlooking, loss of privacy, outlook or light. Consequently, the proposal would not adversely affect the living conditions of occupants neighbouring the site.
13. The SPD sets out a requirement for a total of 17 spaces. The proposed development would provide the required number of spaces. Whilst the accesses are narrow it is unlikely to put off future residents who would tend to park in front of their houses rather than on surrounding roads. As such the proposed development would not exacerbate parking issues in the area.

¹ APP/G4620/W/11/2165538

14. The proposed development would have 3 points of access from surrounding roads. However, it is most likely that the principal vehicular access would be from Vicarage Road due to the restricted width of the accesses from Abington Road and Ebrington Road. I have considered the swept path diagrams and highway note and find that cars and larger vehicles including ambulances and delivery vehicles would be able to enter the site and manoeuvre within it.
15. I acknowledge that some larger vehicles including fire appliances and refuse lorries would not be able to enter the site. However, a condition has been imposed to ensure an adequate fire suppression system is implemented before the houses are occupied. However, in all likelihood fire appliances visiting the site is unlikely to be a common occurrence. Furthermore, West Midlands Fire Service did not object to the proposal with regard to the access or on safety grounds.
16. In terms of refuse collection, I note that communal bin storage would be provided within the site and would be collected by a private waste management company. This arrangement would ensure that individual bins are not left on the highway. A condition has been imposed to ensure that appropriate facilities for refuse and recycling are provided within the site.
17. Notwithstanding the representations received regarding additional cars and parking, the highway authority had raised no objection to the planning application. There is no compelling evidence before me so as to lead me to a different conclusion in respect of this matter. I therefore find that the proposed development would not adversely affect the safe operation of surrounding roads.
18. Taking all matters into account I therefore conclude that the development proposed would not be harmful to the character and appearance of the area. It would accord with guidance set out in the SPD which seeks to ensure that housing and residential environments meet the needs and aspirations of the local community.
19. The proposed development would accord with Policies CSP4, ENV1 and ENV3 of the Black Country Core Strategy (2011) which, amongst other things, requires all development to understand local distinctiveness, make a positive contribution to place and environmental improvement and a high quality network of streets, buildings and spaces. It would also accord with Policies SAD H2 and SAD EOS 9 of the Site Allocations and Delivery Development Plan Document (2012) which, amongst other things, supports residential development on previously developed land and development that is compatible with its surroundings.

Other Matters

20. There is no compelling evidence before me to indicate that nearby occupiers would be adversely affected by noise resulting from the proposed development particularly given that they would be sited approximately 21m from existing houses. In addition, there is nothing to suggest that the proposal would result in incidents of crime, anti-social behaviour or fly-tipping.
21. In respect of the potential for disruption during construction works this would be short term. A condition limiting construction and delivery hours has been imposed to ensure that the living conditions of nearby occupiers and the safe

operation of the surrounding roads is maintained during the construction of the development.

22. I find no substantive evidence before me to suggest that the proposed development would adversely affect wildlife or trees in the area.
23. The effect on property values, covenants on the land and rights of access are matters which fall outside of what I consider in my decision.

Conditions

24. The Council has suggested 18 conditions in the event that the appeal was to be allowed. I have considered these, in light of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG). In the interests of precision, clarity and brevity I have reworded some conditions suggested by the Council.
25. In addition to the standard time three-year limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty. Conditions relating to the external materials, landscaping, boundary treatments and external lighting have been imposed to ensure the satisfactory appearance of the development.
26. In the interests of securing water sustainability a condition requiring details of a sustainable drainage system has been imposed.
27. In the interests of sustainable travel conditions for electric vehicle charging points and cycle storage have been imposed. In the interests of highway safety conditions for the parking, turning areas and entrance gate have been imposed. In the interests of highway safety and the living conditions of nearby occupiers a condition has been imposed limiting construction work, deliveries and collections to certain times and days.
28. A condition requiring details of refuse and recycling facilities has been imposed in the interests of highway safety and ensuring adequate living conditions for occupiers.
29. The Council has suggested removing permitted development rights for the enlargement, improvement or other alteration of a dwellinghouse, additions or alterations to the roof, the construction of a porch, or a building or enclosure incidental to the enjoyment of the dwellinghouse falling within Classes A, B, C and D of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
30. Paragraph 53 of the Framework advises planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance I consider it would be unreasonable to impose such a blanket condition. In terms of extensions and alterations to the roof falling within Classes B and C of the GPDO these would be small scale and would not adversely affect the living conditions of nearby occupiers as an adequate distance would be maintained between buildings. In addition, porches under Class D would be small scale and unlikely to harm the overall appearance of the development.

31. However, in the interests of maintaining adequate amenity space and living conditions for future occupiers I have determined that permitted development rights should be removed in respect of Class A of the GPDO.
32. The Council has suggested a condition in respect of land contamination. However, I note that part of the site has been cleared as part of a previous planning permission. I have therefore amended the condition for a risk assessment and a remediation scheme to be submitted in the event of unexpected contamination on site.
33. The Council have suggested that the parking areas for No 129a Vicarage Road should be provided as part of a more general condition. I note that this property although within the ownership of the appellant lies beyond the red line boundary of the site. Therefore, the condition has been amended to omit this property from the condition.
34. The Council has suggested a condition for a hard and soft landscaping scheme. However, sufficient information is shown on the submitted plans and thus has not been imposed. I have still found it necessary to ensure that dead or diseased plants are replaced for 3 years following completion of the development and therefore a condition requiring this has been imposed.
35. The Council has suggested a condition for the levels across the site. Sufficient information is shown on the plans in respect of building heights and distances from existing properties and therefore the condition has not been imposed.

Conclusion

36. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions (16 in total)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing 30697 00 Rev C Location and Proposed Site Plan; Drawing No 30697 - Plots 1-4 Proposed Floor Plans and Elevations; Drawing No 30697 - Plot 5 Proposed Floor Plans and Elevations; Drawing No 30697 – Plots 6-9 Proposed Floor Plans and Elevations and Drawing No 30697 01 Rev B – Landscaping Plan.
- 3) Prior to the commencement of development details of the surface water drainage and foul sewage works shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained thereafter for the lifetime of the development.
- 4) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 5) No development shall commence above ground until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 6) Prior to the occupation of the development an external lighting scheme shall be implemented in accordance with details, which shall first be submitted to and approved in writing by the local planning authority. The scheme shall thereafter be retained for the lifetime of the development.
- 7) Prior to occupation of the development each unit shall be fitted with a sprinkler system or alternative package of fire suppression or firefighting measures. The details of which shall be first submitted to and approved in writing by the local planning authority. These measures shall be thereafter retained for the lifetime of the development.
- 8) Prior to occupation of the development provision for refuse and recycling facilities for each unit shall be provided. The details of which shall be first submitted to and approved in writing by the local planning authority. The refuse and recycling facilities shall be thereafter retained for the lifetime of the development.
- 9) Prior to the occupation of the development all boundary treatments and the gate access arrangements shall be implemented in accordance with details, which shall first be submitted to and approved in writing by the local planning authority.
- 10) The development shall not be occupied until details of electric vehicle charging points have been first submitted to and approved in writing by

the local planning authority. The electric charging points shall be implemented as per the approved details and shall thereafter be retained for the lifetime of the development.

- 11) No dwelling shall be occupied until the provision of secure cycling parking has been first submitted to and approved in writing by the local planning authority. The cycle parking shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.
- 12) No dwelling shall be occupied until the hard and soft landscaping scheme, access road and parking and turning areas have been laid out and completed in accordance with Drawing No 30697 01 Rev B – Landscaping Plan and Drawing No 30697 00 Rev C – Location and Proposed Site Plan. The areas shall thereafter be kept available at all times for those purposes for the lifetime of the development.
- 13) All planting, seeding or turfing comprised in the approved landscape details shown on Drawing No 30697 01 Rev B – Landscaping Plan shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 3 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14) Demolition or construction works shall take place only between 0800 – 1800 on Mondays-Fridays and 08:00-14:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 15) Deliveries and collections during the construction works shall be taken at or despatched from the site only between 0930-1430 on Mondays-Fridays and 0800-1400 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouses, additions or buildings or enclosures incidental to the enjoyment of the dwellinghouses falling within Class A shall be constructed.