



Appeal Decision

Site visit made on 21 July 2020

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/Q4625/W/20/3248401

83 Lawnswood Avenue, Shirley, Solihull B90 3QW

- 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 Chudasama against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/02006/PPOL, dated 26 July 2019, was refused by notice dated 10 January 2020.
 - The development proposed is outline application to include access for the part demolition of No 83 and erection of up to 5 dormer bungalows on land to the rear of Nos 83, 81 and 79 Lawnswood Avenue.
-

Decision

1. The appeal is allowed and planning permission is granted for the outline application to include access for the part demolition of No 83 and erection of up to 5 dormer bungalows on land to the rear of Nos 83, 81 and 79 Lawnswood Avenue, Shirley, Solihull B90 3QW in accordance with the terms of application PL/2019/02006/PPOL, dated 26 July 2019 subject to the attached conditions.

Preliminary Matters

2. The application is in outline with all matters reserved except access. An indicative site layout plan has been submitted. I have determined the appeal on that basis.
3. Following a request for clarification, the Council has confirmed that the plan used in the determination of the planning application was 00993 D03 A and not plan 00993 D03 which appears on the Decision notice. I have determined the appeal with reference to plan 00993 D03 A.
4. I have used the description of development used on the Decision notice and appeal form as it comprehensively reflects the development proposed.

Main Issues

5. The main issues are:
 - The effect on highway safety
 - Whether the location is appropriate for development
 - The effect on the character and appearance of the area.

Reasons

Highway Safety

6. The appeal site is a semi detached dwelling with large garden on a bend of a road comprising predominately of semi detached and detached properties in a residential area. The property has been subject to a flat roof extension above the garage, both of which would be demolished as part of the proposal to make way for an access road to the proposed dwellings.
7. The Council's reasons for refusal include the view that the width of the proposed access road would be insufficient to enable 2 cars to pass, forcing vehicles entering the site to wait on the highway with consequential impacts on the free flow of traffic and highway safety. A potential conflict between vehicles and pedestrians using the access drive is also identified. However, this is not reflected in the evidence before me. Plan 00993 D03 A shows that the width of the access would be sufficient to accommodate 2 cars and would not therefore result in a car waiting on the main highway to enter the site, as suggested by the Council.
8. Although concern has been raised about visibility at the access and the location of the site in relation to the bend in the road, it has been demonstrated that adequate visibility splays can be achieved to enable safe access from the site.
9. Issue has been raised regarding the safety of pedestrians within the site. Layout is a reserved matter for consideration at a later date. However, the indicative plan shows that a raised path measuring 1.2m in width the length of the access road could be achieved which would reduce the risk of conflict between pedestrians and car based travellers. The Highways Authority has identified that the potential for conflict between vehicles and pedestrians is likely to be low. On the evidence before me I agree.
10. Although concern has been raised regarding the safety implications of the bin storage, the indicative plan demonstrates that it is possible to locate a bin store in a position where the remaining road width would still allow a vehicle to travel along the road. It would not therefore obstruct traffic. There is little evidence to suggest that some properties would have difficulty accessing the bin storage, as suggested in objections. Whilst it has been suggested that emergency services would struggle to serve the site, there is little before me to substantiate this claim.
11. The site would serve up to 5 dwellings. Whilst there may be increased traffic in the area during school drop off and pick up times, the development would not add a harmful level of additional traffic congestion on Lawnswood Avenue. The indicative plan shows car parking could be accommodated on site, including visitor parking. This would reduce any risk of the development adding to on street parking on the main road. There is little evidence before me to demonstrate that the inhabitants of Nos 82, 84 and 86 would have additional difficulties in being able to exit their properties as a result of the development.
12. The Highways Authority are of the view that subject to appropriately worded planning conditions there would be no detrimental impact on public highway safety. There is little to indicate that I should take a different view.
13. The proposal would not cause harm to highway safety. It would not therefore conflict with Policy P7 of the Solihull Local Plan (Local Plan) which requires

access to new development from walking, cycling, public transport and road networks to be amongst other things safe.

Location of Development

14. The site is located within an established residential suburb, close to Shirley town centre and a range of services and facilities. Whilst I note the site falls short of the walking distances to a food store, primary school and GP surgery identified in Policy P7 of the Local Plan, the shortfalls range from 100m to 300m. They are therefore not so significant as to warrant the location to be deemed as unsuitable for residential development.
15. Whilst the nearest railway station would be some distance further than that prescribed in the Policy, I note the easy access to a bus stop. I am satisfied that the occupants of the dwellings would be able to reach a range of services and facilities without reliance on the private car.
16. The development would not conflict with the parts of Policy P7 and Policy P8 of the Local Plan which requires new development to be focused in the most accessible locations, promote ease of access and reduce the need to travel.

Character and Appearance

17. The proposal would lead to the creation of a new access road between 2 dwellings. Whilst this would create a break in the development, there are other breaks in the building line in the vicinity of the site such as Newnham Rise and Freasley Close, albeit to serve larger cul de sacs. In this context the impact of a new access would not be so significant as to cause harm.
18. Appearance, scale, layout and landscaping are not matters currently before me. However, on the evidence before me I am satisfied that the development would not appear overly prominent within the street scene by virtue of the screening provided by Nos 79, 81 and 83 Lawnswood Avenue. The planning permission would restrict the scale of the development to no more than 5 dwellings preventing over development of the site.
19. The development would not harm the character or appearance of the area. As such it would not conflict with Policy P15 of the Local Plan which requires new development to conserve and enhance local character, distinctiveness and streetscape quality.

Other Matters

20. Neighbouring residents have raised concern regarding the impact on their living conditions, in particular overlooking, outlook and light. The scale and layout of the development are matters that are not before me. Nevertheless, the indicative layout plan indicates that dwellings could be positioned on the site with sufficient separation from neighbouring dwellings to avoid significant harm.
21. The scale of the development would be small and therefore not create undue harm with regards noise and disturbance. Any noise and disturbance during construction can be managed via an appropriately worded planning condition.
22. I am aware of concerns raised regarding the impact of the development on property values. Planning is concerned with land use in the public interest. The

protection of private interests such as property values is not a consideration to which I am able to give any significant weight.

23. Any impact on the structural soundness of No 83 Lawnswood Avenue post development is not a planning matter.
24. Issue has been raised regarding the ability of the existing drainage system to cope with development and the risk posed by flooding. However, there is little before me to substantiate that claim. Similarly, there is little to indicate that the development would lead to an increased risk of crime to neighbouring dwellings. A study has identified that the ecological value of the site is limited. An appropriately worded planning condition can ensure ecological interests are safeguarded.
25. It has been suggested that the development would set a harmful precedent for similar garden development elsewhere if the appeal were allowed. There is little to indicate that there is a reasonable prospect of this occurring nearby. I have considered this appeal on its individual merits and any future proposals for similar development in the area would have to be considered in a similar way.

Conclusion and Conditions

26. For the reasons identified and having regard to all other matters, the appeal is allowed, subject to necessary planning conditions.
27. In attaching conditions, I am mindful of paragraph 55 of the National Planning Policy Framework, which states that they should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects. The Council has suggested a number of conditions which I have assessed on this basis and made modifications where necessary in the interests of clarity.
28. In addition to the standard time limitations for reserved matters and commencement, I have imposed a condition specifying the relevant drawings as this provides certainty. A condition restricting the scale of the development to no more than 5 dormer bungalows is necessary to protect the character and appearance of the area and the living conditions of neighbouring occupiers.
29. A construction method statement is necessary in the interests of highway safety and the living conditions of neighbouring occupiers. A condition relating to the access road is necessary in the interests of highway safety. A drainage condition is necessary to ensure surface water runoff is appropriately managed.
30. An ecology and landscaping scheme and environmental management plan are necessary in the interests of safeguarding ecology. Whilst this is contested by the appellant, I disagree as they clarify what details should be submitted at a later stage. Not all the matters identified are covered comprehensively in the submitted preliminary ecology appraisal.
31. Conditions relating to the access and visibility splays are necessary in the interests of highway safety.
32. The Council has suggested a materials condition. However, this is a matter that can be addressed at the reserved matters stage.

K Ford INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 00993.D01, 00993.D02 Rev B in so far as it relates to means of access, 00993.D03.A and 00993.D04 Rev A.
- 2) Approval of the details of:
 - a) Appearance
 - b) Landscaping
 - c) Layout and
 - d) Scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 3) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved whichever is the later.
- 4) The development approved shall not exceed more than 5 dormer bungalows.
- 5) Before commencement of development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority to include details of:
 - a) The parking of vehicles of site operatives and visitors
 - b) Loading and unloading of plant and materials
 - c) Storage of plant and materials used in the construction of the development
 - d) Hours of operation and deliveries
 - e) The erection and maintenance of security hoarding including decorative displays
 - f) Wheel washing facilities
 - g) Measures to control the emission of dust and dirt during construction
 - h) Details of the routing of construction delivery and collection vehicles and
 - i) Contact details for the appointed site agent that can be contacted in the event of any problems arising during construction activitiesThe scheme shall be implemented throughout the construction of the development in accordance with the details so agreed.
- 6) The development shall not be commenced until such a time as a scheme to manage the surface water runoff from the development has been submitted to and approved in writing by the Local Planning Authority, with no occupation until the scheme is operational. The submitted details should include:
 - a) Results of infiltration tests, carried out in accordance with BRE 365 or similar to determine the suitability of the site for infiltration. If infiltration is deemed to be suitable, the proposed soakaway(s) should be designed in accordance with BRE 365 also.
 - b) A plan indicating the size and location of the proposed soakaway
 - c) If a soakaway is demonstrated to not be suitable then details of an alternative SuDS system should be submitted.

- d) Construction details
 - e) Maintenance plan for the whole drainage system in accordance with the SuDS manual.
- 7) No works to commence on site, including site clearance, until a combined ecological and landscaping scheme has been submitted and agreed between the applicant and the Local Planning Authority. The scheme must include all aspects of landscape works including native species planting schedule, habitat features for bats, nesting birds and hedgehogs. The agreed scheme is to be fully implemented before/ during development of the site as appropriate.
- 8) The development hereby permitted, including site clearance work, shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. In discharging this condition the Authority expect to see details concerning pre-commencement checks for bats, badgers, breeding birds and hedgehogs and appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed Construction Environmental Management Plan shall thereafter be implemented in full.
- 9) The development shall not be occupied until the access for vehicles has been constructed and laid out in general accordance with Drawing Number 00993.D03.A (Proposed Access) and to the standard specification of the Highway Authority.
- 10) The access to 83 Lawnswood Avenue shall not be used until a public highway footway crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority.
- 11) The access to 83 Lawnswood Avenue shall not be used in connection with the development until it has been surfaced with a bound material for its entirety, as measured from the near edge of the public highway carriageway.
- 12) The accesses to the sites shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.
- 13) The development shall not be occupied until visibility splays have been provided to the vehicular access to the site passing through the limits of the site fronting the public highway with an 'x' distance of 2.4 metres and 'y' distance of 39 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.