



Appeal Decision

Site visit made on 7 July 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Appeal Ref: APP/D4635/W/19/3239834

415 Stafford Road, Wolverhampton WV10 6RP

- 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 M Hussain against the decision of Wolverhampton City Council.
 - The application Ref 19/00801/FUL, dated 9 July 2019, was refused by notice dated 12 September 2019.
 - The development is a proposed bungalow to the rear of dwelling with associated parking and garden space.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr M Hussain against Wolverhampton City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal site¹ consists of the curtilage of 415 Stafford Road. However, the appeal plans show that the proposed bungalow is intended to be accessed via Brunslow Close to the rear. However, as confirmed by the Appellant and the Council, there is a strip of land between the appeal site and the public highway which is not in the control of the Appellant.
4. In addition to the above, the description of the development on the Appellants appeal form also includes reference to a new access provided from the existing cul-de-sac, Brunslow Close. However, as this is not included within the application site (nor is it fully detailed on the submitted plans) I have determined the appeal on the basis of the application form and decision notice description of the proposal.

Main Issues

5. The main issues are whether a safe and suitable access can be provided to the site and the impact on the development on highway safety.

¹ As defined by the red-line around the site from within the planning application submission.

Reasons

Safe and suitable access

6. As set out above, there is a piece of land between the appeal site and Brunslow Close which the Appellant is relying on to gain access for the appeal development. Without that piece of land, the only access to the appeal bungalow would be from Stafford Road which I understand the Council has previously refused planning permission for such a proposal. However, access to the appeal development in this manner is not the proposal before me.
7. The Appellant has stated that there is an agreement in principle with the owner of the strip of land between the appeal site and the adopted highway. However, no evidence of this has been provided with the appeal submission and I cannot therefore be certain that this could be achieved.
8. In addition to the above, the appeal plans provide very little detail of what would be proposed over the land outside of the control of the Appellant. Given that the plans do not show any development being carried out in this land (including any access driveway) it is therefore unclear what exactly is proposed.
9. Both the Council and the Appellant has suggested that planning permission would not be required to create the new access to Brunslow Close. I note that Schedule 2 Part 2 Class B of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GDPO) sets out that the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is *required in connection with development permitted by any Class in this Schedule* (my emphasis) is permitted development and would not therefore require planning permission.
10. However, in this case, the access would be required in connection with the proposed bungalow and not in connection with any other development which is permitted by the GPDO. Therefore, notwithstanding the view expressed to me by both parties, it would therefore appear that the access itself is not permitted development and would require planning permission. From the evidence before me, no such permission exists. Furthermore, it is unclear what the lawful use of this land is.
11. Whilst not suggested by the Council or the Appellant, I have considered whether the access could be secured through the imposition of a Grampian style planning condition in the event I was to allow the appeal.
12. However, as the new access (and driveway outside of the appeal site) appears to require planning permission, together with the fact that very little detail of this has been provided within the current proposal, I am of the view that there is significant doubt over this to the extent that the imposition of such a condition would not be an appropriate mechanism to achieve the construction of the access itself.
13. I therefore cannot conclude that the proposal would be provided with a safe and suitable access and would conflict with Policy H6 of the Wolverhampton Unitary Development Plan 2011-2011 (2006) (UDP) which amongst other matters seek to ensure that developments provide appropriate access and

parking arrangements. It would also conflict with overarching aims of the National Planning Policy Framework (the Framework).

Highway safety

14. In the event that a safe and suitable access could be provided, I have also considered the wider impact to vehicular and pedestrian safety on Brunslow Close which is essentially the reason behind the Councils decision to refuse planning permission.
15. At my site visit I saw that Brunslow Close has two garage blocks where residents could park their vehicles off-street. I also noted that some properties have parking provision within their respective curtilages. That said, I saw that there was a high degree of on-street parking. However, there were only two cars parked in front of the garage blocks and there was some on-street parking still available. Whilst my visit was only a snapshot in time, what I observed (together with the evidence provided within the representations on the planning application and appeal consultations) indicates that there is a relatively high demand for parking spaces on Brunslow Close.
16. The appeal proposal itself would provide two off street parking spaces which would be adequate for the parking requirements of the future occupiers of the bungalow. However, it would also result in the loss of at least one on-street parking space.
17. To my mind, the loss of one on-street parking space would not have a significant impact on highway safety especially given the nature of Brunslow Close and the likely availability of other parking spaces. This is also the case in respect of possible additional manoeuvring of vehicles in the area.
18. In coming to the above view, I acknowledge that there might well need to be a slight change in parking patterns, but this in itself is not a reason to withhold planning permission on this ground.
19. Turning to pedestrian safety, the Councils (and local residents) concern is tied in with parking pressures. Given that Brunslow Close is a small cul-de-sac with no routes from it to other locations other than via Oxley Moor Road there is not a high level of pedestrian activity. Taking this into account, and that I consider that the degree of change which would occur to on-street parking is not unacceptable, it is my view that there would not be an unacceptable impact on pedestrian safety.
20. For the above reasons, the proposal would not unacceptably affect highway safety on Brunslow Close and in that respect would accord with Policies H6, AM12 and AM15 of the UDP which amongst other matters seek to address highway safety issues. It would also accord with the highway safety aims of the Framework.

Other matters

21. I have also had regard to the other matters raised in the representations including issues relating to the building works themselves, children playing in the Close, Brunslow Close being used by vehicles from Oxley Moor Road for parking, additional noise nuisance, devaluation of property and concerns over emergency access. However, none of the issues raised provide a compelling additional reason why permission should not be granted.

Conclusion

22. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR