The Planning Inspectorate

Appeal Decision

Site visits made on 16 & 22 September 2020

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal Ref: APP/G4620/W/20/3252808
Land adjacent to 38 Clay Lane, Oldbury B69 4SY

- 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 Sukh Paul against the decision of Sandwell Metropolitan Borough Council.
- The application Ref DC/19/63496, dated 30 August 2019, was refused by notice dated 31 January 2020.
- The development proposed is 3 new detached 4-bed houses.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the scheme on the character and appearance of the area; its impact on the living conditions of future residents, and the effect of the mine workings on site.

Reasons

Character and appearance

3. This vacant site sits in a residential area made up of properties of a variety of ages and styles. However, despite this variation most dwellings are 2 storeys high and, while some may have gables or small 'pike' features projecting above the eaves line, there are few dormer windows or similar on the roofs. The effect of this means the streetscape is not dominated by larger properties.

4. Each of these 3 dwellings would have a sizeable dormer window on its front elevation. Given the scale, bulk and prominence of these features and their relative proximity to each other, they would be discordant elements in this context that would unacceptably dominate and overwhelm the street scene. As such, although they would be no higher than No 30 and whilst taking account of the building opposite, the proposed houses would cause significant harm to the character and appearance of the area.

5. Many frontages nearby are given over to parking, while the parking provision intended here would be broken by the stepped arrangement. Therefore, that aspect of the proposal would not be harmful.

6. Accordingly I conclude that, because of the front dormer windows, the development would detract unacceptably from the character and appearance of the area, in conflict with Policy ENV3 in the *Black Country Core Strategy* and Policy EOS9 in the *Site Allocations and Delivery Development Plan Document,* which, together, seek high quality design in the Borough.

Living conditions

7. The 3 rear gardens would all fall below the minimum guidelines of being 10.5m in length or 70sqm in area that are found in the Council's *Revised Residential Design Guide Supplementary Planning Document* (the SPD). Moreover, their usability and quality would be further limited by them being split-level. Whilst these dimensions are only guidelines, they nonetheless seem suitable in a residential area of this type to serve these 4-bedroomed dwellings. As such, I see no justification for smaller gardens being adequate. Therefore, what is proposed would fail to fulfil the outdoor recreational needs reasonably expected with houses of this size.

8. Whilst parks and other public open space are nearby, their role in providing outdoor recreation would not be the same as a suitably sized rear garden because they would not be as accessible or as private. Consequently, their presence does not allay the shortfall identified.

9. Accordingly, I conclude the development would result in unsatisfactory living conditions for future residents, and so would be contrary to the SPD and paragraph 122 of the *National Planning Policy Framework* (the Framework)

The effect of mine workings

10. On the site there may be up to 3 mine entries, but the location of only one is known. In the interests of safety, it is agreed that the matter needs to be addressed under the planning system, and the appellant's Ground Investigation report acknowledged they should be located and suitably treated. The appellant proposes this be done by a condition, similar to one imposed on a previous (but now expired) permission, that sought to address the matter before development commenced.

11. However, for a condition to be reasonable, I have to be confident that compliance could be achieved and it would not stand in the way of the development proceeding. In this instance, I have no details of the locations of 2 of the mine entries, their extent, their state or what is needed to secure them. Consequently, there is no certainty there could be compliance with the condition and the development could proceed.

12. Accordingly, I conclude it has not been shown the development could be safely implemented given the possible presence of mine entries on the site, and this further weighs against the scheme.

Other matters.

13. The appellant says he is seeking to make an effective use of land. However, having regard to paragraph 122 of the Framework, the appropriate density of development has to take into account the desirability of maintaining the area's character and the need for well-designed, healthy places among other things. In this case any benefits from maximising the use of the site do not outweigh the harm I have identified.

Conclusions

14. I therefore conclude the appeal should be dismissed.

JP Sargent

INSPECTOR