
Appeal Decision

Site visit made on 26 November 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Appeal Ref: APP/Q4625/W/20/3258507

39 Kineton Green Road, Olton, Solihull B92 7DX

- 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 Ms Gemma Jenkinson against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/00767/PPFL, dated 6 April 2020, was refused by notice dated 30 July 2020.
 - The development proposed is for the demolition of the existing house and replacement with 2 x five-bedroom detached houses with access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house and replacement with 2 x five-bedroom detached houses with access, parking and landscaping at 39 Kineton Green Road, Olton, Solihull B92 7DX in accordance with the terms of the application, Ref PL/2020/00767/PPFL, dated 6 April 2020, subject to the conditions contained in the attached schedule.

Application for costs

2. An application for costs was made by Ms Gemma Jenkinson against Solihull Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. During the application the appellant submitted an amended set of proposed plans to the Council for consideration. The amended plans reduced the rear extent of the proposed dwelling on Plot 2 to increase the separation distance between the two storey element of the proposal and the dwelling at 37 Kineton Green Road. These plans formed the basis for the Council's decision. To remove any doubt, I have determined the appeal based on the plans of development referenced as having formed part of the Council's decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area, with particular regard for the Olton Conservation Area (CA);
 - living conditions of neighbouring occupants at 41 Kineton Green Road, with particular regard for sense of enclosure; and

- highway safety, with particular regard for the proposed access.

Reasons

Olton Conservation Area

5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area. The appeal site forms part of the Olton CA. The area is characterised by a strong sense of visual built form and layout, its leafy setting, and well preserved examples of Victorian and Edwardian dwellings which all contribute to the significance of the CA. Of note, the Council's character appraisal document for the CA identifies the existing dwelling on the appeal site as a negative building and therefore represents an opportunity for enhancement.
6. The appeal site currently comprises of a large detached dwelling subject to a number of extensions and a generous rear garden area. The extensions to the host dwelling have been identified as contributing towards the currently negative effect the appeal site has on the CA. The surrounding area predominantly comprises of a mix of detached and semi-detached dwellings on long narrow plots and rear garden areas. The pattern of development along Kineton Green Road is positively defined by dwellings occupying the predominant width of each plot and by the consistent building line which results from the staggered progression of dwellings and their plot layout.
7. The appeal proposal would appropriately respond to the built form pattern described above. It would maintain the established building line and continue the staggered position and layout of dwellings along Kineton Green Road. Furthermore, the overall design, scale and location of the proposed dwellings would positively reflect the characteristics of the host building to be demolished and the built form types evident throughout the street scene. I am therefore satisfied that the appeal proposal would make a positive contribution towards the significance of the CA, particular compared to the negative contribution the existing dwelling currently offers.
8. I note comments from interested parties describing the current separation distance and openness between properties as a defining characteristic for the area and the CA. However, during my site visit I observed that dwellings along this section of Kineton Green Road predominantly occupied the full width of their plots leaving a narrow setback between neighbouring dwellings. The properties either side of the appeal site are evidence of this. Notwithstanding this, it is my view that the design and siting of the proposed development would preserve the open and verdant characteristics of the appeal site and the street scene, by virtue of adhering to the building line setback and maintaining spacious rear garden areas.
9. Accordingly, the proposed development would conserve and enhance the character and appearance of the surrounding area, with particular regard for the Olton CA. It therefore complies with Policies P15 and P16 of the Solihull Local Plan (LP) (adopted December 2013). These policies seek, amongst other things, to ensure development achieve good quality design which conserves and enhances the local character and distinctiveness of areas, as well as the importance of the historic environment.

10. The proposed development would also comply with Paragraphs 127, 184, 192 and 193 of the National Planning Policy Framework (the Framework). These policies similarly seek to ensure development is sympathetic to the local character and history of areas, as well as sustain and enhance the significance of heritage assets.

Living conditions

11. The Council have expressed concern with the siting of the appeal proposal in relation to the existing dwelling at 41 Kinton Green Road. Specifically, the two storey element of the proposed dwelling on Plot 1 and its projection beyond the rear elevation of the dwelling at No 41 is suggested to amount to a harmful sense of enclosure for those neighbouring occupants.
12. The siting and design of the appeal proposal follows the staggered built form pattern and building line which positively characterises development along Kinton Green Road. By virtue of this staggered built form arrangement there are several examples throughout the street where the neighbouring dwelling projects beyond the rear elevation of the subsequent property and is therefore a common arrangement within the area.
13. Notwithstanding this, I note the appeal proposal would amount to a more prominent built form than the existing single storey extension which currently abuts the shared boundary between these properties. However, the projection of the proposed dwelling on Plot 1 beyond the rear elevation of No 41 would be minimal. This combined with the proposed setback from No 41 would, in my view, maintain an appropriate level of openness within the rear garden area and outlook from the rear facing habitable windows of No 41. As such, I am satisfied that the appeal proposal would not amount to a harmful sense of enclosure for the occupants at No 41.
14. I note also the concerns of the interested parties at Nos 41 and 37 regarding the potential loss of light and privacy as a result of the proposal. The southern location of No 41, in relation to the appeal site, would ensure that the proposal would not introduce any harmful overshadowing. Regarding No 37, the proposed dwelling on Plot 2 has been designed to achieve the necessary separation distance between the buildings to ensure appropriate levels of light are still experienced by the neighbouring occupants.
15. Having regard for privacy, the side facing windows of the appeal proposal do not service any habitable rooms and are proposed to be obscure glazed. Occupants at 25 Saint Bernards Road have also expressed concerns over privacy resulting from proposed removal of trees. However, any trees to be removed would be supplemented by replacement trees to be later determined by the Council. This combined with the distance between the host dwelling and No 25 would ensure an acceptable level of privacy would be preserved for No 25. The proposal would therefore preserve the privacy of neighbouring occupants.
16. Accordingly, I am satisfied that the appeal proposal would not harm the living conditions of neighbouring occupants. It would therefore comply with Policy P14 of the LP. This policy seeks, amongst other things, to ensure that development is designed to protect and enhance the living conditions of existing and future occupants, including those in neighbouring properties.

Highway safety

17. The appeal site currently benefits from two vehicles accesses which link internally via a driveway to allow for forward vehicle movements in and out of the appeal site. The Council have suggested that the proposed access arrangements under this appeal would no longer allow for such forward ingress and egress of vehicles and would consequently require vehicles to reverse onto the highway network, posing an unacceptable risk to the safety of other highway users. This in part has been attributed to the proximity of the appeal site to Kineton Green Primary School.
18. The proposed dwellings would utilise a shared access and onsite manoeuvring area. This arrangement would allow for each proposed dwelling to have a clearly designated parking area whilst providing ample space onsite to accommodate the movements necessary for vehicles to enter and exit the appeal site in a forward gear. This arrangement has been supported by a Transport Statement prepared by a traffic consultant which includes a swept path analysis to demonstrate the functionality of the onsite manoeuvring area. The submitted evidence also demonstrates that the proposed access arrangements can accommodate the required visibility lines for vehicles exiting the site and that pedestrian visibility can also be achieved. As such, I am not convinced that the proposed access arrangements would encourage users to reverse in or out of the appeal site, subsequently posing an unacceptable risk to the safety of highway users as suggested. I note, the Highway Authority reached a similar conclusion in their review of the proposal.
19. Notwithstanding this, even if the future occupants were to reverse in or out of the appeal site this would not be uncharacteristic for the surrounding area. I observed during my site visit that the majority of nearby properties have limited onsite parking and manoeuvring area and as such vehicles would likely need to reverse in or out of these properties. The personal injury collision statistics provided by the traffic consultant and Highway Authority indicate that there is presently no highway safety issues with the existing vehicular access arrangements described or within immediate vicinity of the appeal site. This could in part be attributed to an adjustment in driver and pedestrian behaviour in the area given the traffic and network user characteristics present, and as such the proposal would be unlikely to alter this. I am therefore satisfied that the proposed access arrangements would not be detrimental in this regard.
20. Furthermore, any additional traffic generated would be minor and the appeal site is well located to take advantage of more sustainable modes of transport to access local facilities and services. I am therefore satisfied that no harm would arise in this regard.
21. Accordingly, the proposed development would not have an unacceptable impact on highway safety. It would therefore comply with Policy P8 which seeks, amongst other things, to ensure development has regard to the safety of any users of the highway network. There would also be no conflict with Paragraph 108 of the Framework which similarly seeks to ensure that development has safe and suitable access that does not unacceptably impact on highway safety.

Other Matters

22. Concerns have been raised by interested parties regarding the effect of the proposed development on the existing trees and local bird and wildlife population. The proposal is accompanied by an Ecological Impact Assessment Report, Biodiversity Impact Assessment Report and Nocturnal Survey for Bats prepared by an environmental consultant. The reports and surveys demonstrate that no protected species were identified onsite, resting or sheltering, and that it is unlikely that any harm would arise from the proposed development in this regard. I am therefore satisfied based on the available evidence that the proposed development is unlikely to adversely affect any protected species. Replacement landscape planting will be required by condition for any trees to be removed.
23. I have found no conflict with the development plan in this case and consequently no harm in relation to the main issues or other matters raised. The Council have confirmed that they cannot currently demonstrate a five year housing land supply. The presumption in favour of sustainable development therefore applies in accordance with Paragraph 11(d) of the Framework. Moderate weight is accordingly attributed to the positive contribution the appeal proposal makes towards addressing this current shortfall.
24. When assessed against the policies in the Framework taken as a whole there are no adverse effects which would significantly and demonstrably outweigh the benefits. In this context, the Framework is clear that permission should be granted. This is a significant material consideration in favour of the development. It is therefore my judgement that there are no other considerations that would lead me to a conclusion other than in accordance with the development plan in this case.

Conditions

25. I have had regard to the conditions suggested by the Council in their planning officer report, consultee advice and statement of case, of which the appellant has had the opportunity to comment on. Where necessary I have amended the wording of the suggested conditions in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance (PPG) and the Framework.
26. Planning permission is granted subject to the standard three year time limit condition for implementation. In addition, it is necessary to specify the approved plans in the interest of certainty.
27. A Construction Management Plan is necessary to safeguard the living conditions of local residents during the construction phase and in the interest of highway safety. As such, it is necessary that this be required prior to commencement of the development. The appellant has agreed to this condition in their representations. The condition suggested in the Council's statement of case has been utilised as it is considered the most complete and precise.
28. Conditions relating to hard and soft landscaping works are required in the interest of character and appearance. In the interest of brevity, I have consolidated the Council's suggested landscaping conditions where appropriate. I note that the conditions suggested in the Council's planning officer report

- regarding barriers around trees to be retained, boundary treatments and mitigation planting for trees to be removed are captured within this condition.
29. It is also considered necessary that a scheme detailing the management of stormwater runoff from the development be provided prior to any above ground works. This will ensure that the site is appropriately drained. The condition suggested by the Council's drainage officer has been utilised as it is considered the most relevant and appropriate compliance timing.
30. A condition relating to the materials and finish of the building and installation of obscure glazing are not considered necessary as the relevant details are shown on the plans of development and as such is already secured by the condition relating to approved plans.
31. The Council suggested a condition in their planning officer report requiring evidence be submitted of a binding contract for the full implementation of the development. However, this condition would not comply with the PPG and the Framework which prevents conditions requiring development to be completed in its entirety and has therefore not been imposed.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

J Gibson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Dwg No 01, prepared by Lawrence | Finley Architects); Existing Site Plan (Dwg 02, prepared by Lawrence | Finley Architects); Proposed Site Plan (Dwg No 10B, dated 04/06/2020, prepared by Lawrence | Finley Architects); Compliance Plan (Dwg No 11A, dated 04/06/2020, prepared by Lawrence | Finley Architects); Plot 1 – Floor Plans (Dwg No 20, prepared by Lawrence | Finley Architects); Plot 1 – Elevations (Dwg No 21A, dated 23/04/2020, prepared by Lawrence | Finley Architects); Plot 2 – Floor Plans (Dwg No 22A, dated 04/06/2020, prepared by Lawrence | Finley Architects); Plot 2 – Elevations (Dwg No 23B, dated 04/06/2020, prepared by Lawrence | Finley Architects); Existing + Proposed Street Scenes (Dwg No 24, prepared by Lawrence | Finley Architects); Existing + Proposed Rear Site Section (Dwg No 25A, dated 04/06/2020, prepared by Lawrence | Finley Architects); Landscape Proposals (Dwg No M20/1441/L01, dated June 2020).
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) details of Haul Routes;
 - viii) contact details for the appointed site agent that can be contacted in the event of any problems arising during construction activities.

The approved Construction Method Statement shall be implemented and adhered to throughout the construction period for the development.

- 4) The development hereby permitted shall not be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and carried out in accordance with the approved details and implementation programme. These details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) means of enclosure and retaining structures;
 - iii) boundary treatments, noting hedgehog tunnels to retain and enhance connectivity of the landscape;
 - iv) vehicle parking layouts;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;

- vii) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, lighting, etc.);
- viii) retained historic or other landscape features and proposals for restoration, where relevant;
- ix) indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development;
- x) planting plans, including mitigation for existing trees to be removed;
- xi) written specifications (including cultivation and other operations associated with plant and grass establishment);
- xii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- xiii) an implementation programme.

Any trees or plants which within a period of 5 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.

- 5) No above-ground works for the development hereby permitted shall occur until a scheme to manage surface water runoff has been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with approved details. The submitted details shall include:
- i) Model and calculations about the lifetime of the development, design storm period and intensity (1 in 1, 1 in 30 & 1 in 100 year) with an appropriate allowance for climate change;
 - ii) The drainage strategy should demonstrate that the surface water runoff must not exceed the pre-development greenfield runoff rate;
 - iii) Flood water exceedance routes, both on and off site;
 - iv) Engineering details of all surface water drainage features;
 - v) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
 - vi) Details of water quality controls, where applicable;
 - vii) Foul drainage plans;
 - viii) Lifetime management and maintenance plan of the proposed system.

The scheme shall thereafter be maintained and managed in accordance with the approved details.

End of Schedule