
Appeal Decision

Site visit made on 7 December 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2020

Appeal Ref: APP/P1805/W/20/3259861

32, 34, 36 Lickey Square, Birmingham B45 8HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr and Mrs Betina, Thakor, Roman, Marian, Peter, Valerie; Mistry, Mcalindon, Norton against Bromsgrove District Council.
 - The application Ref 20/00759/REM, dated 2 July 2020, sought approval of details pursuant to condition No 1 of a planning permission Ref 16/0190 granted on 6 July 2017.
 - The development proposed is 5 detached dwellings.
 - The details for which approval is sought are reserved matters comprising appearance, landscaping, layout and scale.
-

Decision

1. The appeal is dismissed, and the approval of details is refused.

Procedural Matters

2. Notwithstanding the contentions about whether the application is valid, and the dates referenced by the parties therein, the Business and Planning Act 2020 inserted Section 93D into the Town and Country Planning Act 1990, which provides that outline planning permissions requiring the submission of an application for reserved matters between 23 March 2020 and 31 December 2020 receive an automatic extension to 1 May 2021. Consequently, the application is valid, and the appeal has been dealt with accordingly.
3. The Council in failing to determine the application within the prescribed period has subsequently confirmed in its statement that the application would have been refused. The matters in dispute have therefore informed the main issues under the appeal.

Main Issues

4. The main issues are the effect of the proposal on:
 - (a) the character and appearance of the area, including existing trees;
 - (b) highway safety; and
 - (c) living conditions of neighbouring occupiers in relation to site levels and overlooking.

Reasons

Character and Appearance

5. The site is located in a residential context, where the character and appearance of immediate dwellings comprises large two storey buildings on spacious plots, wherein gardens generally possess substantial tree cover subject to a tree preservation order and other ornamental landscaped vegetation. Dwellings at The Badgers and Stretton Drive comprise smaller dwellings and create a pattern of development where smaller dwellings can successfully come forward amongst the prevailing extent of larger dwellings. Accordingly, the principle of developing the site for housing in this context has been established by a previous appeal decision¹. Notwithstanding, the reserved matters submitted for approval under this appeal still need to ensure that the character and appearance of the site is preserved.
6. There is no evidence before me, or an assessment of the plans by the appellant, that clearly demonstrates the scale and layout of the proposal would integrate with that of The Badgers and Stretton Drive, and therefore accord with the pattern of development. Furthermore, there does not appear to be a detailed landscaping scheme submitted with the proposal, in order to demonstrate that the relevant reserved matter of landscaping can be adequately assessed, and that the proposal can come forward whilst maintaining the integrity of the existing trees on site. Similarly, the Council has identified that garden space in the canopy of trees should not be included when defining the layout of development, and there is no evidence that the proposal meets the minimum requirements in this regard.
7. Consequently, on reviewing the Council's statement and assessment of the proposal, and without sufficient evidence on the part of the appellant in response, I can only reasonably conclude that the scale and layout would have a harmful effect on the character and appearance of the area. This would be contrary to Policies BDP7 and BDP19 of the Bromsgrove District Plan 2017, which among other things require that development is of high quality design.

Highway Safety

8. The new dwellings would require accessible refuse stores and cycle parking details in accordance with the Bromsgrove District Council Planning and Regeneration High Quality Design SPD 2019. There is no evidence before me that these have been provided. Furthermore, the Council has raised concerns over the size of parking spaces and visibility when entering and existing these spaces, along with the interface between the spaces and the garages. It has not been made clear, through vehicle tracking or otherwise, that the parking space arrangements are sufficient and whether they comply with relevant standards. Consequently, the proposal would conflict with BDP19 of the BDP, which among other things requires high quality design and safe and accessible developments.

Living Conditions of Neighbouring Occupiers

9. There is a substantial change in levels at the site, from the highest point in the north east, to the lowest point in the south west, continuing to fall away towards The Badgers.

¹ Ref APP/P1805/W/17/3169630

10. Consequently, the layout of the dwellings should respond to potential effects on the living conditions of dwellings at The Badgers derived from the difference in levels. In this context, there are no sectional plans, or similar evidence, demonstrating that the scale and layout of the dwellings would not lead to harmful overlooking. Doubts about the effect on living conditions are compounded by the lack of detailed landscaping evidence and what opportunities there might be for screening to mitigate harmful overlooking. Consequently, the proposal would conflict with Policy BDP1 of the BDP, which among other things requires that proposals are compatible with adjoining uses and the impact on residential amenity is acceptable.

Other Matters

11. Deficiencies in housing land supply, insofar as it engages Paragraph 11 of the National Planning Policy Framework, relates to applications for planning permission. Planning permission has already been granted in outline under the relevant appeal and there is no evidence in front of me demonstrating that the relevant provisions of Paragraph 11 should be applied under reserved matters applications.
12. The full detail of the relevant application², that the appellant states has been allowed at appeal, has not been provided. Consequently, I am unable to take a comprehensive view on its relevance to the appeal in this case. From the limited description provided, I note it may have been for two dwellings, and in any event is not therefore comparable with the proposal in this case which is for a much greater quantum of development.
13. The Council's administration of the application, including how they have engaged with the appellant on the proposal, is not a matter for me to assess or resolve under this appeal.

Conclusion

14. For the reasons given, the appeal is dismissed, and approval of details is refused.

Liam Page

INSPECTOR

² Ref 19/01388