



Appeal Decision

Site visit made on 5 January 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2021

Appeal Ref: APP/Q4625/W/20/3261478

Land to the rear of 68 -70 Kenilworth Road, Knowle, Solihull B93 0JD

- 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 Roger Marshall against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/01124/MINFDW, dated 19 May 2020, was refused by notice dated 9 September 2020.
 - The development proposed is infill detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the:
 - (a) character and appearance of the area, including Knowle Conservation Area, the setting of nearby listed buildings and non-designated heritage assets; and
 - (b) living conditions of neighbouring occupiers in relation to outlook.

Reasons

Character and Appearance

3. The site comprises the undeveloped rear backland garden area of 68-70 Kenilworth Road and is therefore domesticated in appearance. It is elongated and backs on to open agricultural land. The immediate environment to the north, east and west comprises residential dwellings that are around two storeys in height, in a mixed detached, semi-detached and terraced formation. Materials are somewhat varied but consistent, comprising red brick and black slate roofing, and whitewashed brick/render and red tile roofing.
4. The site is located within Knowle Conservation Area, which among other things derives its heritage significance from being an agricultural settlement serving a rural hinterland, consistent use of building materials and building lines, and significant groups of listed and locally listed buildings. Features of the conservation area that detract from its heritage significance include the erosion of historic layout by modern infill development.
5. The Grade II listed buildings No. 74 to No. 94 Kenilworth Road and the non-designated heritage assets comprising local list buildings No. 62 to No. 68, No. 96 and 98 Kenilworth Road are located immediately adjacent to the site.

Among other things, these designated and non-designated heritage assets derive heritage significance from their cohesiveness as a group of terraces alongside the historic route between Knowle and Kenilworth, and their elongated front gardens and rear gardens adjacent to open agricultural land in the south. Together, the cohesiveness of the group helps reveal the heritage significance of the historic settlement pattern of Knowle Conservation Area. On the point of cohesiveness, there is a mutual relationship between the properties insofar as their individual heritage significance makes a direct contribution to the setting and heritage significance of neighbouring properties within the group.

6. In this context, the proposal would erode the elongated garden area of No. 68-70 Kenilworth Road, and amongst other things sever its relationship with the wider rural hinterland to the south, directly harming the heritage significance of a non-designated heritage asset. Furthermore, the proposal would directly harm the heritage significance of Knowle Conservation Area, by eroding the historic layout with modern infill development. In addition, the erosion of the elongated garden area of No. 68-70 Kenilworth Road would harm the setting of Grade II listed buildings No. 74 to No. 94 Kenilworth Road directly adjacent, obscuring their own relationship with the wider rural hinterland to the south.
7. Notwithstanding other modern developments within the area, the proposal in this case is within a cohesive group of buildings comprising designated and non-designated heritage assets, which embody characteristics that make a clear contribution to the wider heritage significance of Knowle Conservation Area by reason of their mutual heritage significance and setting. The siting of the dwelling and ancillary buildings does little to mitigate the effects of the proposal, fundamentally there is additional urban form where there currently is none and erosion effects are plain. It is not clear how the proposal would be assessed differently if it was infill or backland development. In either case, the assessment of effects would still be based on the character and appearance of the area, resulting in a conclusion of harm.
8. Paragraph 193 of the National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The quantum of development under the proposal is limited, and therefore the capacity for harm is similarly limited and less than substantial. Nonetheless, any harm in this context should be given great weight and in accordance with Paragraph 194 and 196 of the Framework should require clear and convincing justification and overriding public benefits.
9. The proposal would deliver housing in the context of a deficient housing land supply within the area. However, even if the housing land supply deficiency was substantial, the limited quantum of the development would generate similarly limited socio-economic benefits, generating only limited weight to balance against the identified harm, which should be given great weight.
10. Special attention has been given to the desirability of preserving or enhancing the character or appearance of Knowle Conservation Area, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

11. Furthermore, special regard has been given to the desirability of preserving the Grade II listed buildings No. 74 to No. 94 Kenilworth Road and their settings or any features of special architectural or historic interest which they possess, in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. There are no apparent public benefits that would outweigh the less than substantial harm identified in relation to the designated heritage assets. Similarly, there are no apparent material considerations that would outweigh the harm to non-designated heritage assets. Consequently, and overall, the proposal would harm the character and appearance of the area, including Knowle Conservation Area, the setting of nearby listed buildings and non-designated heritage assets. This would cause conflict with Policies P5, P15 and P16 of Solihull Local Plan 2013 (SLP), and Policy VC2 of the Knowle, Dorridge and Bentley Heath Neighbourhood Plan 2019 (NP), which among other things require proposals to come forward in accordance with aforementioned statutory duties.

Living Conditions

13. The site is located directly adjacent to the rear garden areas of two properties to the west which are located on Cook Close. The rear garden areas are truncated along their length and therefore the site is also located in close proximity to the rear elevations of these properties, and the habitable rooms and windows therein. Even though the rear garden areas are truncated along their length, the pattern of development in the immediate vicinity, particularly in relation to the elongated rear garden areas of No. 68-70 and 74 to No. 94 Kenilworth Road, afford the occupiers an appropriate level of outlook.
14. The proposal would erode the elongated rear garden areas of No. 68-70 Kenilworth Road and impinge on the relief currently afforded to neighbouring occupiers. Due to the close proximity of the proposal and its two storey construction, in conjunction with the truncated rear garden areas of neighbouring occupiers and ground floor rear habitable rooms, there would be a harmful overbearing effect on the living conditions of neighbouring occupiers.
15. I have noted reference to an extract from a residential design guide, however it is significantly dated and without the full document in front of me I am not clear on whether it is still current. In any event, the document comprises guidance only and should be used flexibly. The details in the extract have not overcome my assessment of the site on the ground, which is a competing material consideration in and of itself and where I have concluded there would be harm. Consequently, the proposal would conflict with Policy P14 of the SLP and Policy D3 of the NP, which among other things seek to protect and enhance the amenity of existing neighbouring occupiers.

Other Matters

16. Given the side relationship of the dwelling under the proposal in relation to the properties to the west, there is no evidence in front of me demonstrating that there would be a window arrangement that harms neighbouring occupier privacy. In a similar context, given the limited quantum of additional residential development in an existing residential area, additional activity resultant from the proposal would not give rise to harmful levels of noise.

17. A number of other appeals have been referenced in support of the proposal. However, each case should be determined on its own merits, and it has not been demonstrated that the cases are similar enough to carry more than limited weight. For example, the relationship with the designated and non-designated heritage assets appears very different and the respective planning balance is not directly comparable in each case.
18. The balancing exercise carried out in relation Paragraph 196 of the Framework under the main issues demonstrated that the less than substantial harm would not be overridden by public benefits associated with the socio economic effects of housing land supply. Consequently, even though there is an undersupply of housing land, for the purposes of Paragraph 11d) of the Framework, the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Accordingly, the presumption in favour of sustainable development does not apply.
19. The principle of development, insofar as it relates to the suitability of the site's location relative to defined development boundaries, is not disputed, and does not comprise a benefit to be weighed in the planning balance, carrying neutral effect.

Conclusion

20. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR