



Appeal Decision

Site visit made on 13 January 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2021

Appeal Ref: APP/V4630/W/20/3260709
252 Chester Road, Streetly B74 3NB

- 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 planning permission.
 - The appeal is made by Mr & Mrs Lewis against Walsall Metropolitan Borough Council.
 - The application Ref 20/0485 is dated 5 May 2020.
 - The development proposed is Demolition of 252 Chester Road and erection of 4 residential dwellings (2 houses and 2 bungalows) with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. This is an appeal against the Council's failure to determine the planning application within the statutory timescale. The Council has written both a planning committee report and an appeal statement which explain the reasons why it would have refused planning permission had it been in a position to do so. In this context, the main issues are the effect of the proposed development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of neighbouring properties in respect of noise, disturbance, privacy and anti-social behaviour.

Reasons

Character and Appearance

3. The appeal site falls within an established residential area of detached bungalows and two storey dwellings positioned in a mainly linear form alongside Chester Road. Whilst there are some exceptions, including Foley Court close to the junction of Chester Road with Foley Road, and the complex of retail development and residential development close to the junction of Chester Road with Bridle Lane, the intervening long stretch of land that falls between the detached frontage properties on Chester Road and dwellings on Grosvenor Avenue, comprise green and open land in the form of very spacious residential gardens.
4. I acknowledge that some of the residential gardens include some development, but the defining characteristic is a rear garden environment which is either devoid of built form, or where buildings are generally subservient in scale to

the host dwellings, and where there is a prevailing distinctive and positive sense of green and open space to the rear of the vast majority of dwelling houses in the locality.

5. In this case, I do not consider that the two dwellings fronting Chester Road would look materially out of place in the street-scene. The dwellings would be set well back from the road and would be broadly consistent with the common building line in this street. Whilst the space to the sides of these frontage properties would be less than in respect of the existing dwelling on the site, the resultant space would nonetheless not be too dissimilar to the vast majority of other dwellings in Chester Road.
6. Notwithstanding the above, it is also proposed to erect two dormer bungalows to the rear of the existing rear garden in conjunction with an access road, driveways, turning areas and boundary treatment. Owing to the scale and position of buildings, coupled with the extent of engineering operations across the whole of the site and the need to sub-divide plots with boundary treatment, I consider that the proposal would have the effect of materially departing from the otherwise more open, spacious and green plots afforded to the rear of most of the dwellings in this area. The resultant residential development, on a greenfield site, would appear cramped and tight and would therefore cause significant harm to the character and appearance of the area.
7. In reaching the above view, I am mindful that two dormer bungalows have been approved to the rear of 248a Chester Road. However, the evidence before me indicates that this site was not garden land and *"was already in a commercial use which was considered as non-confirming in the predominantly residential area"*. In this case, I do not consider that either this development, or the other developments mentioned above, justify allowing harmful development. The existence of such development does alter my view that overall the area has a distinctive spacious and green quality.
8. I therefore conclude that the proposal would not accord with the overall design requirements of policies CPS4, ENV2 and ENV3 of the Black Country Core Strategy 2011 (CS); saved policies GP2 and ENV32 of the Walsall Unitary Development Plan 2005 (UDP); the Council's Supplementary Planning Document 'Designing Walsall' 2008 (Revised 2013) (SPG) and paragraph 127 of the National Planning Policy Framework (the Framework).

Living Conditions

9. I am satisfied that in respect of the two dwellings fronting Chester Road, there would be no significant harm caused to the occupiers of neighbouring residential properties in respect of noise, disturbance and privacy. There would likely be an increase in vehicular and pedestrian movements from two dwellings rather than the existing one, but this would be in the context that noise and disturbance levels are relatively high on Chester Road and, furthermore, I consider that it is reasonable to take the view that the occupiers of neighbouring residential properties would normally expect a greater degree of peace and quiet to the rear, including in rear gardens.
10. The two dormer bungalows would be positioned in the rear garden of the existing dwelling and would be accessed from a new access road/turning areas. Given the quantum of residential units proposed, coupled with the close position of car parking/turning areas to the neighbouring garden boundaries of

No's 250a and No 254 Chester Road, I consider that significant harm would be caused to the users of these neighbouring gardens in respect of noise and disturbance from vehicular and pedestrian activity. I reach this view in the knowledge that there is some established planting on the common boundaries.

11. Whilst a similar arrangement exists at land to the rear of No 248a Chester Road, the evidence before me suggests that this back land site was originally commercial premises. Consequently, the existence of this development does not justify allowing development which, based on existing site conditions, would cause unacceptable harm to the living conditions of the occupiers of neighbouring dwellings.
12. I note that the window to window separation distances would be maintained between the proposed dwellings. In this case, I am satisfied that there would not be any unacceptable overlooking of rear gardens on Grosvenor Avenue from the two dormer bungalows. The rear dormer windows would be positioned at a relatively low level and some distance from the boundaries. Furthermore, high grade boundary landscaping could be secured by planning condition. I also observed on my site visit that there were outbuildings at the far end of the gardens of these neighbouring properties.
13. Whilst the dwelling on plot 3 would fail to meet minimum separation distances in relation to the front dormer window and the rear elevation of No 250a Chester Road, this overlooking would be at an oblique angle. In this respect, the separation distance shown on the submitted plans would be acceptable despite the technical conflict with the SPG.
14. The Council has referred to the potential for anti-social behaviour in terms of the rear gardens of plots 1 and 2 and 250a and 254 Chester Road being exposed to public access. However, I am satisfied that proposed gardens could be provided by means of secure and relatively high boundary treatment and, furthermore, the inclusion of additional dwellings in the locality would, to some extent, act as a form of surveillance in terms of any criminal or anti-social activity on the site. In addition, I do not doubt that it would be possible to opt for some selective planting where car parking areas meet the boundaries with neighbouring properties as a crime prevention deterrent.
15. I therefore conclude that whilst the proposal need not lead to any significant anti-social activities taking place on or from the site or any unacceptable harm to the privacy enjoyed by the occupiers of neighbouring properties, when the development is considered as a whole significant harm would nonetheless be caused to the occupiers of neighbouring properties in respect of noise and disturbance. To this extent, the proposal would not accord with the amenity requirements of saved policies GP2 and ENV32 of the UDP; the SPG and paragraph 127(f) of the Framework. In respect of this main issue, the Council has referred to policies ENV2 and ENV 3 of the CS, but they are not directly relevant as they concern design and not living conditions matters.

Other Matters

16. The proposal would boost the supply of housing in the area. However, there is no evidence that the local planning authority cannot demonstrate a deliverable five year supply of housing sites. In this context, the contribution from a net three dwellings would not be very significant. The development would result in some limited support to local facilities and services in the locality and there

would be some benefit from construction employment, albeit that this would be short lived.

17. The appellant has referred me to other approved developments (including appeal decisions) elsewhere. These developments are not directly analogous and, in any event, I have determined this appeal on its individual planning merits and taking into account the site conditions in the locality.
18. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conclusion

19. For the above reasons, I conclude that the appeal should be dismissed.

D Hartley

INSPECTOR