



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: 27th January 2021

Appeal Ref: APP/Q4625/W/20/3259785

24 Lightwood Close, Knowle, Solihull B93 9LS

- 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/2020/00674/PPFL, dated 16 March 2020, was refused by notice dated 15 September 2020.
 - The development proposed is demolition of existing single storey garage to No. 24 Lightwood Close and erection of 1 No. 3 bedroom and 2 No. 4 bedroom dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development is taken from the appeal forms and decision notice, which more comprehensively reflect what is proposed compared to the application forms. The appeal has been dealt with accordingly.

Main Issues

3. The main issues are the effect of the proposal on:
 - (a) biodiversity across the site; and
 - (b) the character and appearance of the area.

Reasons

Biodiversity

4. The site comprises a large residential garden area with appreciable levels of low lying vegetation, mature trees and boundary features. The proposal would see three large dwellings developed on the site, which would erode a significant proportion of the existing garden area and associated biodiversity value. The biodiversity impact assessment submitted with the proposal demonstrates that there is an overall loss of biodiversity of 0.06 units as a result of development.
5. Policy P10 of the Solihull Local Plan 2013 (SLP) states that where a development is likely to have significant harmful effects on the natural environment, developers must demonstrate all possible alternatives resulting in less harm have been considered, satisfying the mitigation hierarchy.

6. Paragraph 175 of the National Planning Policy Framework (the Framework) is clear that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
7. The Council has identified a figure of £10129 which, if secured by a planning obligation, would compensate for the loss of biodiversity at the site. The proposal is supported by an executed Unilateral Undertaking (UU) submitted by the appellant. The UU has been considered against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. In this context, the UU provides monetary contribution in line with Council formula and is therefore necessary in accordance with the relevant regulations.
8. Notwithstanding, it is unclear to me whether the mitigation hierarchy has been fully complied with and whether compensation has been treated as a last resort. There is no evidence in front of me demonstrating that the loss of biodiversity could not be avoided or mitigated through additional on site habitat creation, or that providing net gains for biodiversity in accordance with Paragraph 170 of the Framework have been fully explored. In this context, it is noted that the Council requested enhanced biodiversity measures shown on a landscape plan, but that this was not provided.
9. Furthermore, the net loss of biodiversity at the site is driven by the loss of vegetated garden habitat, and in essence informs the compensation figure. It is unclear based on the evidence what role existing vegetated garden habitat plays in sustaining bat roosts at the site, for example through foraging, and whether mitigation (rather than compensation) was feasible or not.
10. Overall, even though there is an executed planning obligation for the defined monetary contribution as compensation for biodiversity loss, there is insufficient evidence to demonstrate the mitigation hierarchy has been robustly applied. Consequently, there is conflict with Policy P10 of the SLP, which among other things seeks to ensure development conserves and enhances biodiversity value of sites.

Character and Appearance

11. The site is located on Lightwood Close, which is a large cul-de-sac accessed off of Warwick Road to the south. Generally speaking, the cul-de-sac comprises large detached properties with driveways and lawns to their frontages. During my site visit, besides a number of trees, there was very little in the way of street furniture or ornamental gardening.
12. The frontages of properties were well presented in a uniform fashion, of a clean and minimalist character and appearance. Given No.24 is at the end of the cul-de-sac, it is set back an appreciable distance from the highway, relative to neighbouring properties No.17 and No. 22 Lightwood Close and is therefore less immediately apparent in the street scene.
13. The proposal would introduce a 1.1m high acoustic wall along the perimeter of the access road, set back from the forward building lines of No.17 and No. 22 Lightwood Close. It would not be coherent with the clean and minimalist character and appearance of the wider cul-de-sac.

14. However, the very limited scale and setback nature of the acoustic wall is such that any lack of coherence would be insignificant. Furthermore, the demolition of the garage creates a degree of openness at this point along Lightwood Close that would help offset the insignificant scale of the acoustic wall. The prominence would be further mitigated by a degree of landscaping along the access, along with other potential measures (planted climbers among other things) that could be subject to a planning condition.
15. Overall, the acoustic wall would not be of a scale that harms the character and appearance of the area and would therefore comply with Policy P5 and P15 of the SLP. Among other things, these policies seek to conserve and enhance local character, distinctiveness and streetscape quality.

Other Matters

16. To the north of the site, on the northern flank of an unnamed access road are the Grade II listed buildings of Elm Tree Farm and Yew Tree Cottage. Among other things, the setting of these listed buildings is informed by residential development comprising large detached dwellings, which have a negative impact on their heritage significance, and mature trees, which have a positive impact on their heritage significance. Although the proposal would introduce additional residential development, landscaping provision helps reinforce the mature trees and would neutralise any negative impacts. Consequently, and altogether, the proposal would preserve the setting and heritage significance of the listed buildings and consequently the matter has a neutral effect under the appeal.
17. The proposal would contribute to housing land supply. However, even if the shortfall in housing land supply was substantial, given the limited quantum of development, the benefits derived from positive socio-economic effects would be similarly limited. Consequently, the adverse impacts identified under the main issues would significantly and demonstrably outweigh the benefits, meaning the presumption in favour of sustainable development under Paragraph 11d) of the Framework would not apply.
18. The other referenced appeals hinged on a planning balance, the constituent parts of which do not precisely reflect the issues at hand in this case, particularly in relation to biodiversity, which has been determined on its own merits.
19. The appellant has demonstrated that an acoustic wall would mitigate the effects of comings and goings, and any noise and disturbance that might be imposed on existing neighbouring occupiers. Although the limited quantum of development is unlikely to generate substantial comings and goings in the first place, the acoustic wall would render any concerns about noise and disturbance negligible. This would reinforce the acceptability of the acoustic wall under the proposal but would not mitigate the adverse impacts associated with biodiversity.
20. There is no evidence in front me that the frontages of adjacent properties possess private outdoor living space that would be enclosed or impinged by the acoustic wall, which is of a scale that would not impede outlook to any great extent. This is especially the case when considered relative to the existing garage to be demolished. Consequently, there is no evidence in front of me that living conditions would be harmed.

Conclusion

21. For the reasons given, even though the acoustic wall does not harm the character and appearance of the area, the proposal's effects on biodiversity have not been fully assessed in accordance with the mitigation hierarchy and the appeal is therefore dismissed.

Liam Page

INSPECTOR