



Appeal Decision

Site Visit made on 17 February 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2021

Appeal Ref: APP/Q1825/W/20/3260700

340 Birchfield Road, Redditch B97 4NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs M Nokes against the decision of Redditch Borough Council.
 - The application Ref 20/00794/OUT, dated 10 July 2020, was refused by notice dated 1 September 2020.
 - The development proposed is outline application for demolition of existing house and erection of 1 x two-bedroom and 2 x 4/5 bedroom houses with new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought outline planning permission with approval for details of access and layout. I have assessed the access and layout details as shown on the appeal plans but treated the appearance and scale information as being submitted for illustrative purposes.
3. Reference is made in the submissions to regulation 53 of The Conservation of Habitats and Species Regulations 2010 although this has been revoked. Instead, I have had regard to the equivalent regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) (2017 Regulations) in my assessment. I am satisfied that no party would be caused injustice by taking this approach.

Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the area, (ii) the effect on the living conditions of the occupiers of 338 Birchfield Road (no 338) in respect of traffic noise and disturbance, and (iii) whether it is likely that a European Protected Species (EPS) license would be issued to carry out demolition which would affect an identified bat roost.

Reasons

Character and appearance

5. In the vicinity of the site, the houses on Birchfield Road tend to be in a line side by side, close to each other and directly facing the highway. The appeal property is in keeping with this prevalent design and layout. Fleetwood Close is a nearby cul-de-sac where houses are set back from Birchfield Road and so is an exception to this general pattern.

6. One of the proposed dwellings would be in a similar position to the existing house but would fill little more than half of the width of the existing plot. This building and resultant plot frontage would be unusually narrow, even when taking into account the cited examples of other nearby properties. As such, the front part of the proposal would appear cramped and incongruous in the generally consistent street scene.
7. Furthermore, the proposed access would create a noticeable gap between the front house and No 338. The drawings suggest this access would be wider than any of the side driveways seen at nearby properties and so the scheme would be at odds with the pattern of houses being close to each other.
8. The proposed 2 dwellings to the rear would be seen along the drive from the road and would be visible from a number of nearby properties. Development in the back garden would go against the prevalent pattern of houses fronting Birchfield Road but it would not be entirely unusual in the context of Fleetwood Close. However, intervening gardens and vegetation would prevent the rear dwellings appearing as part of the existing cul-de-sac. Instead, they would be seen as a separate scheme of a much smaller scale and different character to Fleetwood Close.
9. The proposed units could be designed to match the style of existing nearby dwellings. However, this would fail to address the incongruity of the proposal in terms of the narrowness of the front house and plot and positioning of the rear units away from the road and separate from Fleetwood Close.
10. The appellant has referred to other developments but some of these were approved several years ago when there was a different planning policy context. Also, from the information provided, I am unconvinced that any of the examples are reasonably comparable to the current proposal in terms of size, design and context. In any event, none of these other schemes are within the immediate vicinity of the site and so they do not influence the character of the locality. As such, they fail to provide a precedent that I am bound to follow in the assessment of this main issue.
11. For the above reasons, I conclude the proposal would harm the character and appearance of the area. In these regards, it would not accord with policies 5 and 40 of the Borough of Redditch Local Plan 2017 (LP). These aim, amongst other things, to ensure development reflects and integrates with its surroundings.

Living conditions

12. The proposed vehicular access would run in close proximity along the side boundary of the site with No 338 with a parking and turning area that would adjoin the neighbour's end boundary. There is no existing driveway to the back garden and so it is reasonable to expect the proposal would introduce new traffic movements to the rear of the site, notwithstanding that future occupiers may make some journeys by foot.
13. Given the proximity of the drive to the boundary, it is highly probable that noise from motorised traffic coming to and from the development would be heard by occupiers of No 338. There is no substantive evidence to demonstrate that cars travelling on the left hand side of the access would have a

significantly less noise effect on the neighbouring property. In any case there is no meaningful way to ensure visitors drive away from the boundary.

14. Traffic to and from the proposal would travel along the whole length of No 338's plot with little space to provide boundary features to reduce noise effects on the neighbour's back garden. Moreover, a first floor window in No 338's rear elevation is close to the boundary and there is no technical evidence that demonstrates the room served by this window would not be affected by traffic noise. The access would serve 2 dwellings and so its usage would be markedly different to nearby short driveways that serve garages and other outbuildings in back gardens. No 338 has no ground floor habitable rooms that adjoin the site and is set off the boundary by a narrow passageway. However, these factors fail to address or override my concerns that relate to noise effects on the neighbour's garden and first floor room close to the site.
15. As such, I conclude the proposal would have a harmful effect on the living conditions of the occupiers of no 338 in respect of traffic noise and disturbance. In these regards, it would be contrary to LP policies 5 and 40 which, amongst other things, seek to ensure development causes no detriment to amenity and is compatible with its surroundings.

Biodiversity

16. The appellant's protected species survey identifies a brown long-eared bat day roost in the roof void of the existing house, which would be destroyed as a result of the proposed demolition works. As such, a EPS licence would need to be issued by Natural England in order for the development to lawfully proceed.
17. The 2017 Regulations impose a duty on me to consider whether EPS would be affected by a proposal and whether mitigation measures would be effective. In carrying out this duty, the Office of the Deputy Prime Minister Circular 06/2005 requires me to have regard to the 'derogation tests' set out in regulation 55 of the 2017 Regulations. These would need to be met for a EPS licence to be issued.
18. The Council raise no objection to the proposed mitigation measures and do not claim the development would be detrimental to maintaining the population of bat species. I have no reason to arrive at a different view on these matters. The proposal's contribution to the housing stock and associated economic advantages are of a public interest and I am satisfied that these benefits would override the harm or risk of harm the development would cause to bats. Given the constraints of the site, the removal of the existing house is necessary to allow the scheme to proceed and there is no satisfactory alternative.
19. Therefore, I conclude it is likely that a EPS licence would be issued to carry out the proposed demolition. In this regard the development would comply with LP policy 16 which seeks to secure appropriate mitigation measures that protect EPS where necessary.

Other considerations and planning balance

20. While noting concerns, the proposal could be designed to avoid unacceptable loss of privacy or light to neighbouring properties. Acceptability in this regard is a neutral factor in my assessment.

21. The proposal would represent a more efficient use of land in a location where there is reasonable access by different travel modes to facilities. The submissions indicate a 3.29 year supply of housing land can be demonstrated, a shortfall against the 5-year minimum requirement as set out in the National Planning Policy Framework (the Framework). Reference is made to a report on the Greater Birmingham Housing Market Area although I am uncertain of its status and implications in terms of housing supply requirements for Redditch. Nevertheless, in light of the shortfall in housing land supply and having regard to the scale of the development, I attach moderate weight to the benefits in terms of the proposal's contribution towards the housing stock and the support it would provide to the economy.
22. Due to the housing land supply situation, paragraph 11d of the Framework is engaged. This requires the adverse impacts of the proposal and its benefits to be considered against the Framework policies.
23. The Framework states that permission should be refused for development of poor design that fails to improve the character and quality of an area. Consequently, I attach considerable weight to the harm that would be caused by the proposal to the character of the area and the living conditions of the occupiers of No 338. Overall, the adverse impacts of the scheme would significantly and demonstrably outweigh its benefits and so the Framework's presumption in favour of sustainable development does not apply.

Conclusion

24. The proposal would conflict with the development plan when read as a whole and the benefits and other considerations do not lead me to a decision other than in accordance with its policies. As such, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR