



Appeal Decision

Site Visit made on 4 May 2021

by Mr Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2021

Appeal Ref: APP/V4630/W/21/3268807

34 New Road, Brownhills, Walsall WS8 6AT

- 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 Miss M Howells, Brownhills & Willenhall Methodist Circuit against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 19/1566, dated 12 December 2019, was refused by notice dated 25 August 2020.
 - The development proposed is the construction of 2No. dwellings to rear of 34 New Road, with associated access.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2No. dwellings to rear of 34 New Road, with associated access at 34 New Road, Brownhills, Walsall WS8 6AT in accordance with the terms of the application, Ref 19/1566, dated 12 December 2019, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing number PD536/01 Rev B

Applications for costs

2. An application for costs was made by Miss M Howells against Walsall Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal before me has been made in outline with all matters, including access, layout, appearance, landscaping and scale, reserved for a subsequent application. While indicative details were submitted these were for illustrative purposes only, and I have dealt with them on that basis.

Main Issues

4. The main issues in this case are the effect of the proposal on (i) the character and appearance of the site and surrounding area, and (ii) the living conditions of neighbouring occupiers as a result of motor vehicles passing between Nos 32 and 34 New Road.

Reasons

Character and Appearance

5. The appeal site is large plot off the east side of New Road and contains a detached two-storey dwelling to the front with a long garden to the rear. New Road is predominantly characterised by long rows of linear development and this is repeated in the backland development to the north and south of the site, as well as Cormorant Close. The properties on Cormorant Close and Nos 34a, 34b and 34c to the north, while varied in style and appearance, are characterised by their close siting and small plots. It is within the context of this backland development that the proposed development would be read, rather than in relation to New Road.
6. The resultant plots for the two proposed dwelling are likely to be substantially smaller than is characteristic of New Road. However, given the scale of the site and its context, I find that there is sufficient space to accommodate two dwellings within plots similar to the surrounding backland development. Furthermore, although the garden serving No 34 would be reduced, I find it likely that the resultant garden would be comparable to those of the neighbouring properties to the north and south. Whilst I note the Council's concern as to the height of the proposed dwellings, scale and appearance are matters that are reserved for future consideration.
7. Concerns were raised by neighbouring occupiers regarding the loss of trees on site as a result of the development. I noted during my observations on site that there were a number of small trees and two large, mature conifers to the rear. While, it is not clear from the information before me whether the development would necessitate their loss, this is a reserved matter. Nevertheless, in my judgement, these trees are not so important within the surrounding area that their loss or reduction would be harm the character and appearance of the site and its surroundings.
8. Therefore, I find the proposal would not result in a visually cramped form of development harmful to the character and appearance of the site and surrounding area. It would therefore comply with Policies GP2 and ENV32 of the Walsall Unitary Development Plan (WUDP), Policy ENV3 of the Black Country Core Strategy (BCCS) and HC2 of the Walsall Site Allocation Document. These collectively, and amongst other things, require development to respond to the identity of its surroundings. The proposal would also comply with the National Planning Policy Framework (the Framework) Paragraph 127, which requires development is sympathetic to local character, including the built environment, and maintains a strong sense of place.

Living Conditions

9. Access is a reserved matter and no specific details of the proposed access have been provided by the appellant. However, three options for the access have

- been given, including between Nos 32 and 34 New Road, via Nos 34a, 34b and 34c, or connecting to Cormorant Close.
10. No 32 is a bungalow which extends very close to the shared boundary with the appeal site. The space between the dwellings at Nos 32 and 34 is relatively narrow and any vehicles passing along the access would be in very close proximity to both dwellings. During my observations on site I did not observe any side windows at No 32 which faced the site, but I did note a window to the front, and one to the rear which were very close to the boundary. From the information before me I understand that these serve a bedroom and lounge. Therefore, an access in this location could expose the neighbouring occupiers to an unacceptable level of noise and disturbance from motor vehicles. However, access is a matter reserved for future consideration and so such issues could be dealt with at that stage.
 11. It has also been raised that the new access would result in a loss of privacy to rear garden of No 32 as a result of vehicles and pedestrians passing the side of the site. However, at this stage no details of any boundary treatments have been put forward, were the appeal to be allowed, such concerns could be dealt with under a subsequent application. Likewise, concerns about the security of No 32 could also be dealt with in this manner.
 12. While I note the concerns regarding the new dwellings dominating and overshadowing neighbouring dwellings due to their size and scale, no such details have been provided as these matters reserved under appearance, scale and layout. The proposal is likely to result in some noise and other disruptions to occupiers in the surrounding area during development. However, given the small scale of the development such issues would be limited and short lived and would not unacceptably affect their living conditions.
 13. Whilst I acknowledge the likely harm to the living conditions of No 32 New Road as a result of the access passing close to their property, access is reserved for future considerations. Moreover, there is nothing before me to demonstrate that the development could not be served by an alternative means of access, such as from Cormorant Close or the existing access to Nos 34a-c New Road.
 14. Therefore, given the alternative options for the site access it would not be necessary for it to pass between Nos 32 and 34 New. As such the living conditions of neighbouring occupiers at No 32 New Road could be protected. The proposal would therefore comply with Policy GP2 of the WUDP and BCCS Policy ENV3 which, amongst other matters, require development to be of a high quality design and protect the living conditions of neighbours from overlooking. The Proposal would also comply with Paragraph 127(f) of the Framework which requires development to create a high standard of amenity for existing and future users.

Other Matters

15. I have also been mindful of the concerns raised by neighbouring occupiers regarding harm to on-street parking and highway safety as a result of the new access. However, these issues are covered by reserved matters and therefore, in the event the appeal was allowed, would be dealt with at the reserved matters stage.

16. Whilst I note the concerns regarding the loss of the site for local ecology, I have only been provided with anecdotal evidence that this site supports local wildlife. Therefore, given the lack of any substantive evidence to the contrary, I find that the site, which is predominantly lawn, is not of such ecological importance to alter the decision I have reached below.

Conditions

17. I have assessed the conditions suggested by the parties against the policy tests set out in the Framework and the advice in the Planning Practice Guidance. In the interests of clarity, I have, where necessary, made some changes to the wording. For certainty I have set out the timescales for the application of reserved matters and commencement of works. I have also imposed a condition to specify the matters that are reserved and not included with this outline permission, and an approved plan condition for reasons of certainty.
18. At this stage it is not necessary to secure the details of external materials, boundary treatments, ground and finished floor levels, external lighting or the site access as these are specifically linked to matters reserved for future consideration and should be dealt with at that point. For this reason, conditions requiring the approved details of the above matters to be followed are also not necessary at this stage.
19. Given the likely limited biodiversity of the site as set out above, and the lack of substantive evidence to demonstrate that bats use the site, I find that a condition requiring mitigation to conserve local bat populations would be unnecessary.
20. Conditions requiring a construction environmental management statement have been requested. However, as all matters are reserved, the need for this condition is best assessed at the reserved matters stage. I have not attached a condition requiring the submission of an Air Quality Low Emission Scheme, as raised by Pollution Control, as this appears to repeat the requirements of other legislation and I cannot be satisfied that this condition is necessary or relevant to planning.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR