



Appeal Decision

Site Visit made on 22 June 2021

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2021

Appeal Ref: APP/W3710/W/21/3271648

Land rear of 32-35 Willis Grove, Bedworth CV12 9BS

- 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 Joseph DiMarco against Nuneaton and Bedworth Borough Council.
 - The application Ref 037508 is dated 22 October 2020.
 - The development proposed is the erection of a four storey building to provide 9 no. two bedroom apartments with car parking on the ground floor and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity, the description used in the header above has been amended to remove the reference to a previous planning application as this information is superfluous.
3. This appeal follows the failure of the Council to determine the planning application within the prescribed period. Had it been able to determine the application the Council has indicated that the application would have been refused.
4. I note the recommended Reasons for Refusal in the Council's Committee Report. While this is not the application decision, as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.

Main Issues

5. The main issues in this case are:
 - the effect on the character and appearance of the area;
 - the effect on the living conditions of neighbouring occupiers, and whether it would provide acceptable living conditions for future occupants; and,
 - the effect on highway safety.

Reasons

Character and Appearance

6. The appeal site is a triangular plot set between two residential streets, Willis Grove and Downing Crescent, and a railway line. The land within the appeal

site is uneven with significant changes to the ground levels. The surrounding area is relatively spacious and characterised by groups of somewhat uniform terraced and semi-detached two-storey dwellings.

7. The proposed building would be formed of a large, single block with a flat roof, and in this way would not reflect the smaller and traditional form of the surrounding properties. The incongruous nature of the proposal would be further exacerbated by the four-storey height of the building which, while set within a cutting, would be significantly taller than the surrounding properties. This would be especially so with regard to the properties on Willis Grove which are on a similar land level as the base of the existing cutting in the appeal site.
8. Given the above and that the proposal would not front on to a highway, it would be both visually and physically disconnected from the surrounding area and would not reflect the wider pattern of development where properties front on to a road. Moreover, as the building would cover a significant portion of the appeal site, and sit close to two boundaries, it would also not respect the spaciousness of the surrounding area.
9. The proposal would clear the site and access which at the time of my visit was overgrown and appears to have suffered from the dumping of rubbish. As such the scheme would result in some improvement to the quality of the appearance of the appeal site. However, this would be negated by the harm caused by the proposed building, for the reasons set out above.
10. Whilst the Appellant has referred to an appeal at the site¹ I have not been provided with all the relevant information for this appeal. Nevertheless, I understand it was for a significantly smaller development of only two dwellings which were similar to surrounding properties. I therefore find that it was significantly different to that before me. As such, and as I do not know all of the relevant circumstances of this appeal, I attribute it little weight in my determination of this appeal.
11. In all, I conclude that the proposed building would not integrate with the surrounding buildings and area and would have a harmful impact on the pattern of development. As such, it would be in conflict with Policy BE3 of the Nuneaton and Bedworth Borough Council Borough Plan (published 2019, the BP) which, amongst other things, require development to be designed to a high standard which contributes to local distinctiveness and character. It would also conflict with character and appearance aims of Paragraph 124 of the National Planning Policy Framework (the Framework) and the advice on 'backland development' within the Nuneaton and Bedworth Borough Council Sustainable Design and Construction Supplementary Planning Document (dated 2020, the SPD).

Living Conditions

12. The rear elevation of the proposed building would be close to, and face, the rear of a number of properties on Downing Crescent. I understand from the evidence before me that these are Nos 31, 33, 35, 37 and 39. The rear elevation includes a large number of windows serving kitchens, bathrooms and bedrooms across each of the nine proposed flats, all of these windows would be obscure glazed and have restricted openings.

¹ APP/W3710/A/11/2164369

13. The requirements in the SPD are that windows above ground floor level must be at least seven metres from the boundary of a neighbouring private amenity space, and that a separation distance of 30 metres is normally required between habitable windows where the proposal is three-stories. In this case the proposal would not meet either distance requirement. However, the SPD allows for closer distances where windows are obscure glazed. The proposed windows, with obscure glazing and fixed openings, would not result in a significant or unacceptable level of overlooking to the rear windows of the neighbouring properties or their rear gardens.
14. However, this would affect a number of habitable rooms across all of the proposed flats. In particular the rear bedrooms are served by only one window each and due to the obscure glazing would have no outlook. This would result in the rooms feeling oppressive and confined and therefore being detrimental to the living conditions of future occupiers. The kitchens of each flat would also be affected in this way, although due to the open plan nature of the flats and the large windows serving the lounge/dining rooms this would be to a lesser extent.
15. Therefore, while the proposed obscured glazing would prevent harm, by way of overlooking, to the living conditions of neighbouring occupiers, it would result in the provision of poor quality accommodation for the future occupiers. It would therefore conflict with Paragraph 127(f) of the Framework which requires development to ensure a high standard of amenity for existing and future users.

Highway Safety

16. The access to the site is via the turning head at the end of Willis Grove, it is currently overgrown and vehicles are parked in front of the access. However, from the submitted evidence and my observations on site it is unlikely that two vehicles would be able to pass each other on the access road. Given the proposed route would include a sharp bend at either end of the access road, motorists would be unable to see up or down the road in order to ensure that it was clear of oncoming traffic. Should vehicles meet on the access road it would require a vehicle to reverse back to either Willis Grove or the car park. Both are relatively narrow areas used by motorists and pedestrians and would require the vehicle to reverse around a corner. It is therefore highly likely to result in unacceptable conflicts with pedestrians and other motorists.
17. Although the appellant has shown a refuse collection area adjacent to the site access, this is outside of the appeal site and so I cannot be certain that it is within the Appellant's ownership and that they could provide a collection point in this location. Therefore, I consider the bin store at the rear of building to be the only provision for storage or collection and refuse vehicles would likely need to enter the site in order to make collections.
18. As a result of the position of the access, and the size of the turning head, larger motor vehicles would need to approach at an angle. From the evidence before me, it is unlikely that refuse vehicles would be able to safely access the site from Willis Grove. However, given the typical height of refuse vehicles and that a large portion of the car park is beneath the first floor of the proposed building, it is unlikely that they would be able to manoeuvre within the site should they gain access. They would therefore be unable to enter and egress in a forward gear. As above, reversing in to, or out of, the site could result in

unacceptable conflict with both pedestrians and motorists, although I find this would be more significant with larger, bulkier vehicles where visibility may be poorer when reversing.

19. It is, nonetheless, likely that the intensification of the use of the access would deter vehicles from parking within this side of the turning head. This would make manoeuvring within the head easier and improve the operation of the highway. However, this would not outweigh the harm to highway safety identified above. Likewise, whilst I note a previous permission² at the appeal site, as it was for two dwellings, this scheme would have been significantly smaller than that before me and as such the associated vehicular movements and impact would be substantially different. It therefore carries little weight in the determination of this appeal.
20. The proposal, by way of its poor access requiring vehicles to reverse on to a highway in a forward gear, would result in an unacceptable impact on highway safety in conflict with Paragraph 109 of the Framework which requires development to not result in an unacceptable impact on highway safety.

Other Matters

21. The Appellant has raised that the appeal site is the only piece of land remaining within the vicinity which provides the opportunity for development of this scale. They have not however, suitably demonstrated this is the case. Nevertheless, I find that while this may be the last piece of land of this size within the vicinity, it does not justify otherwise harmful development. Moreover, although land stability may no longer be an issue, and I note that the Council did not refer to it in their recommended reasons for refusal, this does not outweigh the harm identified above.
22. In their appeal statement the Appellant has also made reference to a number of other policies from the BP as well as the Car Parking Standards Supplementary Planning Guidance (SPG). However, they have not provided copies of the policies or SPG, but from the information before me they do not appear to be directly relevant to the case before me. Moreover, I note that the Council did not make use of them in their assessment. They have therefore not been determinative in my assessment.

Conclusion

23. Whilst the Appellant has raised concerns regarding the Council's five-year housing land supply, they have not suitably demonstrated that there is a shortfall. Nevertheless, the provision of nine apartments in a sustainable location where the principle of residential development is accepted would make a small contribution to the Council's provision and mix of housing, and the Government's aims of significantly boosting housing land supply. Furthermore, the construction works, and future residents, would contribute towards the local economy. I find these matters to have moderate weight.
24. Whilst the proposal may make efficient use of unused land, it would do so in a manner that would cause harm to the character and appearance of the area, would provide unsatisfactory living conditions for future residents and have the potential to harm highway safety. These impacts are contrary to both local and national planning policy to which I give considerable weight.

² LPA Ref: 032163

25. Therefore, even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As such, in the circumstances of this appeal, the material considerations above do not justify making a decision other than in accordance with the development plan as a whole.
26. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR