



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/P1805/W/21/3272073

Land at Lander Close, Rubery B45 9XT

- 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 Mr Donald and Mr Hughes against the decision of Bromsgrove District Council.
 - The application Ref 20/01484/OUT, dated 11 December 2020, was refused by notice dated 19 March 2021.
 - The development proposed is the construction of 6No. flats.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 6No. flats at Land at Lander Close, Rubery B45 9XT in accordance with the terms of the application, Ref 20/01484/OUT, dated 11 December 2020, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The proposal before me has been made in outline with landscaping reserved for a subsequent application. Other than details regarding the retention of the tree adjacent to the site, the soft landscaping details are very limited, and given this I consider them to be illustrative. Therefore, I have dealt with them as such.
3. The Council have submitted a recent permission¹ at the appeal site for a smaller scheme of four flats. From the plans before me I understand that the proposal is largely similar with the primary differences being the reduced number of flats and alterations to the form and appearance of the roof. Given how recently the permission was granted I find that it is relevant to the proposal before me and as such it is from this starting point that I have made my assessment.

Main Issues

4. The main issues in this case are the effect of the proposal on the character and appearance of the area; and, whether the proposal would provide a suitable level of living accommodation for future occupiers, with particular regard to both internal and external space.

¹ Council's reference: 21/00514/FUL

Reasons

Character and appearance

5. Lander Close is a short cul-de-sac characterised primarily by its spaciousness and verdant appearance. Facing the turning head at the end of the close are two short terraces and a pair of semi-detached dwellings. These properties are largely uniform, two-storey dwellings with low shallow roofs. The appeal site is on the opposite side of the turning head, it is a small area enclosed by a tall timber fence. Between the site and the road is deep verge. The appeal site is within a prominent position within the cul-de-sac where it would be visible in public views, and would also be visible between buildings along Rednall Hill Lane.
6. I am mindful of the recent permission referenced above and I note the similarity of the site layout and the ground and first floors of each scheme. As such I find that the matter of character and appearance revolves around the increased height as a result of the larger roof, and the additional flats proposed under the scheme before me.
7. The roof of the proposed building would be significantly taller and have a much steeper pitch than those of the surrounding properties. This and the proposed box dormer windows would result in a substantially larger roof which would be out of keeping with the lower character of the area. The proposed roof would also appear much larger and bulkier than that approved under the recent permission. I therefore find that it would be an incongruous feature, harmful to the character and appearance of the surrounding area. Whilst I note the social club, it is not similar to the form or appearance of the proposed building before me, and is not characteristic of the area. I therefore find that it does not justify the harm identified above.
8. The principle of four flats at the appeal site has been accepted under the recent permission, and this proposal would result in the increase of two flats above the approved. Although the increased number of occupiers would likely result in an increased number of comings and goings these would still be residential in character. Therefore, the way in which this larger scheme would be used would not be significantly different to that approved, or from the residential character of the surrounding area.
9. Moreover, whilst the proposal would result in a somewhat denser form of development than is characteristic of its surroundings, it would not significantly or unacceptably increase the overall density of the area as a whole. Moreover, the increase in density over what has been approved would not be significant. I therefore find that there would not be an unacceptable impact on the character and appearance of the area as a result of the increased number of flats.
10. Nevertheless, overall I find that the proposal, by way of its height and the incongruous and bulky form of the roof would be discordant with the street scene to the detriment of the character and appearance of the area. It would therefore be contrary to Policies BDP1, BDP7, and BDP19 of the Bromsgrove District Plan (BDP) which require, amongst other things, that development maintains or enhances local character and distinctiveness. It would also conflict with Paragraphs 122(d), 127 and 130 of the National Planning Policy Framework (the Framework) which require development to be visually

attractive and sympathetic to the local character and, where possible, improve upon it.

Living conditions

11. The amenity spaces before me are the same as those shown on the plans for the approved scheme at the appeal site. I therefore find the difference between the previous proposal and that before me, with regard to the provision of amenity space, to be the increase of occupiers at the site as a result of the additional flats, and the increase in the height of the building.
12. Although I note that Policy BDP19 of the BDP aims to encourage development to provide sufficient functional space it does not set out any minimum requirements. In this case the proposal would provide two areas which the Council found were sufficient to accommodate the occupiers of four flats. Given the size of the flats they are likely to be occupied by a single person or a couple who, unlike a family, are unlikely to require substantial area of external space to meet daily needs. Therefore, and as the proposal would only result in two additional flats, I find the proposed provision would be sufficient to accommodate the limited increase in additional occupiers.
13. The proposed rear amenity space would be close to the boundary fences, which given the change in land levels would appear taller to the future occupiers of the appeal site. However, they would not be so tall as to feel overbearing or prevent views over them towards the open sky. I note that the social club and the proposed building are of a significant height in relation to the amenity space. It is therefore likely, given their orientation, that they would result in some overshadowing of the space early in the morning and in the later evening. However, as the times at which this overshadowing is likely to occur would be limited, I find it would not result in the provision of a poor quality of living accommodation for future occupiers.
14. The internal space provision for all six flats align closely with the requirements set out within the Technical Housing Standards - *nationally described space standard* (THS). There is a disagreement between the parties as to whether the floor area of Flat 6 meets the 37 square metre minimum floor area requirement of the THS. In this case the council finds Flat 6 to only provide 35 square metres. It has not been detailed by either main party as to how the measurements of the Flat were reached. However, even if I were to concur with the Council's measurements, I find this under provision to be very limited and that it would not significantly affect the quality of the accommodation provided by Flat 6.
15. I also note the Council's concerns as to the size of the bedrooms for a number of the flats, namely Nos 2, 3, 5 and 6. However, the THS only requires bedrooms to meet the size requirements for a double or twin bedroom where a property has more than one bedroom. In this instance the proposal only provides one bedroom flats, and as such they are not required to provide a double or twin bedroom. I therefore find the proposed internal accommodation would meet the requirements of BDP Policy BDP19 to encourage sufficient functional space.
16. Given distance between the proposed building and the nearest neighbouring properties, and their amenity spaces, its height would not cause an unacceptable overbearing impact on neighbouring occupiers. I note that there

would be a number of windows close to the site boundaries, however, the majority of the windows, whether by way of their siting behind the boundary treatments, orientation, or their distance from the boundary, would not result in any unacceptable overlooking of private amenity spaces or opposing windows. The only window which could result in overlooking would be the kitchen window serving Flat 3 however, it is proposed that this window would be obscure glazed. I find this would be sufficient to protect the living conditions of the neighbouring occupiers of the properties fronting Rednal Hill Lane.

17. I therefore find that standard of the proposed accommodation provided for future occupiers would be suitable to meet their needs and that the building would not harm the living conditions of neighbouring occupiers. The proposal would therefore comply with Policy BDP19(m) of the BDP which encourages residential development to provide sufficient functional space and meet people's needs and expectations.

Other Matters

18. I note the concerns raised that the proposal would result in harm to the willow tree adjacent to the appeal site. Given the close proximity of the tree to the proposal I am mindful that harm could occur. However, I consider that, were the appeal to be allowed, this could be dealt with by way of a suitably worded condition.
19. I also note the concerns raised by neighbouring occupiers regarding parking provision on site and harm to highway safety as a result of the proposal. During my observations on site I found there to be a good provision of on-street parking within Lander Close and Rednal Hill Lane. I also found both roads to be wide enough to accommodate on-street parking without harming the safe operation of the highway. Given the provision of parking within the site it is unlikely that there would be a significant increase in on-street parking as a result. I therefore find there to be sufficient capacity to accommodate the likely limited increase in on-street parking resulting from the development.
20. I have also been mindful of the concerns raised regarding drainage within the site and surface water runoff. Given the scale of the development in relation to the appeal site it is possible that there could be a substantial loss of permeable surfacing resulting in runoff or flooding onsite. However, this matter could be dealt with by way of a suitably worded condition, were the appeal to be allowed.

Conditions

21. 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.
22. 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.
23. In the interests of protecting the character and appearance of the site and surrounding area it is necessary that a condition is imposed requiring further

details to be submitted for the external materials and appearance of the permitted building, bike store and bin store.

24. It is also necessary, in the interests of highway safety, that conditions are imposed requiring the provision of the approved access and parking spaces and that the first five metres of the access are surfaced in a bound material. Furthermore, to support sustainable transport and health and wellbeing, conditions are necessary requiring the provision of a bike store and electric charging points.
25. In the interests of preventing the risk of surface water flooding or runoff from the site as raised above, it is necessary to impose a condition requiring details, and the implementation, of a surface water drainage strategy.
26. Given the size and close proximity of the willow tree to the appeal site, I have imposed conditions relating to its protection during the development. This will ensure it is suitably retained and continues to contribute towards the amenity of the area.
27. At this stage it is not necessary to secure the details, or provision, of hard and soft landscaping as this is specifically linked to landscaping, a matter reserved for future consideration and should be dealt with at that point.

Conclusion

28. There is no dispute that the Council is unable to demonstrate a five-year housing land supply. In considering the potential benefits of the proposal, I note that the new apartments would be in an accessible location and would contribute towards the Council's five-year housing land supply as required by the Framework. I therefore afford this benefit moderate weight.
29. In addition, the construction of the building would derive some economic benefit, although this would only be for a limited time. Furthermore, given the scale of the development, the contribution it would make to the local economy from the spending power of future occupiers is likely to be moderate. I therefore give these benefits limited weight.
30. The proposed development would cause some harm to the character and appearance of the immediate area as identified above. This impact is contrary to both local and national planning policy and as such I give it moderate weight.
31. Taking everything into account, I consider that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 11d of the Framework indicates that permission should be granted. In the circumstances of this appeal the material considerations considered above justify making a decision other than in accordance with the development plan as a whole.
32. Therefore, for the reasons given above I conclude that the appeal should be allowed subject to the conditions in the following schedule.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of landscaping, hereinafter called "the reserved matter", shall be submitted to and approved in writing by the local planning authority before any development is begun and the development shall be carried out as approved. The application for the approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall begin no later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20202-01A, 20202-02, 20202-03A, 20202-04 (Site Location Plan), 20202-04 (Draft E Roof Plan), 20202-05, 20202-06, Tree Survey BS5837:2012 and Supplementary Arboricultural Information.
- 3) Prior to their first installation, details of the form, colour and finish of the external materials to be used on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 4) Prior to their first installation, details of the colour finish of the bin store and storage compound shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved plans.
- 5) Prior to the first use of the development a scheme for a surface water drainage strategy shall be implemented in accordance with details which have first been submitted to, and approved in writing by, the Local Planning Authority. The strategy shall include: details of surface water drainage measures, including for hardstanding areas and finished floor levels; the results of an assessment into a sustainable drainage system; and, runoff treatment proposals for surface water drainage. Where the scheme includes communal surface water drainage assets, proposals for dealing with the future maintenance of these assets should be included. Once implemented the scheme shall thereafter be maintained in accordance with the agreed strategy.
- 6) The development hereby approved shall not be occupied until the first five metres of the vehicular access into the development, measured from the edge of the carriageway, has been surfaced in a bound material.
- 7) The development hereby approved shall not be occupied until the access and parking facilities have been provided as shown on drawing 20202-01A.
- 8) The development hereby permitted shall not be first occupied until each of the parking spaces have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.
- 9) The development hereby permitted shall not be first occupied until sheltered and secure bicycle parking, which complies with the Council's adopted highway design guide, has been provided in accordance with details that have first been

submitted to and approved in writing by the Local Planning Authority. Thereafter the approved bicycle parking shall be kept permanently available for the parking of bicycles only.

- 10) The willow tree and its Root Protection Area must be protected during clearance and construction phase in accordance with BS5837:2012, using suitable protective fencing and/or ground protection as appropriate. There shall be no storage of plant or materials within the Root Protection Areas of any retained trees. This fencing and /or ground protection shall be constructed in accordance with the guidance in the British Standard BS5837:2012 and shall remain as erected until the development has been completed.
- 11) The proposed parking spaces and footpath within the canopy spread of the existing willow tree shall be installed by use of a suitable grade of No Dig construction over the existing ground levels. Prior to their first installation a plan and specification of the method of construction to be used and details of the finished porous surface shall be submitted to and approved by the LPA. The development shall then be carried out in accordance with the approved details.