



Appeal Decision

Site visit made on 23 November 2021

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/P1805/W/21/3279226

42 Old Birmingham Road, Lickey End B60 1DE

- 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 and Mrs James and Brenda Anderson against the decision of Bromsgrove District Council.
 - The application Ref 21/00668/OUT, dated 19 April 2021, was refused by notice dated 17 June 2021.
 - The development proposed is described as 'Proposed access and erection of up to 3no. bungalows'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Notwithstanding the description of development, the planning application subject of this appeal was submitted in outline form with all matters reserved for future consideration. Plans have been submitted for indicative purposes only and I have considered the appeal accordingly.

Main Issues

3. The main issues are the effect of the proposal on a) the character and appearance of the area; and b) the living conditions of the occupiers of 42 Old Birmingham Road and 2 Staple Flat, with particular regard to noise and disturbance.

Reasons

Character and Appearance

4. The appeal site is part of the extended rear garden to No 42, located behind and at the end of the rear gardens of Nos 36 through 40. There is a strong and consistent linear pattern to local development, particularly along this eastern stretch of Old Birmingham Road and onto Staple Flat, formed by single tier frontage dwellings set back from and facing the road with large undeveloped and spacious rear gardens, leading to the more open countryside beyond. These elements contribute positively to the character and appearance of the area.
5. As a backland arrangement, the proposed development would be an additional tier to the local development pattern. It would not have an active frontage onto the highway or be readily apparent from the street scene, thus lacking cohesiveness with the public realm. This, along with a high density of

development considering the upper limit proposed, would jar with the established situation and result in something of a cramped feel, reducing the area's spaciousness.

6. Accordingly, the appeal scheme would cause harm to the character and appearance of the area and would conflict with Policy BDP19 of the Bromsgrove District Plan 2011-2030 (January 2017) (the BDP) and the National Planning Policy Framework (the Framework). Collectively, they seek to ensure that development maintains and enhances the character and distinctiveness of the area and resists the development of garden land unless it integrates and is in keeping with the character and quality of the local environment.
7. The High Quality Design Supplementary Planning Document (SPD) is referenced in the Council's decision notice however I have not been provided with a copy and as such am unable to take its provisions into account in my findings on this main issue. That said, I have found against the scheme in regard to the development plan on the matter of character and appearance and since the SPD purports to concern itself with high quality design, for the reasons I have given, the appeal scheme would not represent such.

Living Conditions

8. Whilst access is a reserved matter, the location and configuration of the appeal site and its connection to the nearest highway are such that the access would likely run between No 42 and 2 Staple Flat, the full length of their rear gardens. The maximum number of dwellings proposed would result in several comings and goings along the access route, not only from future occupiers but also any visitors and deliveries to the properties. Vehicles would have to drive along a considerable distance and within very close proximity to the rear gardens of Nos 42 and 2, where occupiers would be relaxing and reasonably expect a good degree of peace and quiet. The noise of vehicle engines and tyres on the surface would be intrusive and unacceptably compromise the living conditions of existing occupiers.
9. The appellant has suggested that acoustic fencing could be incorporated into the proposed development to protect the living conditions of neighbouring occupiers. However, as there is no further detail before me I cannot be certain that a fence could satisfactorily address the above concerns without also giving rise to further harm.
10. Accordingly, the proposed development would harm the living conditions of occupiers at Nos 42 and 2 and would not therefore accord with Policy BDP1 of the BDP and the Framework which seek to ensure that developments create places that have a high standard of amenity for existing users.

Other Matters

11. I acknowledge the appeal decision at 1 Staple Flat which concerned a dwelling sited within a restricted corner plot. The Inspector noted that the scale of the proposed dwelling would not be dissimilar from other dwellings along the road or in the area. Given its location and the arrangement of properties immediately adjacent to that site, this example is not directly comparable to the appeal proposal or the context in which it is read.
12. Many of the referenced examples of backland development in the area, including a previous appeal decision at 329 Birmingham Road, are located a

distance from the appeal site in locations which appear to have a more sporadic pattern of development and an inconsistent built frontage along the highway. I do not know the full details and circumstances of the example at 22 Old Birmingham Road and thus a direct and fully reasoned comparison is not possible. Therefore, these examples do not serve to justify the appeal proposal.

13. The examples of outbuildings at properties near to the appeal site are not directly comparable to the scale of the appeal proposal. Similarly, whilst outbuildings might be able to be erected at the appeal site under permitted development rights, the character effect of an ancillary outbuilding is fundamentally different to separate dwellings since the latter have their own access, parking and curtilage.

Planning Balance

14. The Council acknowledges that it cannot demonstrate a five year housing land supply. The appellant has relied on a shortfall figure dated a considerable time ago, however the Council has not disputed this figure or provided an updated calculation. Paragraph 11 d)ii of the Framework is therefore engaged, which makes it clear that where development plan policies are out of date, due to the provisions of footnote 8, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
15. The provision of up to three dwellings within an established residential area would make a small contribution to the Council's considerable housing shortfall and there would be some economic benefits during construction of the dwellings and on subsequent occupation. Given the small scale of the development and the extent of the shortfall, I collectively afford these benefits moderate weight.
16. Set against this, the appeal would harm the character and appearance of the area which would be in conflict with both development plan policies and the Framework policies that seek good design. I give significant weight to the conflict with the Framework's objectives in this regard.
17. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

18. The appeal scheme would conflict with the development plan and there are no relevant material considerations, including the approach of the Framework, worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

H Ellison
INSPECTOR