



Appeal Decision

Site Visit made on 12 October 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/Q4625/W/21/3277599

49 Orchard Road, Hockley Heath, Solihull B94 6QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Burton against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/01564/PPFL, dated 16 July 2020, was refused by notice dated 12 May 2021.
 - The development proposed is demolition of existing dwelling and construction of new self build detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council acknowledges that it is presently unable to demonstrate a five year supply of deliverable housing sites in line with National Planning Policy Framework (the 'Framework') paragraphs 11 and 74. I will return to that subsequently, however on that basis, and in the absence of relevant protected areas or assets defined in the Framework footnote 7 here, there is no dispute that Framework paragraph 11. d) ii) is engaged.
3. I have had regard to the Residential Backland Development Supplementary Planning Document ('Backland SPD') that was adopted by the Council in July 2021, shortly after this appeal was submitted. In the interests of fairness, both parties have had the opportunity to comment on the SPD but no substantive comments have been made.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, including in respect of adjacent trees.

Reasons

5. Orchard Road is a quiet, but relatively high density residential road. There is variation in housing design, scale and building line, particularly on the side of the road of the appeal site. However, houses on both sides of the road are clearly visible from it and directly address the road with either their front, or less commonly, a side elevation. Whilst gaps between buildings vary, this direct relationship and consistent visibility of housing from the road is a defining positive feature of the character and appearance of the area. Trees present in some front and rear gardens create a verdant character, softening the

- appearance of the road and provide a degree of screening of houses on other roads.
6. Although the appeal site is not publicly accessible land, the proposed development would not be entirely hidden from view from Orchard Road. The proposal involves demolition of 49 Orchard Road to provide a wider access to the main part of the appeal site. This would open up visibility of the appeal site to a certain extent. However, the proposal would not directly address the road, being located towards the rear of the site, behind No 39 rather than directly in line with the site access, and orientated at right angles to it. Consequently, it would not have a front or side elevation directly facing the road and would not be clearly visible from it. Rather than being a point of interest, the proposal would appear at odds with the prevailing character of the area. Moreover, development of a two storey family home to the rear of a bungalow would appear cramped and contrived in an already relatively high density area.
 7. The appellant has indicated other back land developments in the surrounding area. I observed that some of these are discreet developments where the houses are nevertheless clearly visible from the road on which they are located (for example houses on the corner of Orchard Road to the north, and housing on Rashwood Close). Others, located to the rear of houses on Stratford Road, are not in a comparable context, being positioned off a busy main road (the A3400) in contrast to the quieter residential character of Orchard Road.
 8. The proposed dwelling would be positioned relatively close to trees in adjoining rear gardens, with the canopy of one tree indicated to overlap the footprint of the proposed dwelling on two of its elevations. I accept that the extent of the tree canopies is likely to be illustrative rather than precise, that it may be possible for the proposal to be constructed so as to avoid harm to these trees, and for construction methods to be conditioned as such. The appellant may be confident that the development would not impact on these trees. However, in the absence of a more detailed technical assessment of the potential impact, I cannot be sufficiently certain that the proposal could be delivered without unacceptably harming trees which make a positive contribution to the street scene. I note that the Council's landscape officer reached a similar view.
 9. Concluding on this matter, the proposal would result in a moderate level of harm to the character and appearance of the area, including in respect of its potential impact on adjacent trees. It would therefore be contrary to Policies P5 and P15 of the Solihull Local Plan¹ which, amongst other matters, seek to ensure proposals conserve and enhance local character and streetscape, and integrate with the surrounding natural and built environment. It would also be contrary to Policy P10 of the Solihull Local Plan which generally seeks to integrate developments with existing natural features and avoid harm to the natural environment. Due to the potential impact on neighbouring trees, it would not accord with Policy P14 which permits development only if it respects existing occupiers and would be a good neighbour.
 10. For similar reasons it would be contrary to paragraph 130 of the Framework which, amongst other matters, seeks to ensure proposals are sympathetic to local character, including the surrounding built environment and landscape setting. It would also be contrary to the overall aspirations of the New Housing in Context Supplementary Planning Guidance (2003) and the Backland SPD,

¹ Solihull Local Plan: Shaping a Sustainable Future (December 2013)

which generally seek to ensure proposals respect the character of the surrounding area.

Other Matters and Planning Balance

11. The appellant refers to land close to the application site that is proposed to be allocated in an emerging review of the Solihull Local Plan, although details of this are not before me. In any event, the principle of residential development in this locality is not in dispute, rather it is the effect of this specific proposal on its surroundings.
12. The Council accepts that it is not possible to demonstrate a five year housing land supply at present, albeit that the Council indicates the extent of shortfall is relatively modest (forward supply standing at 4.19 years). Paragraph 11. d) ii) of the Framework states that where policies most important for determining the application are out-of-date, permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole.
13. The Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development through the delivery of the mutually dependent economic, social and environmental objectives. There would be economic advantages of construction of this development. Whilst the existing property appears relatively small and the proposal would result in provision of a larger home, there is no robust evidence before me as to a particular need for the size of accommodation proposed.
14. The contribution of small and medium sites is recognised in the Framework, however the proposal would have a broadly neutral effect on housing supply, replacing one dwelling with another, albeit somewhat larger, dwelling. That the proposal would provide a better quality of accommodation that could not be achieved in the existing house is also not robustly demonstrated.
15. The appeal scheme is submitted as a self-build scheme. Although there is support in the Framework and Planning Practice Guidance for such development, there is nothing in the evidence before me on the extent of Solihull's self-build register, or the mechanism by which this specific proposal would be secured as a self-build scheme.
16. Whilst paragraph 124 of the Framework encourages development that makes efficient use of land, it also requires that consideration is given to the desirability of maintaining an area's prevailing character and setting, and of securing well-designed, attractive places to live. Due to the moderate harm I have identified to the character and appearance of the area, the proposal could not be said to make effective or efficient use of the land.
17. It is not in dispute that the site is in an urban location and highly accessible, being close to a range of facilities and accessible by public transport. The submitted details indicate the proposal would not unacceptably harm the living conditions of existing neighbouring occupants and would be acceptable in terms of highway safety. Nevertheless, the absence of harm in respect of these matters are neutral considerations.
18. Accordingly, the benefit arising from one replacement dwelling would inevitably be very limited. In contrast, the harm arising from its impact on the character and appearance of the area would be moderate. Therefore, the adverse impact

of granting consent would significantly and demonstrably outweigh its benefits. Consequently, other material considerations in favour of the proposal do not justify taking a decision contrary to the development plan.

Conclusion

19. The support for new housing in the Framework and the development plan is not at the expense of ensuring that all development integrates appropriately with its surroundings. Consequently, that the proposal is stated to be for a new self-build dwelling is not sufficient to justify allowing the appeal. For the above reasons, and having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR