



Appeal Decision

Site visit made on 30 November 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2022

Appeal Ref: APP/Q4625/W/21/3277047

4 Alder Lane, Balsall Common, Solihull CV7 7DZ

- 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 Gurjit Aujla against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/02465/PPOL, dated 13 October 2020, was refused by notice dated 27 April 2021.
 - The development proposed is Outline application with access and layout determined at this stage (Appearance, landscaping and scale reserved) for the erection of 1 No. dwelling on land to rear of 4 Alder Lane to front onto Kenilworth Road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have utilised the description of development from the Council's Decision Notice as it describes the development more accurately than the application form. I note that the appellant also uses the same description on the appeal form. I am satisfied that neither party has been prejudiced by me using this description.

Main Issues

3. The main issues in this case are:-
 - The effect of the development on the character of the area.
 - The effect of the development on highway safety.
 - The effect of the development on biodiversity; and
 - The effect of the development on the living conditions of adjacent residents with specific reference to loss of light and privacy.

Reasons

Character

4. The appeal site is part of the rear garden to the host dwelling. This was an outline application with means of access and layout to be determined at this stage. The site is located within a predominately residential area and close to a junction with traffic light control.

5. The existing properties in the locality are set in sizeable plots, and the introduction of a dwelling in this location would reduce the openness of the site. With the constraints of the proposed site the uncharacteristic effects of the development would be apparent in the proximity of the proposed dwelling to the side boundaries, the location forward of the existing line of properties on Kenilworth Road and the proportions of hard standing and internal manoeuvring space in comparison to garden land.
6. This would be in stark contrast to the more extensive plots of established properties and would by contrast result in the appeal proposal being a cramped form of overdevelopment in this setting. As such, while policy does not preclude backland development as a matter of principle, the proposal would not be in keeping with the established pattern of development.
7. Therefore, I find that the proposal would harm the character of the area, contrary to Policies P5 and P15 of the Solihull Local Plan (2013) (the LP) which, amongst other matters, expect development to enhance local character and distinctiveness as well as the guidance set out in the New Housing in Context Supplementary Planning Document (the SPD) and the design principles set out in the National Planning Policy Framework (the Framework)

Highway Safety

8. The proposal shows that a new access would be created onto Kenilworth Road. This is a well trafficked highway, and the access would be close to a signal-controlled junction.
9. The access provided would be unable to ensure that vehicles could leave the site in forward gear. Given the prevailing road layout and levels of vehicular traffic, I find that highway safety would be compromised with the lack of a turning area to facilitate this.
10. I understand that negotiations on this point have suggested the use of a vehicle turntable, in order to achieve the appropriate method of access and egress and alleviate the concerns in relation to this matter. However, I have no details of such a device supplied to me, and I have reservations that there is sufficient space for its effective provision.
11. As such, I find that on matters of highway safety, the proposals are contrary to policy P8 of the LP, which amongst other matters, expects development not to present a reduction in safety for highway users.

Biodiversity

12. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
13. Circular 06/2005 states it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It also advises that surveys should only be required by condition in exceptional circumstances.

14. The evidence provided indicate that the proposal would involve works across areas of the site that are currently undeveloped. There are also a number of mature landscape features at the site. Nonetheless, the application has not been accompanied by any ecological surveys. While the appellant suggests the ecological value of the site is low, I have no detailed information to support this.
15. Furthermore, there has been no convincing evidence presented to indicate that the proposal represents exceptional circumstances where surveys could be subject to conditions.
16. The absence of sufficient information means that I cannot rule out potentially significant harm to biodiversity. Policy P10 of the LP sets out the principles of working to encourage net gain to biodiversity. However, the scheme would be contrary to Paragraph 180 of the Framework where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

Living conditions of adjacent residents

17. The location of the proposed dwelling is set forward of the existing dwellings, specifically the property located to the north on Kenilworth Road. The proposal, being set forward, would lead to a loss of light for a large portion of the day, given the location of the property and the path of sunlight during the day, magnified by the as the close proximity of the proposal to the boundary between the two properties.
18. As the property would be set forward, I find that it would not lead to a loss of privacy, providing windows at design stage with restricted to frosted, sealed units on the respective boundaries with the adjacent properties.
19. The limited separation between the two buildings would nonetheless result in the imposition of an overbearing impact for the existing occupiers of the adjacent properties. As the building would be located to the south of the Kenilworth Road property there would be overshadowing, and the proximity of the new build would also result in a dominating effect to the existing Kenilworth Road property.
20. The proposal would be contrary to Policy P14 of the LP, which amongst other matters, expects development to respect the amenity of existing occupiers and minimise the impact on visual amenity.

Other Matters

21. The appellant has supplied me of other schemes that have received consent. However, I have not been supplied with full details of those schemes, or any idea of context and impact. I have dealt with this appeal proposal on its own merits.

Planning Balance

22. It is accepted by both parties that the Council cannot demonstrate a five-year housing supply and in light of that, the 'tilted balance' as set out in the Framework has to be taken into consideration.

23. To overcome the presumption in favour of sustainable development, in accordance with the tilted balance, it must be shown that alleged harm significantly and demonstrably outweighs the benefits of the appeal scheme. To be clear, the engagement of the tilted balance in no way automatically leads to the grant of planning permission, nor the disregard of relevant development plan policies. Nonetheless, the tilted balance must be overcome in order to justify the refusal of planning consent through the balancing exercise.
24. The potential development of one dwelling would contribute to overall housing supply in Solihull. However, owing to the fact that it is only one dwelling, this benefit attracts only limited weight in this case.
25. The economic benefits of employment for construction workers and increased local spending from new residents have limited weight. Whilst their importance to the construction industry and the economy are acknowledged, these benefits are temporary and generic respectively and would be realised on most, if not every, residential development.
26. Although scope exists for other planting and landscaping measures to be introduced and established as part of the appeal scheme, such benefits would take time to realise, as well as the loss of existing features detracts from that. Therefore, I give the benefits relating to biodiversity and ecology limited weight.
27. From my assessment of the evidence in terms of harm, the appeal scheme in conjunction with highway safety issues generated by the proposals would result in an impact on the free flow of traffic on the local highway network generally. I attach significant weight to the harm identified to highway safety.
28. The scheme would not respect its local context or the character of the area. It would be a contrived and inappropriate addition to the local area. As such, the visual impact of the scheme, particularly when viewed in its surroundings, would significantly harm the character of the area. I have found that the scheme conflicts with the guidance set out in the Framework. I attach significant weight to this harm.
29. The benefits of the appeal scheme are economic and environmental benefits and would also bring some positive outcomes resulting from the scheme. However, when assessed and considered both individually and in combination these benefits do not overcome the cumulative significant weight I attach to the harms identified. Accordingly, I find that the harm identified significantly and demonstrably outweighs the benefits of the scheme.

Conclusion

30. For the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR