
Appeal Decision

Site visit made on 2 March 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/V4630/W/21/3283410
25 Seeds Lane, Brownhills WS8 6HU

- 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 J Hadley against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/0312, dated 13 March 2020, was refused by notice dated 08 April 2021.
 - The development proposed is erection of 5no 3 bed bungalows.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 5no 3 bed bungalows at 25 Seeds Lane, Brownhills, WS8 6HU in accordance with the terms of the application, Ref 20/0312, dated 13 March 2020, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr J Hadley against Walsall Metropolitan Borough Council. That application is the subject of a separate Decision.

Procedural and Preliminary Matters

3. Planning permission was refused by the Council in accordance with the resolution of the Council's Planning Committee, but contrary to the officer recommendation contained within the relevant committee report. The relevant Planning Committee minutes have been submitted as part of the Council's appeal submissions. The Council has not, however, submitted an appeal statement.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the safe and efficient operation of the highway;
 - the living conditions of surrounding occupants, with particular reference to privacy, outlook, sunlight, noise and disturbance.

Reasons

Character and Appearance

5. No 25 Seeds Lane is located on a large plot to the rear of properties that front Seeds Lane to the east, and front Lichfield Road to the south. The bungalow at no 25 is accessed off the western side of Seeds Lane via an existing driveway between the flank elevations of no 21 and no 27. The adjoining housing on Seeds Lane, and on the northern side of Lichfield Road, are arranged in a linear pattern, with long rectangular rear gardens. The bungalow at no 25 has a backland position to the rear of these linear building lines, and the site is enclosed by rear gardens on all boundaries, other than to the north-west, where the site adjoins the McClean Way (a former railway line). There is a mix of dwelling types in the surrounding area, including bungalows and 2-storey dwellings, with both detached and semi-detached dwelling types prevalent. Surrounding dwellings are also of different ages and architectural styles, including hipped and gable roofs, resulting in no strong architectural vernacular in the area.
6. The development would result in the intensification of residential development on this backland site. The existing plot of no 25 is, however, significantly larger than the prevailing plot size of surrounding dwellings. The demolition of the existing bungalow and the construction of 5 dwellings on the site would not, therefore, result in a density of development harmfully out of kilter with the surrounding area. The dwellings would be comfortably spaced and surrounded by garden areas commensurate with their scale. The proposed layout and spacing of the new dwellings, in combination with the proposed areas of landscaping, would, therefore, ensure that the development would not appear unduly urbanising, cramped or overdeveloped.
7. Whilst the layout of the proposal would not follow the predominantly linear pattern of development on Seeds Lane and Lichfield Road, the existing backland character of no 25 can already be perceived in public views down its existing driveway. Public views towards the rear garden of no 25 are, however, constrained by the limited space between existing frontage dwellings, the majority of which are 2-storey. Where there are glimpsed views between frontage dwellings, the significant length of their gardens would maintain an impression of spaciousness to the rear. As such, whilst the proposal would result in backland development continuing to be perceived in views down the driveway of no 25, the limited height of the proposed bungalows would ensure the existing linear frontage street character would be maintained.
8. The design of the proposed bungalows, including hipped and gable roof forms, and facing red brick, would be reflective of architectural forms and materials common in the surrounding area. Whilst there is some variation in the dwellings, they share similar architectural features and would form a cohesive grouping around a hammerhead driveway layout. I am satisfied that the proposal would provide a high-quality environment for future residents and visitors.
9. Overall, whilst the proposal represents an intensification of the residential use of the site, it would respect the character and appearance of the surrounding area and offer a good standard of design. As such, the proposal would accord with Policies GP2 and ENV32 of the Walsall Unitary Development Plan (2005)(UDP), and with Policies ENV2 and ENV3 of the Black Country Core

Strategy (2011)(CS). These policies, taken together, amongst other things, require development to properly take account of surroundings, responding to the identity of each place with high quality design. For similar reasons, the proposal would accord with the Designing Walsall SPD (2013) which requires proposals to, amongst other things, avoid the overdevelopment of a site due to building to an excessive height or scale compared with its neighbours.

Highways

10. The Council has concerns with regards to the manoeuvrability of fire appliances given the narrow width of the access and the potential for parked cars on Seeds Lane. The appellant has, however, provided swept path analysis plans for both fire appliances and refuse vehicles. Those plans show that these large vehicles can appropriately access and egress the site in a forward gear. Reversing would be limited to the hammerhead turning area of the scheme.
11. The Manual for Streets (MfS) refers to the Association of Chief Fire Officers advice that a 3.7 m carriageway is required for operating space at the scene of a fire, and that simply to reach a fire, the access route could be reduced to 2.75 m over short distances, provided the pump appliance can get to within 45 m of dwelling entrances. The proposed access road, even accounting for its narrowing where the bin store is to be located, would be wider than these required access route widths.
12. Whilst there are no parking restrictions on Seeds Lane near to the access, the nearby dwellings have off-street parking. Such off-street parking limits the pressure for on-street parking within the cul-de-sac. Furthermore, the vehicle crossovers to nos 21 and 34 reduce the likelihood of on street parking in the immediate vicinity of the access. There is no objection from the fire service to the proposal and, in an emergency, I have no doubt that a fire tender would, even in the presence of parked cars, find a means of accessing the properties.
13. The proposed layout includes off-street parking commensurate with the dwellings' scale. As such, the development would not result in increased on-street parking pressure on Seeds Lane. The limited increase in traffic movements generated by the development would be insignificant in terms of impact on the local network. The access road is wide enough for 2 private cars to pass each other and there is good visibility into and out of the access given the straight alignment of both the access road and Seeds Lane. The number of driveways onto Seeds Lane, in combination with the proximity of the head of the cul-de-sac to Seeds Lane, indicate that speeds are likely to be low at the access crossover.
14. I have had regard to the concern that insufficient visibility splays are within control of the appellant. Whilst visibility at the vehicle crossover to the access is relatively good at present given the views through and over the adjacent fencing, it is possible that planting along the boundaries to the access could significantly reduce this visibility. MfS, however, states that¹, "vehicle exits at the back edge of the footway mean that emerging drivers will have to take account of people on the footway. The absence of wide visibility splays at private driveways will encourage drivers to emerge more cautiously." As such, the effect of reduced visibility would be to encourage drivers to emerge cautiously from the access drive, manoeuvring centrally within the access to

¹ Manual for Streets – Paragraph 7.8.3

maximise visibility splays if necessary. The Highway Authority have not objected to the proposal and there is no substantive evidence before me to indicate that the proposal is detrimental to highways safety.

15. For the above reasons, I find that safe and suitable access to the site would be achieved for all and the local road network has the capacity to efficiently accommodate the traffic resulting from the development. The development would provide for appropriate vehicular access, parking and manoeuvring, whilst also providing safe access for pedestrians, cyclists and other road users without detriment to the safety of the existing frontage development. The proposal would, therefore, accord with UDP Policies T11, T13, GP2 and ENV32, which, taken together require, amongst other things, accessibility by a choice of means of transport and the consideration of traffic impact. Moreover, in accordance with paragraph 111 of the Framework, the proposal would not have an unacceptable effect on highway safety and would not have a severe residual cumulative impact on the road network.

Living Conditions

16. The proposal would result in increased traffic along the access road to no 25. The traffic resulting from 4 additional dwellings would, however, be light. That traffic would primarily pass adjacent to the high boundary fencing of no 21 and no 27, limiting the effect of noise and light disturbance to the rear of the properties. Furthermore, replacing the gravel surface of the access road with a bound surface such as tarmac would reduce the level of noise resulting from vehicles using the access. I acknowledge that the additional traffic would result in increased instances of vehicle lights shining towards the dwellings opposite the access. The limited increase in such instances would not, however, have an unacceptable effect on living standards or be unreasonable to expect for dwellings facing onto a public highway.
17. The development would also introduce additional activities typical of the front of dwellings into an area that is currently surrounded by private rear gardens. The potential for increased activities to disturb adjoining occupiers would, however, be limited by the significant length of the adjoining gardens, the intervening high boundary fencing, and the substantial distance to the adjoining dwellings' rear elevations. The limited intensification of front of house activities would not, therefore, result in an unacceptable impact on surrounding occupiers' enjoyment of their dwellings and gardens.
18. The proposal would not, therefore, result in unacceptable levels of disturbance for surrounding occupiers through noise or light pollution, whether taken cumulatively or otherwise. There is no substantive evidence before me to indicate that the limited increase in vehicular movements would lead to unacceptable levels of air pollution, taken cumulatively or otherwise. The details of lighting can be appropriately controlled through the submission of a lighting scheme to avoid harm to living conditions.
19. I have also had regard to concerns relating to the loss of privacy and visual impact of the proposal. The proposed bungalows have no roof windows and overlooking of adjoining private gardens would not be possible from ground floor windows given the proposed boundary fencing. The limited scale of the bungalows, in combination with their set off from common boundaries with existing properties, is sufficient to ensure no unacceptable overbearing impact, or unacceptable loss of sunshine, to adjoining occupiers would result.

20. As such, the development would not compromise the living conditions of existing nearby occupiers and would avoid unacceptable impacts from general disturbance, noise, light and air pollution. In these regards, the proposal would accord with the provisions of UDP Policies GP2 and ENV32 which, taken together, require, amongst other things, development to make a positive contribution to the environment, giving consideration to overlooking, loss of privacy, sunlight, and pollution of any kind. Furthermore, I have not found conflict with the provisions of the Framework with regards to this main issue, including paragraphs 130 and 185 which, taken together, require decisions to secure a high standard of amenity for existing and future users, taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.

Other Matters

21. I have had regard to the concerns of interested parties including in relation to drainage; ecology; construction disturbance and pollution; infrastructure; boundary treatments; landscaping; refuse collection; loss of landscape features; and the demolition of existing buildings on the site. These matters are largely identified and considered within the committee report and the committee meeting minutes relating to the development. The Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence that would prompt me to disagree with the Council's conclusions on these matters subject to the imposition of relevant planning conditions. The existing bungalow is relatively modern, is well maintained, and is without any obvious cracks, crevices, or small openings. There is no substantive evidence before me to indicate that there is a likelihood of protected species being present, and the existing buildings on site are not protected from demolition by any heritage listing.

Planning Balance

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations, including the Framework, indicate otherwise. I have found the proposal to accord with the development plan with regards to its effect on the character and appearance of the area; on highways functioning and safety; and on the living conditions of surrounding occupiers. These are the Council's only stated reasons for refusal.
23. The proposal would align with the government's aim to boost housing supply, if only by a modest amount. This counts in its favour and aligns with the social role of sustainable development which seeks to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. The development would comply with the Framework requirements to focus development on locations which are sustainable², promote sustainable transport modes³, have accessible services and make efficient use of land⁴. Whilst the demolition of the existing dwelling would not support the Framework's encouragement of the reuse of existing

² Framework paragraph 105

³ Framework paragraph 110

⁴ Framework Paragraph 124

resources, overall, I give moderate weight to the proposal's contributions to the environmental and social objectives of the Framework.

24. With regard to the economic role of sustainable development, the proposal would lead to the creation of construction work and support for local services and facilities arising from future occupiers. Given the scale of the proposal, these are benefits of limited weight.
25. Overall, I find the proposal to comply with the development plan when taken as a whole. I have taken account of all other matters raised and there are no material considerations, taken individually or cumulatively, that outweigh the identified benefits or indicate that the appeal should not succeed.

Conditions

26. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. I find them to be reasonable and necessary in the circumstances of this case. Where appropriate, I have amended the suggested conditions for clarity and to ensure compliance with national policy and guidance. I have also added a necessary condition in relation to finished site and floor levels. The numbers in brackets relate to the conditions in the schedule.
27. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant plans and documents as this provides certainty (2).
28. A condition to secure the implementation of a Construction Method Statement is also necessary in the interests of highway safety and to protect the living conditions of local residents (3).
29. To protect the character and appearance of the area, conditions securing appropriate landscaping (4), tree protection (5), site levels (8), finishing materials (12), and boundary treatments (9) are necessary.
30. In the interests of highway safety, living conditions, and to promote sustainable transport choices, it is necessary to have conditions securing provision of the appropriate access road including footway (7), and car parking areas (10).
31. In the interests of ecology, a condition ensuring appropriate enhancement of biodiversity in accordance with Framework paragraph 174 is necessary (11).
32. In order to prevent increased risks of flooding, and in the interests of the principles of sustainable drainage, a condition is necessary to ensure the appropriate surface and foul water drainage of the site (6). In the interests of sustainable development, to protect air quality and promote sustainable transport choices, a condition securing low emission boilers and electric vehicle charging points is necessary (13).
33. To protect the living conditions of surrounding occupiers and to promote bio-diversity, a condition controlling external lighting is necessary (14). To protect surrounding occupiers from overlooking and overbearing impacts, a condition removing permitted development rights for certain roof alterations/extensions and additional storeys is necessary (15).
34. Conditions 3 to 6 inclusive are pre-commencement conditions as these measures will need to be agreed and/or put in place before works begin to

prevent the development resulting in harm with regard to the respective matters the conditions are seeking to control.

Conclusion

35. For the reasons above, the appeal is allowed subject to the conditions in the attached Schedule.

S D Castle

INSPECTOR

Schedule of Conditions attached to Appeal Decision
Appeal Ref: APP/V4630/W/21/3283410
25 Seeds Lane, Brownhills WS8 6HU

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location and Block Plan, 2427-01 Rev. H
 - Type A Plans and Elevations, 2427-10 Rev. D
 - Type B Plans and Elevations, 2427-11 Rev. C
 - Type C Plans and Elevations, 2427-12 Rev. D
 - Type D Plans and Elevations, 2427-14
 - Swept Path Analysis Sheet 1 of 2, 210136.28-02
 - Swept Path Analysis Sheet 2 of 2, 210136.28-02

Pre-commencement

3. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:
 - i. Construction working hours
 - ii. Parking and turning facilities for vehicles of site operatives and visitors
 - iii. Loading and unloading of materials
 - iv. Storage of plant and materials used in constructing the development
 - v. A scheme for recycling/disposing of waste resulting from construction works
 - vi. Site security arrangements including hoardings
 - vii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
 - viii. Measures to prevent flying debris
 - ix. Dust mitigation measures
 - x. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
 - xi. Noise and vibration mitigation measures

The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

4. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be fully completed in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any tree or plant (including any replacement) which, within a period of five years from the implementation of the scheme, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with another of a similar size and species.
5. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
6. Prior to the commencement of the development hereby approved, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and an agreed timetable and retained thereafter.

Above ground/slab level/damp proof course

7. No development above slab level shall begin until full details of the access road serving the development, including its construction, materials, alignment, levels, drainage, and footway have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the access has been constructed in accordance with the approved details.
8. No above ground development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
9. No development above slab level shall begin until full details of the boundary treatments to the site, including any new walls and fences, have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway. No dwelling shall be occupied until all boundary treatments have been erected in accordance with the approved details.

10. The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve each individual dwelling hereby permitted shall be made fully available for use prior to that dwelling being first occupied and shall be retained thereafter for those purposes.
11. No development above slab level shall begin until a Biodiversity Enhancement Strategy [BES] to achieve biodiversity enhancements, including details of bird and bat boxes, the use of native planting, and small mammal permeable boundary treatments, has been submitted to and approved in writing by the local planning authority. The BES shall be implemented in accordance with the approved details (including a timetable) and shall be adhered to thereafter.
12. No development above slab level shall commence until details and samples of materials proposed to be used in the external parts of any building hereby approved have been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details.
13. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved, an Air Quality Low Emission Scheme, including details of electric-vehicle charging points and ultra-low NOx boilers, shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be fully implemented in accordance with the approved details and an agreed timetable.
14. No development above slab level shall begin until details of any external lighting to be installed within the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained and maintained at all times.

Conditions relating to post occupancy

15. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (as amended), no development permitted by Schedule 2, Part 1, Classes AA and B of the 2015 Order (as amended) shall be carried out in on any part of the development hereby approved without the prior written approval of the Local Planning Authority.