
Appeal Decision

Site visit made on 5 July 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2022

Appeal Ref: APP/Q4625/W/21/3284732

Land Adjacent to 9 Bellamy Close, Shirley, Solihull, West Midlands B90 3DJ

- 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 Paul Hunt against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/03005/COU, dated 17 December 2020, was refused by notice dated 12 April 2021.
 - The development proposed is change of use of land from untitled, unused land to use ancillary to the residential occupation of 9 Bellamy Close.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of an incidental landscaped open space area within a communal garage courtyard to use ancillary to the residential occupation of 9 Bellamy Close, at Land Adjacent to 9 Bellamy Close, Shirley, Solihull, West Midlands B90 3DJ, in accordance with the terms of the application, Ref PL/2020/03005/COU, dated 17 December 2020, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (ref:TQRQM21007164317640); and Site Plan (ref:TQRQM21007172335644).
 - 2) The site outlined in red on the approved plans: (Location Plan ref:TQRQM21007164317640); and Site Plan ref:TQRQM21007172335644); shall only be used for purposes ancillary to the residential use of the dwellinghouse known as 9 Bellamy Close, Shirley.

Application for costs

2. An application for costs was made by Mr Paul Hunt against Solihull Metropolitan Borough Council. That application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the banner heading above is taken from the application form and includes reference to the ownership status of the site. Whilst I acknowledge that the issues of land ownership and access rights are of concern to interested parties, ownership issues are a private matter between the relevant parties and not within my jurisdiction. Planning permission would not override any legal rights of access to the site or to existing garages. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of the planning issues in this appeal. It is not,

therefore, appropriate to refer to ownership of the site within the description of development. The development is more accurately described as 'change of use of an incidental landscaped open space area within a communal garage courtyard to use ancillary to the residential occupation of 9 Bellamy Close.' I have considered the appeal on that basis.

4. The development has already occurred and I was able to observe it on site. I am, therefore, considering the proposal retrospectively.

Main Issue

5. The main issue is the effect of the proposal on the character, appearance and practical usability of the site and its surrounding area.

Reasons

6. Bellamy Close (the Close) is a short cul-de-sac that is primarily characterised by 3 rows of similar terraced dwellings arranged in a 'U' shaped layout around the public highway. The rows of terraced dwellings are set back from the highway, largely behind open and landscaped front gardens. Attractive areas of public landscaping within the Close delineate areas of on-street parking. The set back of the terraced dwellings, in combination with their open frontages and the public landscaping, give the Close its generally open and spacious character.
7. Access to a communal garage courtyard, at the south-eastern corner of the Close, is provided between the end terraced dwellings at nos 7 and 9. The appeal relates to an area of land located at the south-east corner of Bellamy Close, immediately adjacent to the flank elevation of no 9. Whilst the site is open along its front boundary facing directly onto the Close, closed boarded fencing forms its boundary to the side and rear within the garage courtyard. The boundary fencing to the site has been erected by the appellant but does not form part of the proposals which are limited to the change of use of the site.
8. Historic satellite images provided in the appellant's statement indicate that the site has, in the past, formed an area of incidental soft landscaping within the communal garage courtyard. Those same satellite images also indicate that the amount of vegetation on the site has reduced significantly at some point between 2012 and 2019, and that vehicles have, on occasion at least, historically travelled over, and parked on, the site. Whilst the maintenance, use and appearance of the site may have varied over previous years, the site's position set back from the frontages of existing dwellings result in it making a negligible contribution to the identified open and spacious character of the Close.
9. The garage courtyard is predominantly surrounded by private gardens and closed boarded fencing is a common boundary feature of the courtyard. The proposed change of use, given the small size of the site and its position immediately adjacent to the flank of no 9, does not result in a layout, use or appearance that is incongruous within the site's residential context. Whilst I note interested parties are concerned that the site will be used for business purposes, the appeal relates to use ancillary to the residential occupation of no 9 and must be assessed as such. Such ancillary use could not reasonably be expected to cause undue noise or disturbance to surrounding occupiers.

10. The Highway Authority is satisfied that the development does not prevent vehicles manoeuvring safely into and out of the existing garages. Furthermore, the Highway Authority does not consider that any displacement of vehicles that may have previously parked on the site would have a severe impact on public highway safety, or on the operation of the local highway network. I see no reason to disagree. I am satisfied that Bellamy Farm Road can accommodate any displacement of vehicles resulting from the proposed development without causing material harm to the safe and efficient operation of the local highway network. In reaching this view, I have had regard to the construction of the 2 dwellings¹ at the south-western corner of the Close.
11. There is no substantive evidence before me as to how the development has had a detrimental impact on the practical usability of the site and/or its surroundings. The development respects the amenity of existing occupiers in accordance with Policy P14 of the Solihull Local Plan (SLP). Furthermore, it respects local character and secures the design quality of the area in accordance with SLP Policy P15. For these reasons, the development also accords with the National Planning Policy Framework (the Framework).

Other Matters

12. I have had regard to the other concerns of interested parties, including regarding drainage, security and fly tipping. Drainage concerns relate to a previously constructed extension at no 9. There is no substantive evidence before me to indicate that the appeal development has had a detrimental impact on drainage or flood risk. Furthermore, the access to the garage courtyard remains overlooked to an extent that continues to discourage fly tipping and anti-social behaviour.

Conditions

13. Having regard to paragraph 57 of the Framework and guidance within the Planning Practice Guidance, I have considered the conditions recommended within the Council's committee report. Where necessary, I have amended and added to those conditions. I have specified the approved plans, and the use of the site, as these conditions provide certainty, protecting the living conditions of surrounding occupiers.

Conclusion

14. For the above reasons, the appeal is allowed.

S D Castle

INSPECTOR

¹ Appeal ref: APP/Q4625/W/17/3190235