



Appeal Decision

Site visit made on 8 December 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal Ref: APP/Z3445/W/22/3302539

72 Dosthill Road, Two Gates, Tamworth B77 1JB

- 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 Jason Cooper of Tame Homes Ltd against the decision of Tamworth Borough Council.
 - The application Ref 0022/2022, dated 13 January 2022, was refused by notice dated 25 May 2022.
 - The development proposed is erection of No.4 dwellings with associated parking and external amenity space to the side and rear of 72 Dosthill Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council submits that it can currently demonstrate a greater than five year housing land supply. I am satisfied that the policies most important for determining the appeal scheme are not out-of-date for the purposes of this decision. This includes Policy SS1 of the Tamworth Borough Council Local Plan 2006 – 2031 (February 2016) (Local Plan) setting out the Council's spatial strategy, and Policy HG1 of the Local Plan on housing delivery. Accordingly, the tilted balance under paragraph 11. d) ii) of the National Planning Policy Framework (Framework) does not apply with respect to this appeal.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area;
 - whether the proposal would provide a suitable mix of housing sizes; and
 - whether the proposal would have an acceptable effect on biodiversity.

Reasons

Character and Appearance

4. In the vicinity of the appeal site, houses front on to the road resulting in a linear pattern of development. Some houses are set back behind mature landscaped front gardens and drives, whereas others have more modest front gardens and are more visible from the Road. Houses are generally of a traditional form with pitched or hipped roofs, however there is also

considerable variation in house design and scale, with a mix of bungalows and two storey houses of varying heights. This variation in building line and form adds interest in the street scene. Adjacent houses tend to be positioned relatively close to one another resulting in only glimpsed views into their rear gardens. Consequently, whilst houses in the vicinity of the appeal site have long rear gardens, the extent to which that is generally appreciable from the Road is limited.

5. In the wider area, including houses on Stanegate, Blackwood Road and cul-de-sacs such as Arundel, there is greater variation in the layout of houses relative to the road, with some houses being side on, and others oblique. Houses are generally set behind modest front gardens and drives, with limited landscaping. This creates a relatively high density, suburban feel.
6. The proposed new dwelling immediately adjacent to No 72 (plot 1) would be consistent with the linear pattern of development along the Road. The proposed house on plot 4 would be set well back from the Road, towards the rear of the site. However its front elevation would be at least partly visible from the Road and its orientation would appear consistent with existing adjacent houses. Plots 2 and 3 would be considerably less visible from the Road. Therefore their impact on the street scene would be highly limited. Given the contained nature of the site with three houses positioned behind No 72, the extent to which the scale of the proposed houses relative to their garden size would be appreciable from the public realm would also be limited.
7. From Arundel the rear elevation of plots 3 and 4 would likely be visible to the rear of an existing bungalow on that road (No 12). Nonetheless, given the mix of single and two storey accommodation on that road, the presence of the proposed two storey accommodation would not appear alien. Whilst the appeal site is positioned on higher ground than No 12 and other houses on Arundel, the proposed houses at plots 3 and 4 would be sufficiently set back within the site such that they would not appear unduly prominent in the street scene.
8. Though not immediately adjacent to the appeal site, the Stanegate development (Ref 0072/2013) is sufficiently close that it is appreciated as part of the surrounding built form. I note that that development may have been permitted under a different policy context and contains a greater mix of housing types. Nonetheless, the appeal scheme would appear to be of a generally similar form, comprising modern housing on modest plots, occupying former garden land and with access from the Road.
9. Accordingly, I conclude that the proposal would not unacceptably harm the character and appearance of the surrounding area. As such, it would comply with Policy EN5 of the Local Plan, which generally seeks to ensure developments achieve high quality design. It would also satisfy paragraph 130 of the Framework which, amongst other matters, seeks to ensure developments are sympathetic to local character.

Housing Mix

10. Policy HG5 of the Local Plan sets out the Council's desired mix of housing units. This includes that 42 per cent of new housing should be two bedroom units, 39 per cent should be 3 bedroom units and 15 per cent should be four or more bedroom units. Whereas the appeal scheme comprises entirely four and five bedroom units. The supporting text to the policy acknowledges that smaller

scale developments, such as the appeal scheme, will not be able to meet the precise split. Nevertheless, there is a clear preference for two and three bed units, which together amount to over 80 per cent of the required Policy HG5 housing mix. The Policy advises that an alternative housing mix will be acceptable where it has been demonstrated that the required split is not feasible or viable.

11. The appellant submits that the area around the site is characterised by larger dwellings and therefore that the proposed four and five bedroom units are appropriate here. However, as reasoned above, there is considerable variation in house sizes in the locality. As such, the justification for larger houses here is not persuasive. Conversely, it has not been robustly demonstrated that a scheme incorporating some smaller two or three bed units would appear out of place or would be unachievable or undesirable within the constraints of this site. Similarly, no robust evidence is before me to indicate that a more varied housing mix would render the proposal unviable.
12. Whilst the evidence on Policy HG5 was based may now be some years old, evidence has not been provided to indicate that circumstances are so changed that an alternative mix should be sought. Furthermore, the Council makes reference to more recent evidence¹ that indicates that two and three bed homes were still in highest demand. The appellant makes reference to other recent applications that are said not to have achieved a policy compliant housing mix. However, without details of those schemes, their site contexts and the circumstances in which they were granted, I am unable to make a meaningful comparison.
13. The Council's planning policy response indicates that the proposed mix could be accepted, subject to justification. However for the reasons given I find that adequate justification has not been provided. Therefore, I conclude that the proposal would not provide a suitable mix of housing sizes. Consequently, it would conflict with Policy HG5 of the Local Plan which seeks to ensure that the size and type of proposed housing development addresses local needs. Also, although it could be said to make efficient use of the land, it fails to take into account the identified need for different types of housing as required in paragraph 124. a) of the Framework.

Biodiversity

14. Policy EN4 of the Local Plan seeks to ensure developments avoid a net loss to biodiversity. It specifies that where harm to biodiversity is unavoidable, development should be adequately mitigated, or compensation provided as a last resort. The Council's decision notice also made reference to paragraph 174. d) of the Framework. That requires that decisions contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. It is also necessary, in light of the duty under section 40 of the Natural Environment and Rural Communities Act 2006, to have regard to the purpose of conserving biodiversity.
15. Much of the existing site is amenity grass which is typically of relatively low ecological value. The proposal incorporates the retention of perimeter hedges

¹ Housing and Economic Need Assessment (2019)

but would also require the removal of a number of category C trees at the front of the site. The appellant's Preliminary Ecological Appraisal (October 2021) (Ecological Appraisal) identifies those trees to be of moderate value to wildlife. Therefore, in addition to measures such as installation to bat and bird boxes, it recommends compensatory tree planting. I accept that some garden trees were removed prior to the Ecological Appraisal having been carried out. However I am not aware of any restrictions that might have prevented their lawful removal given their location within an existing garden. In any event I can only proceed on the evidence before me.

16. The appellant indicates that new trees could be planted within the site to offset the trees to be removed. Although the proposal would increase the extent of hardstanding within the site, there would be opportunities for some replacement tree planting within proposed gardens and around the site's perimeter. In the circumstances of this case, it appears reasonably likely that sufficient measures could be secured to provide adequate mitigation for the relatively limited loss of biodiversity associated with the proposal. In the event that the appeal were to be allowed, a condition could reasonably be imposed to specify ecological enhancement measures on site.
17. Therefore I find that the proposal would be capable of having an acceptable effect on biodiversity. Accordingly, it would comply with Policy EN4 of the Local Plan with respect to providing adequate mitigation or compensation for biodiversity loss on site. Whilst not necessarily resulting in net gains for biodiversity, the proposal would be capable of minimising impacts on biodiversity as required by paragraph 174. d) of the Framework.

Planning Balance

18. The proposal would deliver four new houses within the settlement boundary and with suitable amenity space. It would have good accessibility to goods and services, including sustainable transport modes. This would accord with Policy SU2 of the Local Plan which requires proposals to be accessible by non-car modes. Small sites, including windfall sites, can make an important contribution to meeting the housing requirements of an area and can be built out relatively quickly. Therefore it would make a small contribution to housing delivery in Tamworth and to the Government's objective of boosting the supply of homes. Given the scale of the proposal I afford this moderate weight.
19. The scheme would also lead to small and time-limited economic benefits during the construction phase, which may give rise to extra local employment. An absence of harm to matters such as the character and appearance of the area, living conditions of neighbouring occupants, and adequate mitigation for biodiversity loss are neutral considerations.
20. However, I have found harm regarding the failure of the proposal to deliver housing of a suitable size to adequately address local housing needs set out in the development plan. Evidence indicates that demand remains high for two and three bedroom homes. In this case, the benefits of development on a windfall site are reduced due to the proposed housing mix being inconsistent with the Council's identified needs. Therefore I afford this policy conflict considerable weight and consider that this harm outweighs the above benefits. Consequently, the proposal would conflict with the development plan as a whole. Furthermore, the harm from failing to take account of identified needs

would outweigh the great weight afforded to the benefits of using suitable windfall sites for housing, under paragraph 69. c) of the Framework.

Conclusion

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

Rachel Hall

INSPECTOR