



Appeal Decision

Site visit made on 1 November 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2023.

Appeal Ref: APP/P1805/W/22/3301170

Land Rear of 55 - 61 Fiery Hill Road, Barnt Green, Worcestershire B45 8JX

- 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 Dr Gill Hayes against the decision of Bromsgrove District Council.
 - The application Ref 22/00227/OUT, dated 15 February 2022, was refused by notice dated 27 May 2022.
 - The development proposed is Outline application for the erection of one dwelling (includes details of Access, Appearance, Layout and Scale). All other matters reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is in outline with approval sought for access, appearance, layout and scale. Landscaping is the only 'reserved matter' for subsequent approval by the Council. Apart from any landscaping that is shown, which I take as illustrative, the submitted plans form part of the outline application and on which the Council based its decision. I have determined the appeal on this basis.
3. Following clarification, the parties have confirmed that Site Plan drawing no. A.P.253 Rev 05 was submitted during determination of the application to amend the red line around the application site to correspond with the location plan and hence to exclude the 'passing bay' on third party land, owned by 61 Fiery Hill Road. This is one of a suite of plans the Council determined the application on, and so shall I.

Main Issues

4. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the Barnt Green Conservation Area (the CA), and
 - The effect of the proposed development and its access on highway and pedestrian safety.

Reasons

Character and appearance

5. The appeal site comprises a parcel of land to the rear of dwellings 55, 57, 59 and 61 Fiery Hill Road (Nos. 55, 57, 59 and 61), within a predominantly leafy

residential suburb. The land is largely set to grass with a number of garage structures and appears to be in use as garden. Access to the site and garage is via a narrow track off Fiery Hill Road between Nos. 61 and 63. Occupiers of No.61 have access along the track to their garage sited at the bottom of their garden.

6. The site is located within the CA, a designated heritage asset. I saw that properties are mainly detached and semi-detached dwellings that front the road and which are generally set in good-sized plots. There is a variety of property sizes, styles, designs and ages that add visual interest to the area. The site falls within the "Cherry Hill" character area of the CA, which has a higher density than some of the other parts of the CA, but gardens are still good-sized. The significance of the CA is derived from its architectural and historical interest as part of the expansion of Birmingham and creation of residential suburbs with the arrival of the railways. The main railway line to Birmingham and the branch line to Redditch and Barnt Green railway station are on the opposite side of Fiery Hill Road close to the site. The variety of houses, good sized plots and good tree coverage, even if only glimpsed between gaps in houses, contribute to the spacious and verdant character and appearance. Whilst the site is not very visible from the road, its open nature and lack of built form positively contributes to the character and appearance of the CA and its significance.
7. The appellant's property also forms part of a row of semi-detached and terraced dwellings (Nos. 49-61) that back onto the appeal site. They are of a similar design, with gambrel-style roofs and various mock timber-framed detailing. The Council considers that, whilst they would not fully meet the criteria for being locally listed, the row of houses is nonetheless a non-designated heritage asset (NDHA) that illustrates a particular building phase in Barnt Green in about the 1920s, attributed to a local architect, hence their significance is historic and architectural. The distinctive row of properties, and hence the appellant's property, positively contribute to the character and appearance of the CA.
8. The proposal would involve the erection of a sizeable detached, two-storey dwelling on the open land to the rear of the row of dwellings. The appellant considers the proposed dwelling would not be visible from Fiery Hill Road, but has chosen not to provide a street scene to demonstrate this. From my site observations, the difference in ground levels would mean the proposed dwelling would be on higher land than the row of housing on Fiery Hill Road and hence would likely be glimpsed between the properties on Fiery Hill Road, as well as from the elevated footbridge over the railway. It would also reduce views of the trees behind in adjacent gardens.
9. Even if public views of the proposal would be limited, this does not mean the development is not capable of causing harm. The new dwelling would be visible from the rear of nearby properties and rear gardens, and would therefore likely reduce the appreciation nearby occupiers have about the quality of the environment within which they live. This is evident from the number of objections from local residents whose properties back onto the appeal site.
10. With regard to the NDHA, the row of dwellings would retain their rear gardens and their strong group value in the street scene. Hence the proposal would not cause harm to the NDHA.

11. Whilst the proposal would not reduce the size of any of the existing rear gardens, the erection of a dwelling on this backland site would nonetheless be at odds with the prevailing pattern of dwellings fronting the road with linear gardens extending behind. Introducing built form on this open parcel of land, and especially a two-storey dwelling with a large footprint and bulk and massing, would erode the spacious characteristics of the CA and in turn diminish its significance. The proposal would therefore neither preserve or enhance the character or appearance of the CA as a whole, as is required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. A number of dwellings have been built behind properties on Fiery Hill Road, via another narrow access road off it. I do not have the details of this development, but the dwellings are situated further back from Fiery Hill Road and further away from neighbouring properties than would be the case with the appeal proposal. My attention has also been drawn to backland development allowed on appeal at the rear of a property off Cherry Hill Drive, which is a narrow cul-de-sac lane some distance from the appeal site. Whilst located within the same character area of the CA as the appeal site, I saw that it did not form part of, or front, Fiery Hill Road and had a different setting and context to the appeal site.
13. These examples of backland development do not reflect the prevailing form of development of the CA and are therefore not directly comparable to the appeal proposal before me, nor do not set a precedent for allowing harmful development. Whilst previous planning and appeal decisions are capable of being material considerations in planning decisions, and consistency in decision-making is important, all decisions turn on their own particular circumstances based on the facts before each decision-maker at the time. In any event, I must consider the appeal before me on its own merits.
14. Accordingly, the proposal would be contrary to Policy BDP20 of the Bromsgrove District Plan (the 'District Plan'), which seeks to ensure that development does not have a detrimental impact on the character, appearance or significance of a heritage asset.

Access and Highways

15. The access to the proposed dwelling would utilise the existing narrow single-width access track that runs between properties No.61 and 63 Fiery Hill Road for a length of over 30 metres. It currently leads to the appellant's garage at the end of the track on the appeal site, and to a garage used by occupiers of No.61 at the bottom of their garden. From the planning history, the track was granted planning permission in 1992 and has been used for a number of years.
16. The Highway Authority has objected. It recommends a minimum track width of about 3.32 metres to allow delivery and other larger vehicles, as well as pedestrians, to pass along it. The appellant's plans show the track to be between 2.5-2.8 metres wide between the houses either side for a length of about 30 metres. The width of the track is therefore fixed and cannot be widened due to the walls of the dwellings on either side. The track then widens to about 4.3 metres in front of the garage for No.61 and widens further once into the appeal site itself.

17. I saw that the initially described 'passing bay' was an existing gravelled area that forms part of the front garden of No.61. As already described above, this is third party land outside the redline application site and plans have been amended to exclude it. From the alignment of the wheel tracks I also saw there would be little space for larger vehicles and delivery vans to pass along the track as guttering, downpipes and conservatory window cills protrude beyond the side of the properties alongside the track. Local residents have submitted photographs of damage to their property from the current use of the track.
18. Whilst the track is substandard in width over most of its length, it has been in use for a number of years by the occupiers of two properties. This would remain the case - the track would continue to provide shared access to the remaining garage for occupiers of No.61 and serve the proposed dwelling. The appellant's submitted Access Appraisal¹ forecasts there would be a 0.7 increase in vehicle trip generation arising from the proposed dwelling, taking into account the continued use by occupiers of No.61. This would not be a significant increase in the vehicular use of the track. The Highway Authority does not dispute the figure.
19. The proposed dwelling would likely see some increase in pedestrian activity compared to the site's current use as a garden with garaging. The track is not part of a public thoroughfare and even with the 0.7 increase in vehicle trips along the track, there is no substantive evidence before me to indicate that pedestrian safety would be significantly harmed.
20. Whilst vehicular visibility at the junction with Fiery Hill Road cannot be improved within the red line application site without crossing third party land, the track dimensions and access layout already exists from when the track was granted consent nearly 30 years ago. It already serves two properties and this would remain the case. If larger vehicles cannot use the private track, then that is a matter future occupiers would have to bear in mind when arranging deliveries and the like.
21. Issues about the lack of secured cycle parking, electric vehicle charging points, locations of bin storage details and collection points could be conditioned, if I were minded to allow the appeal.
22. Overall I am satisfied there would not be a significant intensification of the use of the track so as to cause significant and unacceptable harm to pedestrian or highway safety. Accordingly, the proposal would not conflict with District Plan Policy BPD16, which seeks, amongst other things, to ensure development incorporates safe and convenient access.

Planning and Heritage Balance

23. In cases such as this, where the harm to the heritage asset is less than substantial, paragraph 202 of the Framework states that the harm should be weighed against the public benefits. In accordance with Paragraph 199 of the Framework I attach great weight to the harm that would be caused to the CA as a heritage asset.
24. The Council cannot currently demonstrate a five year supply of deliverable housing sites. Hence the proposal for a single dwelling would contribute towards the supply of housing and I have no reason to doubt the dwelling

¹ Prepared by HVJ Transport Ltd dated February 2022

would not be built out quickly so as to assist with housing delivery. However, being a single dwelling this would be a modest benefit.

25. There would also be some modest economic and social benefits arising from the construction of a dwelling and its longer term contribution to the area from the local spend of its occupiers. The development would also see the efficient use of land within the boundary of Barnt Green in a sustainable location.
26. Taking all these matters into account, and even if I were to agree the site was previously developed land, the public benefits of the proposal for one dwelling, whether taken alone or cumulatively, would be outweighed by the harm that would be caused to the heritage asset of the Barnt Green CA. The proposal would therefore be contrary to the Framework and fail the statutory tests.
27. As the Council has no five year housing land supply paragraph 11(d) of the Framework is engaged. However, in accordance with paragraph 11(d)(i), the application of policies in the Framework provides a clear reason to refuse permission.
28. Overall, I have identified that there would be conflict with the development plan as a whole. There would be less than substantial harm to the significance of heritage assets, but that harm is not outweighed by public benefits. The absence of harm to pedestrian and highway safety would be neutral in any planning balance. Considered in total, the material considerations referred to above do not outweigh the conflict with the development plan.

Conclusion

29. For the reasons identified I conclude that the appeal should be dismissed.

K. Stephens
INSPECTOR