



Appeal Decision

Site visit made on 18 April 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd May 2023.

Appeal Ref: APP/P1805/W/22/3311091

The Uplands, 131 Old Birmingham Road, Lickey End, Bromsgrove, Worcestershire, B60 1DF

- 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 Mrs Ann-Marie Clarke against the decision of Bromsgrove District Council.
 - The application Ref 22/00389/OUT, dated 13 June 2022, was refused by notice dated 19 August 2022.
 - The development proposed is demolition of part of existing dwelling house, erection of four dwelling houses (Use Class C3) and associated works (access).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The applicant was Mrs Ann-Marie Clarke, but the appeal was lodged by Mr David Clarke. The right of appeal is given only to the original applicant, as confirmed by section 78 of the Town and Country Planning Act 1990 (as amended). Therefore, the appeal will proceed only in the name of Mrs Ann-Marie Clarke.
3. The description above is taken from the application form. The application is made in outline with all matters reserved, except for access for which approval is sought at this stage. The submission was accompanied by a number of plans showing the position of the road and the layout of the site for the dwellings, parking and gardens. Whilst the plans provide a useful guide as to how the site could be developed, I shall regard them as indicative only.
4. The appeal application is a re-submission of a previously refused outline application¹ intended to address the previous reasons for refusal. Consequently, the current appeal is accompanied by additional supporting information including a preliminary ecological appraisal and an acoustic statement advising that acoustic fencing and noise-reducing tarmac would be used. The layout differs in that the dwellings would be in slightly different position, and all would be three-bedroom dwellings to reduce car parking requirements. Notwithstanding the differences between the two schemes, my focus will be to assess the appeal scheme currently before me on its own merits.

¹ LPA Ref: 21/01704/OUT refused 11 January 2022

Main Issue

5. The main issue in this appeal is the effect of the proposal development on the character and appearance of the area.

Reasons

6. The appeal site comprises what is currently the rear garden of the host property (No.131) that extends across the rear of a number of adjacent properties. The property is a detached dwelling in an established residential area, that broadly forms a triangle of housing between the Old Birmingham Road and the Birmingham Road (A38). There are a mix of detached and semi-detached houses of different ages, designs and styles.
7. I saw some driveways leading to backland sites and there were a few cul-de-sacs off the Birmingham Road (A38). However, the prevailing pattern of development is that of a strong street frontage with properties generally fronting the road, albeit set back from it with front gardens and off-road parking provision, and they have good sized long linear rear gardens. For the most part rear gardens back on to rear gardens of dwellings that front the A38 Birmingham Road. From the submitted evidence I can see that some properties may have reduced/enlarged their gardens, most likely through the sale/purchase of land, and some are more manicured than others. Any variations in garden length does not alter the fact that they are predominantly linear in form and of a good size. The appeal property positively contributes to this prevailing character and appearance of the area.
8. The proposal would involve demolishing part of the side of the host property to create space for a new access road between the sides of the host property and No.133a Old Birmingham Road. The access would then lead down the side of the gardens of No.133a and the host property where the plot would widen, and 4 detached dwellings would be erected towards the bottom of the garden. The garden for the host property would be reduced in width and length but would still retain its linear form and remain sizeable.
9. The proposed dwellings would be located behind existing properties and would not front the Old Birmingham Road or have a street frontage or have any direct access off it. This would put a substantial amount of built development on land currently laid to gardens and would increase the density of the area. These factors conspire to disrupt the prevailing pattern and grain of the surrounding development as described above, such that the proposal would not integrate well, irrespective that the four dwellings would form its own linear grouping and that design and appearance would be assessed at reserved matters stage, should the appeal be allowed. Consequently, the proposal would have an adverse impact on the character and appearance of the area.
10. The formation of a long access between two properties would create a gap in the frontage and would open up views of the proposed dwellings from the road, instead of secluded of gardens. Some existing accesses, such as the one alongside 113, do not reveal the dwelling as it is to the side, but nonetheless introduce a long hard surfaced driveway into the street frontage. The alignment of the proposed 4 dwellings would mean that some built development would be more visible than from some historic accesses. Whilst public views would be limited, this does not mean the development is not capable of causing harm.

11. The appellant draws my attention to three developments in particular and has also provided a site context plan showing other developments allowed in the vicinity. The Council has provided some explanation and context to some of these. Some are historic permissions granted under a different policy context, others replace former commercial premises such as a garage and motel, whilst others replace former buildings and structures. Furthermore, others are not 'backland' as they have not been built in landlocked rear gardens, but in the side garden or on part of the garden that also fronts another road so that the new housing still creates a street frontage, such as those in Staple Flat.
12. The Kestrel View development was granted some time ago. Two dwellings were granted fronting the road following demolition of a dilapidated cottage, and then some years later planning permission was granted for three dwellings to the rear. The development for 6 dwellings allowed on the Birmingham Road (A38) at No.454 was, in part, assessed against the adjacent cul-de-sac development of Hazleton Road to the side and rear where the linear form of back gardens had already been disrupted. On my visit I also saw that Birmingham Road (A38) had a different character and appearance to the Old Birmingham Road with a looser grain of development, a less uniform pattern of development and was more heavily trafficked. The 3 dwellings at Malbrook Lane were allowed on appeal in 2004 under a different development plan. I saw the site is close to a road junction, which has created a different juxtaposition of dwellings and gardens compared to the appeal proposal before me.
13. Whilst the various examples demonstrate that the Council has allowed some backland development on a number of sites over the years for various reasons, I find none are directly comparable to the case before me in context or scale and therefore do not set a precedent for allowing harmful development on the appeal site. Each case needs to be considered on the specifics of the proposal, its site context and against the planning policies at the time. Therefore, I must consider the appeal proposal on its own merits.
14. I have found the proposal would harm the character and appearance of the area. Accordingly, it would be contrary to Policies BDP7 and 19 of the Bromsgrove District Plan. These seek to ensure development respects the character and distinctiveness of the area and seeks to resist the development of garden land unless it integrates into the area and is in keeping with its character. It would also be contrary to the advice in the Council's High Quality Design Supplementary Planning Document that seeks to resist plot division that adversely impacts on the grain of existing areas and backland, or rear garden development, will be resisted.

Other Matters

15. There is no obligation on a Council to submit a separate Appeal Statement if it feels their previous officer report and decision notice adequately covers its case. Statutory consultees have not raised objections to the proposal on technical matters such as highways, drainage, ecology and trees, and conditions could be imposed were I to allow the appeal. This does not prevent the Council from forming a different view for other reasons. The submission of suggested conditions, without prejudice, is a requirement of the appeal process to inform me if I found the character and appearance of the area would not be harmed and were minded to allow the appeal. Conditions need not be onerous.

Planning Balance

16. The Council cannot currently demonstrate a five-year supply of deliverable housing sites, which is a material consideration. Paragraph 11 of the Framework states that where the policies that are most important for determining applications are out of date planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
17. There would be a modest economic and social benefit from the provision of 4 dwellings towards the Council's housing land supply. The development would also make more efficient use of land. These count in favour of the proposal. Even if I were to apply the tilted balance of paragraph 11 any benefits would be limited as the adverse impacts of granting planning permission on the character and appearance of the area would significantly and demonstrably outweigh these limited benefits.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR