



Appeal Decision

Site visit made on 27 September 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2023

Appeal Ref: APP/Q4625/W/22/3311700

Land to the rear of 66-72, Ebrington Avenue, Solihull B92 8HX

- 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 Andrew Davenport against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2022/00830/PPFL, dated 5 April 2022, was refused by notice dated 27 September 2022.
 - The development proposed is described as an "application seeking full planning permission for the demolition of existing garages and construction of 2No. three-bedroomed semi-detached dwellings on land to the rear of 66-72 Ebrington Avenue, Solihull B92 8HX".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 5 September 2023, replacing the version published on 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. The Council submitted a Local Plan Review (LPR) to the Secretary of State for independent examination on the 13 May 2021. Having regard to paragraph 48 of the Framework, policies within the LPR may be given weight in decisions. The decision notice only contains reference to policies from the Solihull Local Plan Shaping a Sustainable Future December 2013 (LP) and no LPR policies have been drawn to my attention. In any event, such policies would only carry limited weight and I have considered the LP policies in the determination of this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. Ebrington Avenue is located within a predominately residential area. Properties in this area are largely semi-detached, with a mix of single and two storey heights, sited in predominately wide, deep plots with direct road frontages. The design of the properties surrounding the appeal site is largely uniform, with

wide frontages and hipped and gable roofs. It is the layout, density, uniformity of design and direct road frontages that contribute to the character and appearance of the area.

6. The appeal site lies to the rear of 66-72 Ebrington Avenue and is accessed via an existing driveway. The site consists of a block of flat roof garages and is surrounded by residential gardens serving neighbouring properties. Due to its location and the modest scale and height of the garages, the site does not detract from the character and appearance of the area.
7. The proposed development would utilise the existing driveway, thereby ensuring there is no proliferation of access drives in the area. The proposed properties would be sited at right angles to the driveway and located to the rear of Nos 66-72. As a result, the proposed properties would not have a direct frontage with a highway, which would be at odds with the prevailing layout of properties within the area.
8. While noting the proposed development would be centrally located within the site, with the parking area to the front, and the ridge height of the proposed properties would be subservient to adjacent properties, the narrowness of the plot would result in two properties with uncharacteristically long, narrow footprints and a large, centrally located flat roof. This would be in stark contrast to the hipped and gable roofs, wider plots and wide frontages of properties surrounding the site.
9. As a result of its layout and design, the proposed development would result in an incongruous form of backland development, that would be at odds with, and detrimental to, the prevailing pattern and character of the area.
10. The appellant contends the scheme would be compliant in respect of the overall requirements of the Residential Backland Development Supplementary Planning Document July 2021 (SPD) and the proposed design includes references to nearby properties, including corbelled verge detail and front facing gables. Nevertheless, the proposal would result in harm to the character and appearance of the area.
11. For the above reasons, I conclude that the proposed development would result in unacceptable harm to the character and appearance of the area, contrary to Policies P5 and P15 of the LP and the guidance in the New Housing in Context Supplementary Planning Guidance November 2003 (SPG) and the SPD. Collectively, these seek, among other things, to ensure development respects, maintains or enhances local character and distinctiveness and achieves good design. This is also contrary to the aims of the Framework, which seeks, among other things, to ensure developments are sympathetic to local character.

Other Matters

12. The proposed dwellings would make a modest but worthwhile contribution towards local housing numbers, as recognised by the SPD, in a location which has good access, within close walking distance, to public transport, services and facilities. These include schools, a library, a medical centre, shops, a pharmacy, takeaways, a gym, a post office, and public house. It would also make efficient use of the land. The Framework is supportive of small and medium sized sites, such as this site, which can make an important contribution to meeting the housing requirement of an area and are often built

out relatively quickly. The development would also give rise to some economic benefits during the construction phase and provide support to local services through additional consumer spending. While these elements weigh in favour of the proposal, given the scale of the proposed development, these benefits are modest.

13. I understand on-site measures with respect to reducing greenhouse gas emissions and increasing the generation of energy from renewables, would be incorporated within the proposed development. While the replacement of a significant amount of hard standing with soft landscaping would allow the potential for creating new habitats, no further substantive details have been submitted. Having regard to the modest amount of development proposed these benefits carry limited weight in favour of the scheme.
14. An absence of harm in respect of the proposed developments impact on neighbouring and future occupiers' amenity, highway safety, the highway network or the long-term survival of established high value back garden boundary vegetation and tree cover are neutral matters.
15. A previous appeal decision¹ has been drawn to my attention for the same site. While I do not have the full details of the case before me, I understand the Inspector considered a proposal for residential development in the context of the Council being able to demonstrate a 5-year supply of housing and dismissed the appeal. Given the Council can no longer demonstrate a 5-year supply of housing, I have considered the scheme before me on its own merits.

Planning Balance and Conclusion

16. The Council is unable to demonstrate a Framework compliant supply of deliverable housing sites, and advises the current supply is 3.6 years, which the appellant concurs with. This represents a significant housing shortfall. In circumstances such as this, paragraph 11 d) of the Framework states the most important policies for determining the application should be considered out-of-date and 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. The other matters I have identified carry moderate weight in favour of the proposed development. I am therefore satisfied that having undertaken a balancing exercise in accordance with paragraph 11 d ii) of the Framework that the harm to the character and appearance of the surrounding area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
18. Overall, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR

¹ Appeal decision APP/Q4625/A/13/2208590