



Appeal Decision

Site visit made on 23 January 2024

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Appeal Ref: APP/Q4625/D/23/3330419

8 Althorpe Drive, Dorridge, Solihull B93 8SG

- 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 Dr Jawad Chaudhry against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2023/00074/MINFHO, dated 16 January 2023, was refused by notice dated 17 July 2023.
 - The development is Extension of rear garden and its wall.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the 'Framework'). The Council referred to the 2021 version of the Framework in their reason for refusal 1. Whilst the paragraph numbers may have changed in the revised version the contents of Section 12, which relates to Achieving well-designed and beautiful places, remains largely unchanged. Consequently, I have not invited further comments.
3. The application was refused on 17 July 2023. Whilst acknowledging that the appeal was made under the expedited procedure provided under the HAS process, I am also mindful that an Arboricultural Survey to BS5837:2012 dated 4 August 2023 has been submitted in support of the appellant's grounds of appeal. Therefore, in the interest of natural justice, I have given the Council the opportunity to comment on this new evidence. No further comments were received in response to this consultation. Accordingly, no party has been prejudiced by this action.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on a protected tree.

Reasons

Character and appearance

5. The appeal property is a detached house located close to the entrance of a suburban housing estate. It sits on a corner plot at the junction of Althorpe

Drive and Pembridge Road and is set at an angle to the adjoining roads. The dwellings in the immediate vicinity have varied designs, building lines and modest sized front gardens, softened by tree and shrub planting. A significant area of open space, which makes a positive contribution towards the open verdant character of the estate, is located opposite the appeal property.

6. The wall sits well forward of the side elevation of the host property, and the majority of other properties that front onto the main section of Althorpe Drive. It lies immediately adjacent to the back edge of the footpath. As a result of its height, materials and positioning it dominates the land to the side of the host property and appears as a prominent and incongruous feature in the street scene. Moreover, it has introduced a form of development, to an area of land that was previously devoid of structures, that significantly erodes the open character and appearance of this prominent corner site.
7. I acknowledge that there are instances, where walls have been established on corner plots. In particular I saw the examples referred to me by the appellant at 9 Althorpe Drive, Boningale Way, Hinchwick Court and Slater Road which were located in the neighbourhood. However, I find that these examples were not typical of the character and appearance of the area. Furthermore, I am not aware of the circumstances that prevailed when the walls were erected. They do not provide justification for development that fails to add to the overall quality of the area.
8. Given my findings above I conclude that the development results in harm to the character and appearance of the area. This would conflict with Policy P15 of the Solihull Local Plan (2013), Policy D1 of the Knowle and Bentley Heath Neighbourhood Plan, Section 12 the National Planning Policy Framework (2023) and the National Planning Practice Guidance (2021). These policies and guidance collectively support development which respects and responds positively to its context and enhances the quality of the local built and natural environment.

Protected tree.

9. A mature oak tree (T04)¹, which is located within a neighbouring garden, to the east of the appeal site, is a prominent feature within the area. Its location, species and height, sets it apart from other trees in the locality, and it can be clearly seen from Althorpe Drive. As a result, it makes a significant contribution to the character and appearance of the area.
10. The tree is located within a raised brick planter with the surrounding structure being approximately 1 metre from the trunk and around 700mm high. At the time of my visit cracks were evident in the wall of the planter suggesting ground movement had occurred. I also noted that the trunk divides at a point around 3 metres above ground level, and some historic pruning has taken place to reduce the crown. As a result, I accept that the tree is showing signs of stress and is in decline. That said, it could continue to make a positive contribution to the area for a period in excess of 10 years.
11. Whilst noting that an arboricultural assessment of the tree has been undertaken, its recommendations fall short of confirming that the new wall has not had an adverse impact on the health of the tree. Moreover, it recommends

¹ As shown on the appellant's Arboricultural Survey to BS5837:2012 dated 04 August 2023

a further arboricultural report which should include a) An arboricultural impact assessment, b) An arboricultural method statement and c) A tree protection plan drawing.

12. Notwithstanding the above, the Tree Constraints Plan, which is included as Appendix 3 of the Arboricultural Survey, clearly shows that the majority of the new wall falls within the root protection area. I have also had regard to the appellants assertion that 'removing the existing wall could potentially cause more harm to the tree than leaving it by once again disrupting the trees root system.' In so stating it is clear to me that the appellant recognises that it is likely that the tree root system may already have been damaged, as a consequence of the erection of the new wall. However, I do not accept the appellants assertion that 'as the works have been done so the refusal reason is too late to be applied.' With professional advice, it is likely that works on the demolition and relocation of the wall could be undertaken in a manner which would ensure the future health of the tree is not further jeopardised.
13. Accordingly, on this main issue, the proposal would be contrary to Policy P10 of the Solihull Local Plan (2013). This policy recognises the importance of a healthy natural environment and seeks, amongst other matters, to protect, enhance and restore diverse landscape features of the Borough.

Other Matters

14. I acknowledge the appellant's desire for privacy and a secure area within which his children can play. However, I have no substantive evidence before me to suggest that the wall in its original position did not provide these attributes. Moreover, it is unlikely that the development before me is the only option to achieve this outcome. This matter carries limited weight in my consideration of the proposal.

Conclusion

15. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Gunn

INSPECTOR