



Appeal Decision

Site visit made on 27 March 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2024

Appeal Ref: APP/P4605/W/23/3327210

14 Elwyn Road, Sutton Coldfield, Birmingham B73 6LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Tom Walsh against the decision of Birmingham City Council.
 - The application Ref is 2023/00481/PA, is dated 20 January 2023.
 - The development proposed is outline application for the demolition of part an existing dwelling and the erection of three bungalows including details of means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government has published a revised version of the National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. Outline planning permission is sought with all matters reserved with the exception of means of access. I have assessed whether or not an acceptable development as described in the proposal could be devised based on the evidence provided including any indicative plans. Moreover, in assessing the indicative plans submitted I am cognisant that the site could be developed in other ways.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the existing residential area.

Reasons

5. Elwyn Road contains a mixture of two storey detached dwellings and single storey bungalows which host attractive front lawns and large driveways. Due to a difference in topography along Elwyn Road, two storey dwellings have a similar roof height to the single storey bungalows located at the highest point of the road. Most notably in this immediate vicinity, properties front the highway, are in a linear form and follow an established building line with no dwellings constructed to their rear gardens. Properties also host rear garden spaces of significant depth. These factors add to the attractive and uniform layout of the street scene.

6. The layout and design of the proposal would need to be formally considered at the reserved matters stage. However, the intention to erect three properties in what is considered backland development, in close proximity to each other would not follow the line of development in the immediate street scene. As indicated in the evidence before me (Proposed Street Scene, DRG NO: P300), the indicative dwellings would be visible from the public highway. This is due to the rise in topography of the appeal site and the roof heights indicated of the proposed dwellings.
7. As such, this proposal would appear cramped in small glimpses into the site and over the roofscape of the host dwelling from the street scene and from neighbouring properties. From these perspectives, the proposal would appear intensively developed within the confines of the site and would contribute to an unacceptable sense of massing within the appeal site. Whilst the appeal site is of a considerable depth, I find that regardless of the indicative layout that accompanied the application, the construction of three dwellings within the site with its limited width would appear unduly cramped and intensively developed in other arrangements.
8. A number of examples have been provided by the appellant to illustrate various examples of backland development like proposed here. However, these all differ in terms of the number of units, the size and shape of the site and their location. Therefore, this appeal can be distinguished from those other examples referred to. In any event, each application is assessed on its own merit and site characteristics. I therefore ascribe minimal weight to these examples.
9. To conclude on this issue, the proposed development would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan 2017 (BDP) and. These policies seek to create a strong sense of place and local distinctiveness, with design which responds to the local area context. This indicative proposal would work against paragraph 135 of the Framework which seeks for new development to be visually attractive and is sympathetic to local character.
10. Policy DM2 of the Development Management in Birmingham Development Plan Document 2021 (DPD) has been included by the Council in the reason for refusal. This policy has been assessed and refers to the effect of development on amenity, not character and appearance. As such, this policy has not been determinative in the assessment of this issue.

Other Matters

11. The appellant argues that a large outbuilding could be constructed in the rear of the appeal site, as has been undertaken by several neighbouring properties. No Lawful Development Certificate has been evidenced to demonstrate that this is indeed possible. More decisively, I find that this is not a similar development to the proposal subject to this appeal and is therefore not directly comparable. I also find that this would not theoretically be of a greater harm to the character and appearance on the street scene than the proposed development of three dwellings within the site. As such, I ascribe minimum weight to this matter.

Planning Balance

12. I have found conflict with Policies PG3 and TP27 of the BDP as I have found harm to the character and appearance of the street scene. On that basis, I conclude that there is conflict with the development plan as a whole.
13. The appellant has claimed that the Council is unable to demonstrate a five-year housing land supply and that this position is between 3.15 years and 3.99 years. The Council have not disputed this claim. As such, paragraph 11 of the Framework states that development plan policies which are most important for determining the application should be considered out of date. As there are no relevant policies protecting areas or assets of particular importance in this case, the requirements of paragraph 11d)ii of the Framework therefore apply.
14. Paragraph 60 of the Framework refers to significantly boosting the supply of housing. Three additional units would make a small contribution to that supply of a type identified as being particularly needed in the Council's Strategic Housing Market Assessment. I have considered the benefits of the scheme as provided by the appellant. The appellant suggests that the site is located in an accessible location which hosts a range of services and key facilities in Sutton Coldfield. The proposal would also provide local economic benefits during the construction period. The future occupiers would also provide economic benefits to the local area once the development would be complete.
15. However, the proposal would result in significant harm to the character and appearance of the area. When assessed against the policies in the Framework when taken as a whole, the adverse impact to the character and appearance of the area would significantly and demonstrably outweigh the benefits.

Conclusion

16. For the reasons given above, the proposal would be contrary to the development plan as a whole. There are no material considerations, including the provisions of the Framework, which indicate that I should take a decision otherwise than in accordance with the development plan in this case. Therefore, I conclude that the appeal should be dismissed.

J Smith

INSPECTOR