



Appeal Decision

Site visit made on 4 June 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 4 July 2024

Appeal Ref: APP/P1805/W/24/3336960

Land Adjacent to 94 Cobnall Road, Catshill, Bromsgrove, Worcestershire, B61 0PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms N Rebeiz against the decision of Bromsgrove District Council.
 - The application Ref is 23/00969/FUL.
 - The development proposed is a 3 bedroom detached dwelling with associated parking and new access for existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether future occupiers of the proposed development would experience acceptable living conditions in terms of road noise and privacy; and,
 - the effect of the proposal on the living conditions of the occupiers of 94 Cobnall Road, with regard to overlooking, outlook and sunlight.

Reasons

Character and appearance

3. Cobnall Road is characterised by closely spaced semi-detached housing with short front gardens. 94 Cobnall Road and its side garden and garage which forms the appeal site are located at the western end of this road where it meets Wildmoor Lane. Policy BN19 of the Bromsgrove District Plan ('District Plan') and the supplementary planning document 'High Quality Design' (SPD) resist the subdivision of plots and the development of garden land unless the proposal fully integrates into the residential area.
4. No 94 and its attached neighbour are set well back from the street corner and diagonally across it. These two houses also have larger gaps separating them from their neighbours than found on the rest of Cobnall Road. In conjunction with a similar arrangement on the facing street corner, this layout is a design feature that introduces a welcome spaciousness to the street scene and counterbalances the dense pattern of development along the rest of Cobnall Road.
5. The proposed house would be located close to the side of No 94 in the gap between it and the electricity substation that would remain following the

demolition of the modest garage serving No 94. In so doing, it would result in the loss of the sense of spaciousness and symmetry that exists at first floor level at the western entrance to Cobnall Road and would have a significant adverse effect on the street scene.

6. The form and architectural features of the proposed building would reflect those found in neighbouring dwellings and the use of complementary materials could be secured by the use of a suitably worded condition. However, these design features are insufficient to overcome the demonstrable harm that would be caused as a result of the damage the siting of the development would cause to the street scene.
7. For the reasons given above, I therefore conclude that the proposed development would constitute poor design which would not be in keeping with the character and quality of the local environment and would demonstrably harm the character and appearance of the area. The proposal would therefore be contrary to policies BDP1 and BDP19 of the District Plan, policy H3 of the Catshill and North Marlbrook Neighbourhood Plan ('Neighbourhood Plan') and the SPD. Policies BDP1, H3 and the SPD require the protection of the character and appearance of a locality, also known as an area's visual amenity, through high quality design that respects local design features.

Living conditions of future occupiers

8. The appeal site is in an elevated position on a similar level to the nearby M5 motorway and at a higher level than the motorway to the west. Whilst acoustic fencing is visible along that side of the motorway closest to the appeal site the constant roar of traffic from the motorway was clearly audible and annoying during the site visit. The noise levels that future residents of the proposed development would experience therefore needs to be considered.
9. If confirmed as necessary, it is likely that satisfactory indoor noise levels could be achieved by appropriate glazing and ventilation without altering the appearance of the proposed dwelling. However, if works were required to achieve acceptable noise levels in the back garden of the proposed dwelling, which would be the only private outdoor amenity space to the property and therefore of high amenity value, an acoustic boundary treatment of currently unknown height is likely to be needed.
10. Given the elevated nature of the plot in relation to the house at No 94, an acoustic barrier could enclose the rear elevation and garden of this property to a far taller height than would be normal. Clearly, to determine whether the effect of such a boundary treatment on matters such as outlook and overshadowing would be acceptable, a report that assesses noise levels and includes details of mitigation needs to be considered at application stage and cannot be left to control by a condition. No such report has been provided.
11. Nearby houses are likely to experience similar levels of outdoor noise. However, these dwellings have been built a number of decades ago and so either pre-date the motorway or the current version of relevant British Standards. As a result, the circumstances under which these other dwellings were permitted are materially different to those of the appeal proposal. Consequently, reference to this matter has not altered my findings in relation to this issue.
12. In relation to privacy within the proposed dwelling, views would be possible of the rear bedroom window from the rear garden of No 94. However, as this view

would be comparable to that commonly found along a residential street, and the angling of the rear elevation of the proposed dwelling towards No 94 only slightly accentuates the extent of overlooking, I am not persuaded that this would result in material harm to the living conditions of future occupiers of the proposed dwelling.

13. Notwithstanding my favourable findings in relation to privacy, this does not obviate the cogent planning objection in relation to noise and the outdoor mitigation measures that may be required. For the reasons given above, and in the absence of any submitted evidence as to whether noise levels would need to be mitigated and whether this could be achieved in an acceptable manner, I find that it has not been demonstrated that the proposal would not harm living conditions. The proposal would therefore be contrary to policies BDP1, BDP19 and the SPD which seek high quality design and require that the impact of development on residential amenity, such as noise, outlook, privacy and overshadowing, is taken into account by following relevant guidance. Policy H3 of the Neighbourhood Plan cited by the Council in relation to these matters is not relevant to this or the following main issue as it does not refer to living conditions or residential amenity.

Living conditions of neighbours

14. It is clear from the submitted drawings that the outlook from the rear garden of No 94 towards the road, other than for the house on this plot, is unenclosed by any building above one storey in height. In views from what would remain of the rear garden to No 94, the proposed dwelling at a slightly higher level would enclose most of the outlook above the height of the intervening single storey buildings towards Cobnall Road. However, not harmfully so for a residential area where many houses are closely spaced together.
15. In terms of overlooking, many houses in urban and suburban areas have views from first floor windows of the rear gardens of their neighbours. For the same reasons, in terms of overlooking and because the rear bedroom window only directly faces the far end of the rear garden to No 94, I find that the proposed dwelling would not have a significant adverse effect on privacy. The proposed house would place the rear garden of No 94 in the shade. However, this would occur to only part of the rear garden at any one time and would be restricted to the earlier part of the day.
16. Taking all these matters into account, I therefore conclude that the proposed development would result in acceptable living conditions for the occupiers of No 94 and so for this purpose would accord with policies BDP1 and BDP19 of the Local Plan and the SPD.

Other considerations

17. The proposed development would not result in any other harm to matters of acknowledged planning importance, such as highway safety, drainage and ecology. The absence of harm though is a matter of neutral rather than positive weight that weighs in favour of a proposal.
18. The proposal would have social and economic benefits. These though would be limited: an additional unit would make little difference to the overall supply of housing, and the support that construction of the dwelling and one extra household would provide to the local economy and Council services in the form of a New Homes Bonus would be insignificant. Furthermore, the Council Tax that would be levied on the property would address the demand that its

occupiers place on local authority services and so cannot be counted as a benefit of the scheme. Environmentally, the benefits of one additional dwelling with services and facilities accessible by means other than by car and the improvement in biodiversity that could occur on this small site would be minimal.

Planning balance and conclusion

19. The proposed development would demonstrably harm the character and appearance of the area and it has not been demonstrated that, if necessary, the effect of motorway noise can be reduced to acceptable levels without adversely impacting on living conditions. As a result, the proposed development would be contrary in these regards to policies BDP1 and BDP19 of the District Plan and policy H3 of the Neighbourhood Plan.
20. The location of the proposed development within an established residential area with services and facilities readily accessible by sustainable modes of transport complies with the spatial strategy for the District and policy BDP2 of the Local Plan. In supplying a three bedroom dwelling the scheme would also comply in this regard with policy BDP7.1 of the Local Plan. However, given the demonstrable harm that would be caused to the character and appearance of the area and the potential harm to living conditions, I find that the proposal would be contrary to the development plan considered as a whole.
21. The Council cannot demonstrate a five year supply of deliverable housing sites and the shortfall is significant. In these circumstances footnote 8 of the National Planning Policy Framework ('the Framework') establishes that the policies which are most important for determining the application are deemed to be out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The Framework sets out a presumption in favour of sustainable development and the policies of the Framework taken as a whole constitute the Government's view of what sustainable development means in practice. There are three overarching objectives to sustainable development: social, economic and environmental. As described in paragraph 18 above, the social and economic benefits associated with a single dwelling would be limited even taking account of the objective of boosting significantly the supply of housing in the Framework and the Council's housing land supply position.
23. Environmentally and socially, the adverse impacts of the proposal on the character and appearance of the area, and the potential harm to living conditions in relation to noise and its mitigation, are considerable concerns. The adverse impacts in these regards would significantly and demonstrably outweigh the social, economic and environmental benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Ian Radcliffe

Inspector