

Appeal Decision

Site visit made on 27 August 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/P1805/W/24/3342054

Land to the rear of 55-61 Fiery Hill Road, Barnt Green, Worcestershire B45 8JX

- 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 Dr Gill Hayes against the decision of Bromsgrove District Council.
 - The application Ref is 23/00829/FUL.
 - The development proposed is erection of single storey dwellinghouse
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area including the Barnt Green Conservation Area.

Reasons

3. The appeal site comprises a grassed parcel of land to the rear of 55,57,59 and 61 Fiery Hill Road which is accessed by a narrow track between 61 and 63 Fiery Hill Road. The site accommodates an outbuilding and a garage. The appeal site is located within the Barnt Green Conservation Area (CA). Whilst the appellant suggests that there are parts of the CA that shouldn't be designated as such, that is nonetheless the designation and I have therefore had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance¹.
4. The appellant suggests that, in the absence of a detailed conservation area appraisal, the special interest of the area surrounding the appeal site is not clear. I acknowledge that the historical analysis of the CA is limited. Nonetheless, it is evident that the CA comprises the predominantly residential area to the west of Barnt Green railway station which reflects the expansion of Birmingham and the area's development as a prosperous residential suburb between the late 19th and early 20th centuries. From the information before me it appears that the CA derives significance from its

¹ Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

layout and architectural fabric which are reflective of the area's social and economic history.

5. The CA is made up of 3 areas: Shepley, Fiery Hill and Cherry Hill. The site is located within the 'Cherry Hill' character area. This part of the CA is characterised by dwellings of various forms, scales and designs which are set within smaller plots than elsewhere in the CA. There are some examples of backland dwellings within the area including 63a, 63b and 63c Fiery Hill Road and the dwelling to the rear of 10 Cherry Hill Drive. Nonetheless, within the area, dwellings are predominantly set within spacious linear plots and address the road.
6. There are clear differences in the character of the Cherry Hill character area and other parts of the CA including in the architectural quality and the size of dwellings and plots resulting in a more varied and 'suburban' character and appearance than elsewhere within the CA. Nonetheless, the character area displays particular qualities including the predominantly linear form of development, mature planting and spacious plot sizes. These qualities make a positive contribution to the spacious and verdant character of the area.
7. The site does not form public open space and has limited visibility from public vantage points. In support of the proposal the appellant suggests that the site was originally set out as a plot to be developed. Even if this were the case, there is no evidence that this plot form was characteristic of the predominantly linear layout of development in the area. Furthermore, as a vacant, grassed parcel of land bordered by mature vegetation, in its present form the site positively contributes to the established character of the area.
8. The appeal proposal relates to the erection of a single storey dwellinghouse which would be sited behind 59 and 61 Fiery Hill Road. In a 2023 appeal decision² for a 2-storey dwelling on the site the Inspector found that the proposal would be visible from nearby properties where it would likely reduce the appreciation nearby occupiers have about the quality of the environment within which they live. The Inspector also found that the development would likely be glimpsed between the properties on Fiery Hill Road and would reduce views of the trees behind in adjacent gardens.
9. The appellant has sought to address the issues raised in that appeal by reducing the height and massing of the proposed dwelling. There would be limited public views of the single storey dwelling, and the proposal would permit street scene views of the trees behind the site in adjacent gardens. Notwithstanding the elevated nature of the site, by virtue of its limited scale, flat roof design and the existing boundary vegetation which would partially screen the dwelling in views from neighbouring properties, I find that the proposed dwelling would not appear excessive within the plot or appreciably reduce the spacious quality of the site in views from neighbouring properties.
10. The proposal would have a similar relationship to the road to dwellings in the immediate surrounding area³ to which my attention has been drawn. Nonetheless, these properties are visually at odds with the predominant

² APP/P1805/W/22/3301170

³ Numbers 63a, 63b and 63c Fiery Hill Road and the dwelling to the rear of 10 Cherry Hill Drive

linear character of the area and, rather than set a precedent for similar forms of development, they highlight the need to assess each proposal on its individual merits. The frequency of these 'backland' dwellings is not so high to have changed the established character of the area. Consequently, the layout would be at odds with the prevailing pattern of dwellings in the area. This reflects the findings of the Inspector in the 2023 appeal decision.

11. My attention has also been drawn to residential development at 47 Fiery Hill Road, which, it is stated, occupies a plot which appears to be smaller than other properties in the surrounding area. However, that building follows the linear pattern of development along Fiery Hill Road and thus, whilst a denser form of development, assimilates with the layout of dwellings in the surrounding area and is not directly comparable to the appeal proposal.
12. Reference is also made to an application for development at Butterwick Close and 2 recent appeal decisions where it is stated Inspectors have come to different conclusions on developments behind built frontages. However, there are limited details regarding these decisions and this development for me to give substantial credence to and thus I am unable to draw comparisons with the appeal proposal.
13. For the foregoing reasons, the scheme would disrupt the prevailing pattern and grain of development in the immediate surrounding area and would result in harm to the significance of the CA. The proposal would lead to less than substantial harm, although it would nonetheless be significant. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal.
14. The Council have confirmed that they cannot demonstrate a 5-year supply of deliverable housing sites and have failed to meet the housing delivery test. The public benefits include the delivery of one dwelling on a site at low risk of flooding with good access to local amenities and public transport links which would contribute towards the supply of housing. The bungalow would help address a local need for smaller dwellings, for which it is stated there is local unmet need and may be attractive to older persons. There would be direct and indirect social and economic benefits of the development, both short-term during construction and longer-term on occupation including support for local services and expenditure contributing to the local economy. These matters weigh in favour of the scheme and, when factoring in the significant supply and delivery shortfall, attract moderate weight as a scheme benefit.
15. The Council found that the proposal would not result in harm to the living conditions of the occupiers of nearby dwellings or result in harm to highway safety. Compliance with the relevant development plan policies on these matters would be required in any case. Thus, these matters weigh neutrally, rather than in favour of the proposal.
16. Taking these matters into account, the cumulative public benefits of the dwelling would be outweighed by the harm that would be caused to the character and appearance of the CA. Conflict therefore arises with the Framework's policies on heritage assets and those aims of Bromsgrove District Plan (2017) (BDP) Policy BDP20 which requires that development

affecting heritage assets should not have a detrimental impact on the character, appearance or significance of the heritage asset.

Planning balance

17. The appellant suggests that BDP Policy BDP20 is not consistent with the Framework as it does not require a public benefit test in cases where there is less than substantial harm to a heritage asset. It is suggested therefore that the weight to be attributed to this policy should be diminished.
18. Paragraph 225 of the Framework states that due weight should be given to existing policies according to their degree of consistency with the Framework. It is therefore necessary to consider what the policies are seeking to achieve and whether this is consistent with the aims of the Framework. Whilst BDP Policy BDP20 does not require a weighing of the harm against public benefits in cases where there is 'less than substantial' harm to a designated heritage asset, the aims of this policy in managing the historic environment are broadly consistent with the aims of Chapter 16 of the Framework. Given this the policy can be afforded full weight. In any case, I have also found that the proposal conflicts with Chapter 16 of the Framework.
19. In light of the acknowledged supply and delivery shortfall of housing, Footnote 8 of the Framework indicates Paragraph 11. d) of the Framework is engaged requiring that 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, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 of the Framework lists designated heritage assets as one such asset of importance.
20. I have found harm in relation to the effect of the development on the CA, which, in accordance with Footnote 7 of the Framework, provides a clear reason for refusing the development proposed. Thus, the proposal does not benefit from the presumption in favour of sustainable development outlined at Paragraph 11 and, as a material consideration, the Framework would not indicate that permission should be granted. The cases to which my attention has been drawn⁴ do not provide any reason for me to conclude otherwise.

Conclusion

21. The proposal would conflict with the development plan and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, I conclude the appeal should be dismissed.

N Robinson

INSPECTOR

⁴ Gladman Development Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 128 and Monkhill Ltd v Secretary of State for Housing and Local Government and Waverley BC [2019] EWHC 1993 (Admin)