

Appeal Decision

Site visit made on 24 September 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2024

Appeal Ref: APP/G4620/W/24/3343292

114 Brookfields Road, Oldbury B68 9QS

- 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 Mr Manminder Singh against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68768.
 - The development proposed is described as “proposed 2no. 2 bedroom and 1no. 1 bedroom flat”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, on 30 July 2024, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and a written ministerial statement titled “Building the homes we need” (WMS). While a direction of travel has been outlined within the WMS, which is a material consideration, the changes to the Framework can only be given limited weight, given that no final document has been published.
3. Notwithstanding this, the Council have not raised concerns with the principle of the appeal scheme and, as such, it does not form a reason for refusal within the decision notice. In addition, while amendments are proposed to section 12 of the Framework, the overall emphasis remains on providing well-designed places. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party’s interests would be prejudiced by my taking this approach.
4. During the planning application process amended plans, drawing numbers BSV-001 Rev 1 and BSV-002 Rev 1, were received by the Council and used by them to determine the application. I have therefore determined the appeal on the basis of these amended plans.

Main Issue

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

Reasons

6. Brookfields Road is located within a predominately residential area, where properties typically comprise two storey, semi-detached dwellings, sited in relatively spacious plots, with regular spacing between each pair. Corner plots, including 114 Brookfields Road, typically have wide side gardens, which further add to the spaciousness of the area. While there are some minor design differences, properties generally read as mirrored pairs of semi-detached dwellings, with hipped roofs and broadly uniform fenestration and footprints. Due to its design, layout and plot size, No 114 contributes towards the character and appearance of the area.
7. The appeal scheme seeks to erect a large detached, two storey building, with an irregular shaped footprint, on the side garden serving No 114. The proposed development has been designed to fit the shape of the appeal site. It would therefore extend almost the full width of the site and result in a conspicuously wide frontage.
8. While the height and setback of the proposed development would reflect the surrounding built form, the appeal scheme would, nevertheless, erode the side garden serving No 114 and, in turn, the spaciousness of the corner plot. This would be further exacerbated as the appeal scheme would overlap the side elevation of No 114, as demonstrated by the proposed street scene.
9. Consequently, while noting the garden sizes that would be afforded to both No 114 and the proposed development, the design and layout of the appeal scheme would result in a visibly cramped and incongruous form of development, at odds with the prevailing character and appearance of the area.
10. The proposed building would incorporate some design features seen on neighbouring properties, including materials and decorative brick window surrounds. However, the appeal scheme proposes a mansard style roof design, which would have a noticeably steeper pitch than the prevailing roof forms in the area. While I am advised that similar roof types in the wider area have been granted by the Council, these are not viewed in the same context as the appeal proposal.
11. As such, while the proposed roof design would improve the accommodation within the roof space, it would, nevertheless, result in a feature that would be markedly at odds with the prevailing roof forms of the surrounding built form.
12. The Council have raised concerns about the nature of the development. While they question whether introducing three flats into an area comprising family type housing would be appropriate, they do not explain what harm, if any, would arise as a result. Notwithstanding this and noting that Policy HOU2 of the Black Country Core Strategy Adopted 2011 (BCCS) supports the increased diversity of housing provision, I have identified harm in respect of the layout and design of the proposed development.
13. For these reasons, I conclude that the proposed development would result in unacceptable harm to the character and appearance of the area. This is contrary to BCCS Policy ENV3 and Policy SAD EOS 9 of the Site Allocations

and Delivery Development Plan Document Adopted 2012. Collectively, these seek, among other things, to ensure development proposals reflect their local context.

Planning Balance

14. Paragraph 11 d) of the Framework states that, where the policies which are most important for determining an application are out-of-date, which includes situations where the local planning authority cannot demonstrate a Framework compliant supply of deliverable housing sites, permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
15. The appellant has highlighted that the Council are unable to demonstrate such a supply. My attention has been drawn to a Council document¹ which confirms a shortfall. Given the length of time since the document was published and in the absence of an up-to-date figure, I cannot be certain that this is still the current position.
16. However, even if I were to conclude there was a shortfall in respect of housing land supply, the policies which are most important in determining the appeal relate to character and appearance. Given the harm identified in respect of the main issue, the proposed development would not accord with the development plan as a whole. The weight to be given to this conflict is significant, as the policies in respect of this matter broadly reflect the provisions of the Framework.
17. The Government's objective is to significantly boost the supply of homes. The proposal would make a modest contribution towards the areas housing supply, through the creation of three entry level homes. The Framework recognises that small sites can make an important contribution to meeting the housing requirement.
18. The Framework supports the development of windfall sites and great weight should be given to the benefits of using suitable sites within existing settlements for homes. The proposal would lead to some social and economic benefits through the construction of the building and the activities of the future residents of the scheme.
19. The appellant asserts that the appeal scheme is an efficient use of land which is underutilised, is of an appropriate density, and comprises a brownfield site. The appellant states that there is an identified need for the development proposed, although there is little substantive evidence to demonstrate any such demand. Nevertheless, these benefits weigh in favour of the proposal.
20. The appellant states that the principle of development is acceptable, and the proposal would exceed Nationally Described Space Standards, comply with garden, separation distances, parking and highway safety standards and have no impact upon living conditions of neighbours. An absence of harm in

¹ Sandwell Strategic Housing Land Availability Assessment (SHLAA), 5 Year Housing Land Supply, Update as of April 2022, Published October 2023

respect of these matters are neutral factors, that neither weigh for or against the appeal scheme.

21. While there is support for new housing, the cumulative benefits in respect of the appeal scheme would be limited, given the scale of development proposed. Therefore, the harm identified in respect of the main issue would significantly and demonstrably outweigh the 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.

Conclusion

22. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR