



Appeal Decision

Site visit made on 11 November 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Appeal Ref: APP/Q4625/W/24/3340162

254 Warwick Road, SOLIHULL B92 7AE

- 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 Kal Singh against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/01493/PPFL.
 - The development proposed is a dwelling to the rear of 254 Warwick Road.
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Decision

1. The appeal is allowed, and planning permission is granted for a proposed dwelling to the rear of 254 Warwick Road, SOLIHULL, B92 7AE in accordance with the terms of the application, Ref PL/2023/01493/PPFL, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - The effect of the proposed dwelling on the character and appearance of the area, and
 - The effect of the proposal on the living conditions of occupiers of 19 Sherwood Close (No 19) and neighbouring residents with particular regard to outlook, noise and disturbance.

Reasons

Character and appearance

3. Warwick Road, close to the appeal site, is predominantly residential in character within a mature suburb setting. Housing here mostly consists of hipped roof detached dwellings. There is also some modern flatted development evident close to the site, adding to the variety of housing in the area. Detached housing stands within plots that are largely generous in depth. The appeal site has a particularly deep plot in comparison to neighbouring dwellings and contains a two-storey hipped roof dwelling that is typical of the predominant local housing type. As such, the dwelling makes a positive contribution to the character and appearance of the area.
4. Policy P5 of the Solihull Local Plan [2013](LP), with regard to the provision of land for housing, requires new development to be located in an accessible location, contribute to local housing needs and to enhance local character and distinctiveness. It is undisputed between parties that the site is located within an accessible location, in compliance with LP policy P7, with respect to the

accessibility of sites. It is also undisputed that, taking into account the Council's shortfall in its 5-year supply of housing that the proposal would make a positive contribution, albeit limited, towards the Council's supply of housing.

5. The proposed development would result in the subdivision of the plot. This would create a plot size that would be similar in shape and size to adjacent housing to the south of the site. It would also follow the established pattern of linear development formed by Sherwood Close. Furthermore, the footprint and general scale of the proposal would be commensurate with the common form of local development. Consequently, the proposal would not result in the over-development of the plot, as advanced by the Council, but would secure an efficient use of the land for housing purposes. The existing garden is currently enclosed by tall hedging beyond which is Sherwood Close and the car park and single storey units in the rear of No 252. As such, any sense of spaciousness formed by the site is localised and limited and would not be demonstrably eroded by the proposal. For these reasons, the proposal would complement and maintain the established pattern of development.
6. The proposed dwelling would be of a contemporary design. It would be located on land that is set lower than the ground floor of the existing dwelling. The access would be gained via a relatively narrow driveway between existing buildings. The proposed dwelling would be largely hidden from views from Warwick Road. Also, such views would only be glimpsed by passing observers, limiting the overall visual effect of both the access and proposal on the streetscene of Warwick Road.
7. Accordingly, the proposal would complement the character and appearance of the area and its distinctiveness. Consequently, the proposed dwelling would comply with LP policies P5 and P15, the adopted Residential Backland Development SPG and the National Planning Policy Framework (the Framework). These seek, among other matters, to support new housing on unidentified sites in accessible locations that enhance local character and for development to achieve good quality, inclusive and sustainable design.

Living conditions

8. The appeal site is located behind No 254 and to the sides of No's 19 and the block of flats of No 252. No 19 is a detached dwelling with a triangular shaped plot, positioned at the end of Sherwood Close. The rear elevation of this dwelling would look toward the parking area in front of the proposed dwelling.
9. Views from the rear facing windows of No 19 would take in the proposed dwelling, but the closest elements of the proposal to these windows would be its single storey front projection. The separation distance between No 19 and the proposal would be relatively large. Also, due to the plot shape and the orientation of the dwelling of No 19, its main rear outlook seems to be to its side. As such, views of the proposal, from both its rear and side windows would only be seen in oblique views. The main part of the proposal would be adjacent to the end corner of the neighbour's garden and partially screened by mature tree and hedge planting. As a result, the proposal would not have an overbearing effect on occupiers of No 19 or other adjacent neighbours.
10. The proposed driveway would be located between the existing dwelling of No's 254 and 252. Following the demolition of the garage of No 254, this dwelling would have three side windows that would overlook the access. These

serve a bathroom and hallway, at first floor, and a ground floor store and are therefore non-habitable spaces.

11. The block of flats of No 252 have a large range of windows that would overlook the driveway, these are set away from the side boundary by a separation distance of around two metres. There are also bungalows within the car park that have frontages that overlook the site, albeit over a landscaped garden creating a sizeable separation distance.
12. The use of the access, by vehicles, would be likely to be audible to adjacent occupiers. Nonetheless, I anticipate that the number and speed of vehicles using the access would be limited and slow moving. It is also highly unlikely that vehicular movements would take place at anti-social times of the day or night. Moreover, there is no reason, in the submitted evidence, why traffic movements would be any greater than is associated with existing local residential units. As such, the extent of noise and disturbance caused by future occupiers would be limited. Furthermore, the traffic associated with the construction of the proposal, would be limited, and construction activity could be managed by a construction management condition attached to any approval. As a result, disturbance caused during construction would be limited and temporary having a negligible effect on the living conditions of neighbouring occupiers.
13. Consequently, the proposal would not demonstrably erode the living conditions of occupiers of No 19 by reason of outlook. Furthermore, the proposal would not cause significant noise or disturbance to adjacent occupiers either during construction or once in use as a dwelling. Accordingly, the proposal would comply with LP policy P14 and the Framework. These include the requirement for development to respect the amenity of existing occupiers of houses, minimise amenity impacts and create a high standard of amenity for existing and future users.

Other Matters

14. Interested parties have raised concerns with respect to the highway impact of the proposal. The proposed access would be used to serve both the existing dwelling and the proposal. The access gate would be set back 5 metres into the site, to enable a vehicle to wait off the highway while the gates are opened. Moreover, the proposal includes parking provision in accordance with the Council's parking standards for both the proposed and existing dwelling. As a result, there is no reason that the scheme would exacerbate any existing on-street parking issues in the area. Also, a construction management plan condition could be imposed to an approval to ensure that the site is suitably managed during construction to prevent disturbance on the highway.
15. The proposal would be northwest of the garden of No 19. The path of sunlight suggests that afternoon to evening sun could cast shadows over the garden of No 19. However, existing and retained landscaping would already reduce direct sunlight when the sun is low to the horizon, and shadow would be likely to fall mostly only within the rear parts of the garden. Accordingly, any loss of direct sunlight to the garden would be limited and any sunlight lost to the habitable spaces of the dwelling would be negligible. Also, windows of the proposal would be front and rear facing, overlooking the rear of No 254 (over a substantial distance) and the railway line. Overlooking towards neighbour's gardens and the windows of nearby houses and flats would be oblique only

and partially screened by planting. Therefore, such views would largely only overlook the rear most parts of neighbour's gardens. Accordingly, the proposal would not result in a material loss of sunlight, daylight or privacy for neighbouring occupiers.

16. Interested parties have raised concerns that the proposal would increase light pollution in the area. Nonetheless, light spill from new windows would be minimal and would not be appreciably greater than existing light pollution created from neighbouring properties.
17. The site includes three category 'B' trees (moderate quality) which would be retained. The proposal would require the removal of several category 'C' (low quality) and 'U' trees (trees with irremediable defects). The Council's tree officer has raised no objection to the proposed removals subject to conditions for tree protection measures. In terms of biodiversity, the proposal would result in a small net loss of habitat, but the Council's ecologist is content that this can be mitigated through the imposition of a condition to require a Biodiversity Enhancement Plan. This appears to be a reasonable and proportionate requirement in mind of the limited level of loss identified, causing no material harm to wildlife.
18. The addition of one dwelling would make extremely limited demands on existing services within the area, and this would not therefore offer a clear reason to refuse the scheme.
19. In terms of drainage, flood risk and water pressure, the site is close to Olton Reservoir and the area is reported to have been subject to flooding in the past. However, the Council's drainage engineers, and Severn Trent Water have considered the scheme and raised no objection to it subject to the imposition of mitigating conditions. There is no clear evidence, submitted before me, that provides a compelling reason to find these comments to be inaccurate and to not be accepted.

Conditions

20. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and imposed these with some amendments and adjustments for clarity.
21. It is necessary for details relating to a construction management plan, drainage plans and a biodiversity enhancement plan to be submitted prior to the commencement of development. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. The conditions are required prior to construction commencing because works may occur within the footprint of the building and relate to the initial setting out of the site.
22. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Conditions are also necessary with respect to materials in the interests of the character and appearance of the area [3]. Details with respect to compliance with the approved tree works and to provide a biodiversity enhancement plan to support the delivery of biodiversity net gain in

compliance with paragraph 180(d) of the Framework [4 and 12] are also necessary.

23. Drainage Plans would be required to ensure that the site provides a sustainable drainage solution in satisfaction of LP policies P11 and P15 [5]. Also, it is necessary for highway safety and for the scheme to function well, to require details for cycle storage, refuse storage and for the access to be set back by at least 5 metres [6, 8 and 9]. To protect the living conditions of future occupiers, conditions are required to secure details of suitable sound attenuation and verification of its implementation [10 and 11]. A construction management plan would be required, due to the constrained nature of the site and the proximity to neighbouring dwellings in the interests of highway safety and to protect existing living conditions [7].

Conclusion

24. For the above reasons, the appeal is allowed, subject to the attached conditions.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with Location Plan Drawing Number Drawing Number 23461/001(-), Proposed Site Plan 23461/002 (B), Proposed Site Strategy Drawing Number 23461/010(-), Proposed Plans Drawing Number 23461/005 (-), Proposed Elevations Drawing Number 23461/007 (A), Proposed Elevations Drawing Number 23461/006 (A), Proposed Long Elevation Drawing Number 23461/011 (A), Proposed Demolition Plan for Main House Drawing Number 23461/008 (A), Proposed Demolition Elevations for Main House Plan Drawing Number 23461/009 (A), Proposed Plans for Main House Drawing Number 23461/012(-), and Proposed Elevations for Main House Drawing Number 23461/013(-).
- 3) No 'above-ground' building works shall proceed above damp-proof course level or equivalent on any buildings or structures hereby approved until a schedule and samples of all bricks, tiles and other materials to be used in the external elevations have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) All works to retained trees and Hedges, together with development works within the vicinity of retained trees/Hedges including any works within Root Protection Areas (RPA), No dig construction, Tree and ground protection measures shall be carried out in accordance with the Arboricultural information that accompanied the application.
- 5) Prior to the commencement of development, drainage plans for the disposal of foul and surface water drainage, shall be submitted to and approved by the local planning authority. Once approved the development shall be undertaken in accordance with the approved details.
- 6) Prior to the occupation of the development hereby approved cycle parking/storage facilities shall be provided within the site in accordance with a scheme to be submitted to and approved by the local planning authority.
- 7) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be strictly adhered to and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and construction vehicles; the loading and unloading of plant and materials; hours of operation and deliveries; the storage of plant and materials used in constructing the development; a turning area within the site for construction vehicles; and, wheel washing facilities and other measures to prevent mud/debris being passed onto the public highway. Once agreed the development shall be undertaken in accordance with the approved Construction Management Plan.
- 8) The Vehicular access gates to be provided within the development shall be sited at a minimum of 5 metres from the edge of the adjoining

- carriageway and shall only open away from the highway in accordance with the approved plans.
- 9) Before the development hereby approved is brought into use a detailed scheme for the storage of refuse shall be implemented in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Once agreed the development shall be undertaken in accordance with the approved details.
 - 10) Prior to the first occupation of the dwelling, a noise assessment and sound insulation scheme shall be submitted to and be approved in writing by the Local Planning Authority. The sound insulation scheme shall include the specification and acoustic data sheets for glazed areas of the development and any complementary acoustical ventilation scheme and be designed to achieve the following internal noise levels:
 - i. Not exceeding 30dB $L_{Aeq}(1 \text{ hour})$ in bedrooms for any hour between 23.00 and 07.00,
 - ii. Not exceeding 35dB $L_{Aeq}(1 \text{ hour})$ in bedrooms and living rooms for any hour between 07.00 and 23.00, and
 - iii. Not more than 45dB $L_{Amax}(5 \text{ min})$ in bedrooms (measured with F time weighting) between the hours of 23.00 and 07.00.
 - 11) Prior to first occupation of the development, verification that the approved sound insulation scheme has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.
 - 12) Prior to the commencement of development, including site clearance, a Biodiversity Enhancement Scheme shall be submitted to and agreed by the Local Planning Authority. The scheme shall include details and the location of an integrated bat and/or bird box, planting with native species and access gaps for hedgehogs in any new fences. The agreed scheme shall be fully implemented before/during development of the site as appropriate.

End of conditions