



Appeal Decision

Site visit made on 20 January 2025

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal A Ref: APP/P1805/W/24/3348078

rear of 17-19 Willow Gardens, BROMSGROVE B61 8QD

- 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 Bromsgrove District Housing Trust against the decision of Bromsgrove District Council.
 - The application Ref is 23/01400/FUL.
 - The development proposed is the demolition of existing garages and erection of new build dwelling including associated access and landscaping.
-

Appeal B Ref: APP/P1805/W/24/3348079

rear of 8-14 Willow Gardens, BROMSGROVE B61 8QD

- 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 Bromsgrove District Housing Trust against the decision of Bromsgrove District Council.
 - The application Ref is 23/01401/FUL.
 - The development proposed is the demolition of existing garages and erection of new build dwelling including associated access and landscaping.
-

Decisions

1. Appeal A is allowed, and planning permission is granted for the demolition of existing garages and erection of new build dwelling including associated access and landscaping at rear of 17-19 Willow Gardens, Bromsgrove B61 8QD in accordance with the terms of the application, Ref 23/01400/FUL, and the plans submitted with it, subject to the conditions in attached Schedule A.
2. Appeal B is allowed, and planning permission is granted for the demolition of existing garages and erection of new build dwelling including associated access and landscaping at rear of 8-14 Willow Gardens, Bromsgrove B61 8QD in accordance with the terms of the application, Ref 23/01401/FUL, and the plans submitted with it, subject to the conditions in attached Schedule B.

Applications for costs

3. Applications for costs have been made by Bromsgrove District Housing Trust against Bromsgrove District Council, in relation to both Appeals A and B. These are the subject of a separate decision.

Preliminary Matters

4. The proposed developments, that relate to Appeals A and B are on different sites within the same street. Both relate to the erection of a single dwelling, are by the same applicant and were refused for the same reasons.

5. The proposal the subject to appeal A relates to the erection of a single storey dwelling to the rear of 17-19 Willow Gardens (Scheme A). The building would be adjacent to the rear gardens of 14-18 Church Road and other neighbour's gardens to both sides. It would include parking for two vehicles and a turning space. Access would be gained by the existing access road, being about three metres wide, alongside No 19. The site is currently used as a communal garage courtyard providing parking for 13 vehicles.
6. The proposal the subject to appeal B also relates to the erection of a single storey dwelling. This is to the rear of 8-14 Willow Gardens (Scheme B), the appeal form identifies the site as 4-8 Willow Gardens, but 8-14 Willow Gardens provides a more accurate description which I have used in the banner heading. The building would be adjacent to 3a Willow Road, includes parking and turning provision for two vehicles and would retain access for the existing garage of a neighbouring property. The access driveway is around three metres wide. The site currently provides a communal garage courtyard for around 17 vehicles.
7. Where relevant I will discuss the effects of each scheme separately and elsewhere, together, where they have shared/similar effects.
8. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

Main Issues

9. The main issues for appeals A and B are:
 - The effect of the proposed development on highway safety, with particular respect to vehicle visibility splays, and
 - the effect of the proposal on the surrounding road network.

Reasons

Visibility splays

10. Willow Gardens is a residential street with a 30-mph speed restriction. It is a short connecting road, that has a slight curve in its middle section, and several driveways gaining access onto the highway. The road also has a number of grass verges that mean many residential plots and front garden boundaries are set back from the highway. The appellant has demonstrated that no personal injury collisions have occurred within Willow Gardens for the previous 5 years and, as such, the road is not deemed to have any existing safety issues in the vicinity of either site. Guidance explains that a visibility splay of 2 metres by 43 metres would be acceptable for access points that are onto lightly trafficked streets. I find Willow Gardens to meet this definition.
11. In terms of Scheme A, the proposed access adjoins Willow Gardens at a relatively straight part of the highway. The adjacent footway is around 2 metres wide. The access is around 35 metres from the junction of New Road. Cars turning into Willow Gardens, from New Road, would be travelling substantially less than 30mph. This reduced speed would enable the shorter distance to provide sufficient

views to the south of oncoming vehicles. Beyond the adjacent footways, wide grass verges would provide additional visibility in both directions although it is recognised that these views would cross third-party land. Appendix 15 of the Transport Appeal Statement¹, demonstrates that suitable visibility splays can be provided at the access onto Willow Gardens, in compliance with Manual for Streets for lightly trafficked roads, a conclusion shared by the Highway Authority.

12. With respect to Scheme B, footways either side of the access are also 2 metres wide. A visibility splay of 2 metres by 43 metres would be achieved in satisfaction of the requirements of Manual for Streets. Appendix 16 of the appellant's Transport Statement demonstrates that such a visibility splay can be achieved at the entrance. Furthermore, visibility would be further improved due to a clear line of sight over the grass verge to the north which, whilst beyond the maintained highway, would be unlikely to become obscured.
13. Moreover, in consideration of both schemes A and B, due to the presence of on-street parking, and the residential character of the street, vehicles would be likely to be slow moving, improving the safe use of the access points. It is also recognised that the number of vehicles leaving the site would be substantially reduced in comparison to the present lawful use of the sites as garage courtyards.
14. Consequently, the vehicle visibility splays provided for both Appeals A and B would be adequate for the proposed purpose. Therefore, motorists leaving either of the proposed developments would be able to do so in a safe manner. Accordingly, both schemes would comply with policies BDP1 and BDP16 of the Bromsgrove District Plan [2017] (DP) and the Framework, in terms of suitable visibility splays. These require, among other matters, for development to accord with sustainable development principles, incorporate safe and convenient access and for development to only be refused on highway grounds where it would lead to an unacceptable impact on highway safety.

Impact on the surrounding road network

15. The proposed schemes A and B would replace existing garage courts, serving 17 and 13 vehicles respectively, with single dwellings. The appellant demonstrates that this would result in a substantial reduction in traffic movements in and out of the site. This would significantly reduce the intensity of traffic using the sites within the surrounding road network, in comparison to their existing use. Furthermore, the net gain (including any displaced parking impacts) of vehicles within the local network, would be minimally increased by the proposed dwellings. Such an increase would place minimal additional loading on the network, and it has not been demonstrated in evidence that the local network is at such capacity that a small increase, as proposed, would result in a network impact that could be defined as 'severe'.
16. Consequently, the proposal would not have a severe residual impact upon the surrounding road network. Accordingly, the proposals subject to both appeals A and B would comply with DP policy BDP1 and the Framework in this regard. These require, *inter alia*, for development to be well related to the wider transport network and for development to only be refused where the residual cumulative impact on the road network, following mitigation, would be severe.

¹ Transport Appeal Statement, rapport, July 2024

Other Matters

parking displacement

17. Significant objection, in the form of a petition and many letters of objection, has been raised by local residents against the loss of the parking provision of the two communal parking areas found at the appeal sites. Evidence has been submitted that demonstrates substantial on-street parking pressure in Willow Gardens. In mind of this, during my visit I observed that grass verges were showing depressions and signs of damage through off-street parking. Around half of the properties of Willow Gardens seemed to have dedicated off-street parking with many occupiers requiring on-street parking provision.
18. An especially crowded central section of the street includes terraced housing, with wide grass verges and footways, limiting on plot parking capabilities. Although some ad hoc 'on-plot' parking has been created, this requires access over the deep grass verges, without the benefit of a dropped kerb. Furthermore, the road is relatively narrow. As such, the absence of on-plot and on-street parking limit car parking opportunities, creating high demand for car parking in the area.
19. With regard to the site subject to Scheme A, the appellant has explained that 9 of the 13 garages are occupied. For the site of Scheme B, of the approximate 17 garages, 3 are occupied. Furthermore, although these 12 garages are being leased it is not in evidence that they are necessarily being used to store vehicles. Therefore, the garage blocks are underused, seem to be poorly maintained and have become overgrown in places with extensive weeds blocking access to some garages, demonstrating some are infrequently used.
20. Most importantly, the garage blocks are privately owned and could be closed at any time, subject to the expiry of any lease agreements. As such, the loss of the garage blocks is a civil matter and independent of a scheme to seek their redevelopment. Although the proposed developments may displace parking onto local streets, the appellants have demonstrated that some on-street parking exists locally even if it is not within Willow Gardens itself. Accordingly, despite the parking pressures in the street, for the above reasons the displacement of communal parking provision does not identify a compelling reason to resist the proposals.

Other considerations

21. Interested parties have raised concerns that Scheme A would result in adverse effects to the living conditions of neighbouring occupiers through overlooking and outlook. The rear elevation, of the proposed dwelling, would be close to the rear of the plots of 14-18 Church Road. However, the separation distance is satisfactory given that the proposed dwelling would be single storey and not be materially taller than the existing garages and would not therefore materially affect outlook. Furthermore, rear windows of the proposal would serve non-habitable rooms only, resulting in no overlooking towards the rear gardens of Church Road. Therefore, the proposal the subject of appeal A would not materially affect the living conditions of neighbouring occupiers.
22. Interested parties have also raised concerns that Scheme B would result in adverse effects to the living conditions of neighbouring occupiers through overlooking and outlook. The proposed dwelling would be a substantial distance from most neighbouring properties, due to the length of neighbouring gardens and

the placement of the proposal within the site. Although it would be close to 3a Willow Road, it would be alongside the side of this property and would have no habitable room windows overlooking the shared boundary. As a result, this relationship would be acceptable.

23. Common objections raised, with respect to both sites A and B, include concerns regarding the fear of crime and noise disruption during construction. Whilst the scheme would potentially provide access to rear boundaries of neighbouring plots for potential criminal activity, this would not be materially different to the characteristics of both existing sites and can be adequately secured through the provision of suitable fencing. In terms of construction disturbance, such activity would be temporary and relatively low-key. Work would be mostly reserved for daytime weekdays only and would be governed by environmental noise pollution legislation.
24. Issues have been raised that the sites may not enable suitable access for a fire tender. The appellant's Design and Access Statement recognises that the accesses are too narrow to accommodate a fire tender and therefore suggests that sprinkler systems be installed to gain Building Regulation approval. As such, I am satisfied that this would be an adequate means to manage the risk of fire.
25. Issues raised by residents of adjoining plots with respect to vehicular and pedestrian access rights are private civil matters that should be resolved with the landowner.

Conditions associated with appeal A

26. I have considered the use of conditions in line with the guidance set out in the Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose these with some amendments and adjustments for clarity.
27. 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]. Details with respect to surface water drainage, boundary treatment and materials would be required to achieved sustainable drainage principles and in the interests of the character and appearance of the area [3, 4 and 7]. Conditions are also required to ensure that the cycle store and parking and turning areas are provided to ensure the development would function well [5 and 6]. Also, a condition would be required for the installation of biodiversity improvements to enhance the ecological interests of the site and create a net gain to biodiversity [8]. A condition is also required to deal with any potential contamination found on site as the garage may include asbestos in the interests of the safe management of contaminants on site [9].

Conditions associated with appeal B

28. Again, I shall take the Council's suggested conditions into consideration and impose these with some amendments and adjustments for clarity.
29. 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]. Details with respect to surface water drainage, boundary treatment and materials would be required to achieved sustainable drainage principles and in the interests of the character and appearance of the area [3, 5 and 8]. It would also be necessary to

require details of levels to ensure that the proposed dwelling would comply with the sustainable drainage of the site [4]. Conditions are also required to ensure that the cycle store and parking and turning areas are provided to ensure the development would function well [6 and 7]. Also, a condition would be required for the installation of biodiversity improvements to enhance the ecological interests of the site and create a net gain to biodiversity [9]. A condition is also required to deal with any potential contamination found on site as the garage may include asbestos in the interests of the safe management of contaminants on site [10].

Conclusion

30. For the reasons given above, the proposal would comply with the development plan when taken as a whole and there are no material considerations, including the Framework, that would outweigh this finding. For the above reasons, Appeals A and B are allowed.

Ben Plenty

INSPECTOR

Schedule A of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings: Location Plan and Block Plan PL-S1-1B, Proposed Site Plan PL-S1-10B, Proposed Compliance Plan PL-S1-11B, Proposed Site Floor Plan PL-S1-12B, Proposed Site Plan Calcs PL-S1-13B, Proposed Site Sections PL-S1-14B and Proposed Elevations PL-S1-20C.
- 3) No works in connection with site drainage shall commence until a scheme for surface water drainage has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be indicated on a drainage plan. If possible, infiltration techniques are to be used and the plan shall include the details and results of field percolation tests. If infiltration drainage is not possible on this site, an alternative method of surface water disposal should be submitted for approval. There shall be no increase in runoff from the site compared to the predevelopment situation up to the 1 in 100 year event plus an allowance for climate change. If a connection to a sewer system is proposed, then evidence shall be submitted of the 'in principle' approval of Severn Trent water for this connection. The scheme should include run off treatment proposals for surface water drainage. The drainage scheme shall be implemented prior to the first use of the development and thereafter maintained.
- 4) Prior to their first installation, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 5) The Development hereby permitted shall not be first occupied until sheltered, safe, secure and accessible cycle parking, as shown on drawing PL-S1-11B, has been provided and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 6) The Development hereby approved shall not be occupied until the parking and turning facilities have been provided as shown on drawing PL-S1-11B.
- 7) The development shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatment to serve the development shall include integral hedgehog access gaps where appropriate. The boundary treatments shall be completed in accordance with the approved details.
- 8) Prior to first occupation in order to provide a net gain in biodiversity, the amenity area, and two schwegler bat and/or bird boxes or equivalent shall be placed on site in suitable locations at least 3 metres above ground level facing to the south or east and kept thereafter in perpetuity.
- 9) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported

immediately to the Local Planning Authority. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation. No further works should be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by the Local Planning Authority.

End of Schedule A conditions

Schedule B of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings: 279 PL-S2-01 location plan, 279 PL-S2-10 proposed site plan, 279 PL-S2-11 proposed compliance plan, 279 PL-S2-12 proposed site floor plan, 279 PL-S2-13 proposed site plan calcs, 279 PL-S2-14 proposed site sections, 279 PL-S2-20 proposed dwelling elevations and 279 PL-S2-21 proposed garage.
- 3) No works in connection with site drainage shall commence until a scheme for surface water drainage has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be indicated on a drainage plan. If possible infiltration techniques are to be used and the plan shall include the details and results of field percolation tests. If infiltration drainage is not possible on this site, an alternative method of surface water disposal should be submitted for approval. There shall be no increase in runoff from the site compared to the predevelopment situation up to the 1 in 100 year event plus an allowance for climate change. If a connection to a sewer system is proposed, then evidence shall be submitted of the in principle approval of Severn Trent water for this connection. The scheme should include run off treatment proposals for surface water drainage. The drainage scheme shall be implemented prior to the first use of the development and thereafter maintained.
- 4) Finished floor levels within the development shall be set a minimum of 300mm above the surrounding ground levels or no lower than the nearest adjacent dwelling (whichever is the highest).
- 5) Prior to their first installation, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 6) The Development hereby permitted shall not be first occupied until sheltered, safe, secure and accessible cycle parking to comply with the Council's adopted highway design guide has been provided and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

- 7) The Development hereby approved shall not be occupied until the parking and turning facilities have been provided as shown on drawing PL-S2-11.
- 8) The development shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatment to serve the development shall include integral hedgehog access gaps where appropriate. The boundary treatments shall be completed in accordance with the approved details.
- 9) Prior to first occupation in order to provide a net gain in biodiversity two schwegler bat and/or bird boxes or equivalent shall be placed on site in suitable locations at least 3 metres above ground level facing to the south or east and kept thereafter in perpetuity.
- 10) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation. No further works should be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by the Local Planning Authority.

End of Schedule B conditions