



Appeal Decision

Site visit made on 18 February 2025

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2025

Appeal Ref: APP/P4605/W/24/3348510

Land to the rear of 357-359 Chester Road, Sutton Vessey, Sutton Coldfield, West Midlands B73 5BL

- 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 John Cockayne against the decision of Birmingham City Council.
 - The application Ref is 2023/08332/PA.
 - The development proposed is the formation of two detached bungalows, two bedrooms leading onto Warden Avenue.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development given on the application form in the banner heading above. However, reference to the application being a resubmission has been removed as this is not an act of development.
3. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes to the Framework do not affect the main issues in the case, the parties have not been invited to make further comments in this regard. References to paragraph numbers of the Framework in this decision pertain to the most recent version.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area including the effect on trees protected by a Tree Preservation Order¹ (TPO).

Reasons

5. The appeal site is formed of a broadly rectangular parcel of land, in addition to a small dogleg to Warden Avenue. It is set to the rear of a pair of houses addressing Chester Road. The site itself primarily addresses Warden Avenue at a point where it curves round onto Warden Road and Browns Drive. Accordingly, due to the depth of gardens of the homes addressing Chester Road, I find the proposed development would primarily have an effect on the Warden Avenue frontage.
6. Warden Avenue itself is formed exclusively of low profiled bungalows along one side which are set quite close to the road. This changes at the curve into Warden

¹ TPO 971 of 2003

Road where properties transition to semi-detached, two storey homes. The south-western side of Warden Avenue is not developed in the same manner and forms the rear boundary to homes addressing Chester Road. Some of these properties have vehicle accesses and garages on this boundary whilst some are undeveloped other than for fencing. Much of this side of the road is grassed and there are numerous examples of mature trees on the verge and in rear gardens. This gives a pleasing and verdant backdrop to this side of the road. The appeal site itself is characteristic of this as there are four sycamore trees on and around this rear boundary and these are protected by a TPO.

7. The proposal comprises the erection of two detached bungalows. This would mark a distinct change in the nature of rear boundaries onto Warden Avenue. Whilst this site is relatively small, the implications of allowing this appeal could well result in this side of the road being ultimately being developed in a similar manner leading to a more substantial change to the character of the area.
8. The two detached bungalows are of a similar size and height to those on the opposing side of the road. They are set back from the front boundary to a similar extent, albeit in addition to the grass verge. Whilst they are slightly deeper in footprint and detached, this of itself is not a particularly significant variance and would not be readily appreciable in the street scene. The proposal would disrupt the pattern of development by introducing new homes addressing this side of Warden Avenue. Whilst this would represent a change in the character and appearance of the area, I do not consider it to be a harmful one purely in terms of the built form. Although I have not been provided with the full details of the previous appeal from 2012/13², I have noted the commentary in the Officer's Report. In this regard, I find that this proposal being for bungalows, as opposed to dormer bungalows, means that this scheme will likely have a lower height and align with the form of buildings on the opposing side of the road.
9. However, I am conscious of the presence of the trees protected by a TPO which exist on and around this boundary and where the access would be formed. These do form part of the landscaped characteristics which make a positive contribution to the character and appearance of the area. In addition to being close to the proposed driveway, the trees would overhang and overshadow the front of the bungalows, although I do recognise that they are located towards the north.
10. Moreover, leaf litter will likely accumulate on roofs and in gutters along with sap on hard surfaced areas. Branches may develop and protrude in a manner which is unsafe in close proximity to a dwelling and the Council may experience difficulty in refusing applications for future tree works on safety grounds. This is likely to give rise to situations where the trees are subject to excessive pruning or even removal and this would be detrimental to the character of the area. This is because these trees form a significant and important component to the sylvan character and appearance of the area on this side of Warden Avenue.
11. Accordingly, being mindful of the submitted Tree Survey, I am unable to conclude that the development would cause direct harm to the trees on the site. I do however conclude that their proximity to the proposed bungalows and driveways is likely to result in a situation where lopping and felling pressure could result in their significant devaluation in terms of positive effects on the street scene or potential

² Council ref 2012/04859/PA

loss. Whilst the trees may be influenced by areas of hardstanding at the neighbours property at present, as they are not in close proximity to a dwelling, I find this situation to be different.

12. As such, I conclude that the proposed two bungalows would not be detrimental to the character and appearance of the area as a consequence of their design, position or in terms of the pattern of development. However, I do conclude that their proximity to the four protected trees would result in the likelihood of their damage, excessive lopping or total loss. This would be harmful to the character and appearance of the area and would conflict with policies PG3 and TP27 of the Birmingham Development Plan (adopted 2017), principles of the Birmingham Design Guide Supplementary Planning Document and provisions of the Framework. This is insofar as the development would not reinforce or create a positive sense of place or contribute to attractive public spaces.

Planning Balance and Conclusion

13. Although it has not been presented to me in evidence by the appellant, I must be mindful that the Council accepts, in the Officer's Report, that it cannot demonstrate a five-year supply of deliverable housing sites. Therefore, the provisions of paragraph 11 d) ii of the Framework are engaged. This means approving development proposals and granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
14. The Framework sets out at paragraph 8 c) that a core facet of achieving sustainable development is an environmental objective. It further notes at paragraph 131 that creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The proposal would result in the likelihood of damage, excessive lopping or loss of trees protected by a TPO and this would be harmful to the character and appearance of the area. It would not be conducive to securing a well-designed place. Therefore, the adverse effects of approving the development would significantly and demonstrably outweigh the benefits and thus the provisions of paragraph 11 d) ii of the Framework do not apply.
15. I recognise conformity with other aspects of the development plan and the Framework including neutral considerations; that the site would not harm neighbours living conditions, is in an established built-up area, is not a risk of flooding and would not be harmful to highway safety. However, the other material considerations do not indicate that the appeal should be decided other than in accordance with the development plan. As such, the appeal is dismissed.

N Bowden

INSPECTOR