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## Appeal Decision

Site visit made on 22 July 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 August 2025

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**Appeal Ref: APP/C4615/W/25/3366364**

**1, Dennis Hall Road, Amblecote, Dudley DY8 4EL**

- 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 P Davis against the decision of Dudley Metropolitan Borough Council.
  - The application Ref is P24/1306.
  - The development proposed is detached 2 bedroom dwelling and formation of parking spaces and access.
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### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. The reasons for refusal on the Council's decision notice do not explicitly refer to the living conditions of the occupants of neighbouring dwellings. Nevertheless, it is clear from both the Council's Officer report and its statement of case that the living conditions of neighbouring occupants with regard to daylight/sunlight and outlook form a substantive element of the reasons for its refusal of the proposed development. Accordingly, the main issues in this appeal are:
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - the effect of the proposed development on the living conditions of neighbouring occupants with regard to outlook and daylight/sunlight.

### Reasons

#### *Character and appearance*

3. Dennis Hall Road is a linear highway with two storey dwellings located on both sides. It consists of predominantly two storey semi-detached dwellings. The appellant has not adequately demonstrated that the appeal site is severed from the original host dwelling, given the site location address on the application form. Consequently, given the limited evidence before me I consider that the appeal site is located on garden land associated with 1 Dennis Hall Road (No 1). The garden of No 1 is located to the side and rear of the dwelling.
4. The Dudley Borough Development Strategy 2017 (the DBD) is generally silent in regard to an approach to windfall sites on garden land. Nevertheless, the Dudley Council Residential Design Guide Supplementary Planning Document 2023 (the SPD) establishes that garden land is not classed as previously developed land and therefore provides support for development in garden land subject to certain criterion. Criterion A requires that proposals should be in keeping with the

character of the area by reflecting the existing settlement pattern and that resulting plot sizes and ratio of built form to garden should be similar to that in the existing area. Additionally, criterion C establishes that only a small proportion of the garden area of the host property should be built on, thereby leaving a sufficient amount of garden area for residential amenity and to reflect existing plot sizes.

5. The appeal site is, to my mind, constrained due to its relatively narrow width and shallow garden depth. The proposed footprint of the appeal dwelling would be relatively deep when compared with the existing dwellings in the surrounding area. Additionally, the appeal scheme would result in a significant reduction to the garden land associated with No 1 and would not generally reflect the existing plot sizes of nearby dwellings. Consequently, the appeal scheme would not satisfy the guidance in relation to criterion A or C as outlined in the SPD.
6. Accordingly, when the plot constraints and the proposed footprint are considered together, the appeal scheme would result in a cramped and incongruous development when viewed within the streetscape and surrounding settlement pattern.
7. Whilst I acknowledge that the appellant has reduced the scale and massing of the development when compared to a previous application and that the fenestration would reflect that seen in the surrounding area, it would remain, for the reasons I have identified above, an incongruous and conspicuous addition within the streetscape.
8. A plan number has been referred to in the appellant's statement of case, however limited further information has been provided regarding its circumstances. Therefore, there is limited substantive evidence to indicate that it is directly comparable. Nevertheless, based on the limited information before me, it relates to an infill development within the Borough. Each application is determined on its own merits. Consequently, given the specific site context, I have identified that the proposed development would result in unacceptable harm to the character and appearance of the surrounding area.
9. Furthermore, given the harm I have identified above regarding the character and appearance of the surrounding area due to the plot constraints and proposed footprint of the appeal scheme, even if the appeal scheme was to be assessed as infill development rather than garden land development, it would remain in conflict with the guidance in the SPD in relation to infill development as well as other relevant design policies including Policy L1 of the DBD.
10. In conclusion, the appeal scheme would result in harm to the character and appearance of the surrounding area. It would therefore conflict with Policies ENV3, HOU2 and CSP4 of the Black Country Core Strategy 2011 (the BCCS) and Policies S1, S6, S8, and L1 of the DBD. These policies seek, amongst other things, to ensure developments protect and promote local distinctiveness through high quality design.
11. It is for the same reasons that the appeal scheme would fail to accord with the SPD.
12. The Council refer to Policy S17 of the DBD in their decision notice, however this related to developments and the transport network. Accordingly, this is not a determinative policy for this main issue.

### *Living Conditions*

13. Policy L1 of the DBD outlines, amongst other things, that development should not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings and factors such as levels, orientation and separation of development should be considered.
14. The proposed development would result in the significant reduction of the garden at No 1 and would be sited close to the rear elevation of No 1. Whilst the retained garden would still exceed the minimum garden size requirements as established in the SPD, the introduction of the proposed development would result in an unacceptably close relationship with No 1. This would be further exacerbated by the elevated position of the appeal site when compared to No 1 in conjunction with the overall height and gabled roof design of the appeal scheme.
15. The dwellings adjacent to the appeal site have been extended. Nevertheless, they still form part of the existing built context in which the appeal site is determined against. There is a significant boundary wall between the appeal site and 1A Dennis Hall Road (No 1A) and therefore the appeal scheme would be unlikely to unacceptably harm the living conditions of the occupants of No 1A. However, it remains that, despite the reduced scale and massing of the proposed development from a previous scheme, the appeal scheme would, to my mind, be unacceptably close to the rear elevation of the host dwelling due to the orientation of No 1.
16. Given all of the above, the appeal scheme would, in my judgement, result in an overly dominant relationship and unacceptably harm the living conditions of the neighbouring occupants of No 1 with regard to outlook and daylight/sunlight.
17. I acknowledge reference to a positive pre-application response in 2017. However, comments from a pre-application are indicative and not legally binding, therefore there is no duty for the pre-application outcome to be upheld in the determination of the subsequent application.
18. In conclusion, the appeal scheme would conflict with Policies ENV2, ENV3, HOU2 and CSP4 of the BCCS and Policies S1, S6, S8, and L1 of the DBD insofar as they seek to ensure developments are of a high-quality design and do not result in harm to the living conditions of residents.
19. Policy ENV2 of the BCCS and S8 of the DBD relate to design, character and local distinctiveness, Policy S17 of the DBD relates to developments and the transport network. Accordingly, they are not determinative policies for this main issue.

### **Other Matters**

20. The Council has not indicated concerns regarding parking provision and nor is it a putative reason for refusal. I find no reason to disagree.
21. A lack of harm regarding highway safety and internal space standards are neutral factors in this case.

### **Planning Balance**

22. The Council can only demonstrate 63% of its housing target published in 2024. This is substantially below the supply it is expected to deliver.

23. Paragraph 11 d) of the National Planning Policy Framework (the Framework) explains that in these circumstances, planning 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.
24. The appeal scheme would result in significant harm to the character and appearance of the surrounding area as well as to the living conditions of neighbouring occupants regarding outlook and daylight/sunlight.
25. However, the proposal would deliver an additional housing unit in an acceptable location in a Borough that is falling significantly below their HDT. Given that it is for one dwelling it therefore attracts modest weight in this case.
26. Therefore, when assessed against the policies in the Framework taken as a whole, I am satisfied that the harm I have identified above regarding the character and appearance of the surrounding area and the living conditions of neighbouring occupants with regard to outlook and daylight/sunlight would significantly and demonstrably outweigh the benefits associated with the development.

### **Conclusion**

27. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

*B Astley-Serougi*

INSPECTOR