



Appeal Decision

Site visit made on 21 October 2025

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2025

Appeal Ref: APP/G4620/W/25/3369091

Land opposite 43 - 47 Castle Close, Cradley Heath B64 6RN

- 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 Mick Nagra (Nagbros Building Services Limited) against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/25/70491.
 - The development proposed is the construction of a detached bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At appeal stage, the appellant submitted revised drawing No 2434/001 Revision B. Compared to drawing No 2434/001 Revision A, which was before the Council and interested parties at application stage, it depicts changes to the proposed topography within the site, with the section showing land levels sloping down towards the rear, and alterations to the rear boundary.
3. However, the Planning Inspectorate Procedural Guide: Planning Appeals – England 2025 states that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector is essentially the same scheme that was considered by the Council and by interested parties at application stage.
4. In this case, the proposed change would be substantive, and for me to accept the revised drawing at this stage would introduce procedural unfairness. I have therefore based my decision on drawing No 2434/001 Revision A.

Main Issues

5. The main issues are:
 - The effect of the proposal on adjacent occupiers' living conditions, with particular regard to outlook; and
 - Whether or not the proposal would appropriately address statutory requirements for biodiversity net gain.

Reasons

Living conditions

6. The appeal site comprises a narrow parcel of land, which is orientated parallel to the highway at the end of Castle Close. The strip adjacent to the pavement is slightly mounded, after which the land drops away steeply towards the south-western boundary, and beyond which lie the short rear gardens of the much lower lying houses in Perry Park Road.
7. As depicted in the site section on drawing No 2434/001 Revision A, the land on the appeal site would be re-contoured to be broadly level with the pavement on Castle Close. The platform that would be created for the proposed bungalow would be broadly in line with the eaves of the house at 13 Perry Park Road. There would therefore be an abrupt step up from the end of the rear gardens of the nearest properties on Perry Park Road to the proposed retaining wall, which the Council calculates at around 2.8 metres tall. That wall would be topped with a 2-metre-high close boarded timber fence.
8. As a result, the outlook from the rear elevations of 13 to 17 (odds) Perry Park Road looking across their short, gently rising, rear gardens, and from those gardens themselves, would become markedly more enclosed. The retaining wall and fence would be tall, domineering features which would loom over those properties, leading to a significant sense of overbearance, to the significant detriment of the occupiers' living conditions.
9. The scheme would therefore conflict with Policy ENV3 of the Black Country Core Strategy 2011, and with Policy SAD EOS 9 of the Sandwell Site Allocations and Delivery Development Plan Document 2012. Amongst other things, and in general terms, these require the highest possible design standards, good place making, and development which is compatible with, and has appropriate regard for, its surroundings. As referenced in a representation by an interested party, the scheme would also conflict with the National Planning Policy Framework requirement at paragraph 135 to ensure a high standard of amenity for all users.

Biodiversity net gain

10. Schedule 7A of the Town and Country Planning Act 1990 (as amended) sets out that the general biodiversity gain condition is deemed to apply to every planning permission, unless it is subject to an exemption. Article 7(1A) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) sets out minimum requirements where an applicant believes that the development would be subject to the biodiversity gain condition, including an assessment of the pre-development biodiversity value of the site and the completion of the biodiversity metric calculation tool.
11. The appellant considers that the general biodiversity gain condition would apply to this scheme, and he submitted a Biodiversity Impact Assessment by DJOGS Limited ('the BIA') in support of his proposal. The BIA included the statutory small sites metric calculation, which found that the site was predominantly covered with bramble, and that there would be a 0.1068 loss in habitat units, and a 0.0360 loss of hedgerow units as a result of the proposal. It concluded that on-site, or off-site, mitigation would therefore be necessary in order to satisfy the statutory requirement for a 10% biodiversity net gain.

12. The appellant states that there was no loss or degradation of on-site habitat prior to the calculation of its biodiversity value. However, the Council and some local residents say that the site was cleared, and the Ecology Officer refers to the removal of a tree. The Council therefore maintains that the metric is not a true representation of the loss in biodiversity.
13. At the time of my visit the site was predominantly covered with bramble, with a row of Holly trees around its south-western boundary. The BIA confirms that a goat willow tree had been recently removed, but states that it was over mature and poor quality; and the appellant says that bramble was only partially cleared to enable a topographical survey to be undertaken.
14. Thus, whilst some vegetation was removed prior to the BIA, whether there was significant degradation of on-site habitat is unclear. The evidence on this matter is limited, largely anecdotal, and somewhat inconsistent. On balance, from the evidence before me, I therefore conclude that there was no significant degradation of habitat prior to the calculation of the site's biodiversity value; and that the BIA with its small sites metric calculation would form a suitable basis for the general biodiversity condition should the appeal be allowed.

Conclusion

15. Whilst I have found no cogent evidence of degradation of the site's biodiversity value prior to the BIA and the completion of the small sites metric calculation, for the above reasons the scheme would have a harmfully adverse impact on nearby occupiers' living conditions. For that reason, and having regard to all other matters raised, including representations by interested parties, the appeal is dismissed.

Chris Couper

INSPECTOR