
Appeal Decision

Site visit made on 30 August 2016

by D M Young BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

Appeal Ref: APP/F2415/W/16/3151510

49 Weir Road, Kibworth Beauchamp, Leicestershire LE8 0LQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Driver against the decision of Harborough District Council.
 - The application Ref 15/02018/FUL, dated 21 December 2015, was refused by notice dated 15 March 2016.
 - The development proposed is a new dwelling set within rear curtilage of existing dwelling with additional off-street parking for existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling set within rear curtilage of existing dwelling with additional off-street parking for existing dwelling at 49 Weir Road, Kibworth Beauchamp, Leicestershire LE8 0LQ in accordance with the terms of the application, Ref 15/02018/FUL, dated 21 December 2015, subject to the conditions set out in the schedule to this decision.

Main Issues

2. The main issue is the effect of the proposal upon the character and appearance of the area.

Reasons

3. 49 Weir Road is a traditional brick built, end-terrace property positioned at the corner of Weir Road and Home Close. The proposed two-storey, two-bedroom dwelling would be located to the rear of No 49 and accessed from Home Close via an existing driveway. As a consequence, the dwelling would be seen more in the context of Home Close rather than Weir Road.
4. Home Close is part of a planned estate development comprising a diverse mix of brick built maisonettes, bungalows and blocks of 3 three storey flats. Despite the proximity of a number of historic buildings on Weir Road itself, I do not consider the appeal site is located in an area which is particularly sensitive or notable in streetscape or architectural terms.
5. The modestly proportioned dwelling would be set back generously from Home Close behind the wide highway verge and bank of trees fronting the site. It would not therefore be unduly prominent from public viewpoints in the area. The Council argue that the development would appear cramped but there is little substantive evidence to support that view. This is a high density area

close to the village centre and is not defined by any sense of spaciousness. On the contrary, most properties on Home Close, Morrison Court and the west side of Weir Road occupy relatively small plots. In view of its corner location, No 49 occupies a relatively large plot which in my view is capable of accommodating the proposed dwelling without causing unacceptable harm to the surrounding area.

6. I acknowledge that the garden areas serving both the proposed and host property would be small. However, the Council has not pointed to any local standards that might be breached in this regard and it seems to me, bearing in mind the size of both dwellings, that there would be sufficient space for those activities that one might normally associate with a domestic garden such as drying clothes, sitting out or growing plants.
7. Although the asymmetrical fenestration in the front elevation might not conform to the rigid and uniform patterns which prevail further into Home Close, it would reflect the style of a number of older cottages in the area. In my view the design would add a degree of aesthetical subtlety and interest to the Home Close street scene which would contrast positively with its existing utilitarian character.
8. Based on the foregoing, I conclude that the development would be appropriate in its context and would not harm the character and appearance of the area. It would thus accord with Policy CS11 of the *"Harborough District Local Development Framework Core Strategy 2006-2028"*. Amongst other things, this seeks good design that is respectful of local character and distinctiveness.

Conditions

9. The Council's Committee Report contains 15 conditions which I have considered against the advice in the *Planning Practice Guidance* (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
10. In the interests of proper planning and to provide certainty, I have imposed conditions limiting the life of the permission and specifying the approved plans. A drainage strategy is necessary to ensure provision is made for sustainable drainage measures. A condition requiring replacement parking arrangements for No 49 is necessary to ensure additional on-street parking does not take place in and around the Weir Road/Home Close junction. A condition relating to an investigation for contamination and any necessary remedial measures is reasonable and necessary to ensure the land is suitable for the proposed residential use. I have however replaced the condition suggested by the Council with one that is more proportional. A condition to prevent further window openings is necessary to protect the privacy of neighbouring occupiers.
11. The proposed materials are clearly stated on the application particulars and the submitted plans and would therefore be captured by the plans condition. There is hence no need for separate conditions in this regard. The suggested conditions relating to levels and landscaping are unnecessary as these details shown on the submitted plans and would again be captured by the plans condition. A highway drainage condition is unnecessary as these details would be captured by my condition 3. The bathroom window is shown as obscured glazed on the submitted plans and therefore I am not persuaded a separate condition is necessary.

12. Paragraph 200 of the *National Planning Policy Framework* states that planning conditions should not be used to restrict permitted development rights unless there is clear justification for doing so. Similarly, the PPG advises that conditions restricting the future use of permitted development rights or changes of use "*will rarely pass the test of necessity and should only be used in exceptional circumstances*". On the evidence before me, I am not persuaded that the Council has demonstrated that such circumstances apply in this instance. I have therefore omitted this condition accordingly.

Conclusion

13. I have had regard to matters raised by interested parties including the effect of the development on highway safety and the living conditions of neighbouring occupiers. However, the Council has already carefully considered these matters in some detail and I have not been provided with any substantive evidence which would lead me to a different conclusion.
14. For the reasons given above and taking account of all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector

SCHEDULE OF CONITIONS

- 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 the following approved plans: CAD015-DRI003-000, CAD015-DRI003-010 Rev C, CAD015-DRI003-014 Rev C, CAD015-DRI003-016 Rev C and CAD015-DRI003-020 Rev B.
- 3) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
- 4) Prior to first occupation of the dwelling hereby approved, 2 replacement parking spaces for the occupiers of 49 Weir Road shall be provided in accordance with the details shown on the approved plans. Once provided the parking spaces shall thereafter be retained.
- 5) No development shall take place until a risk-based land contamination assessment to determine the nature and extent of any contamination on the site has been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins.

If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no windows other than those expressly authorised by this permission shall be constructed in any elevation of the dwelling hereby permitted.