

Appeal Decision

Site visit made on 27 September 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 19th October 2016

Appeal Ref: APP/V4630/W/16/3150872

2 Eldon Street, Darlaston, Walsall WS10 8EX

- 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 Arandip Kular against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 15/1558, dated 17 October 2015, was refused by notice dated 11 March 2016.
 - The development proposed is the erection of a 2 bedroom bungalow on garden land (resubmission of 13/1719/FL).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of the proposal as set out in the Council's decision notice. This is a more concise description than that set out in the application form. Accordingly, I have dealt with the appeal on this basis.

Main Issues

3. The main issues are the effect of the dwelling on the character and appearance of the area; the effect on the living conditions of the occupants of the neighbouring properties, with regard to privacy; and, whether adequate living conditions would be provided for future occupants of the dwelling, with regard to privacy and outlook.

Reasons

Background

4. Planning permission was granted in 2004¹ for a similar development. However, the permission was not implemented. In 2015, planning permission was subsequently refused for a similar development². The proposal before me is a resubmission of the 2015 proposal.

Character and Appearance

5. The appeal site comprises a relatively narrow strip of land situated between Nos 1 and 2 Eldon Street. The site is currently overgrown. Access off Eldon

¹ LPA Ref 03/2280/FL/W3

² LPA Ref 13/1719/FL

Street is via a double gate and to the rear is a large outbuilding, which is currently vacant.

6. Eldon Street is an unmade track that serves only Nos 1 and 2 and a double garage close to the junction with Little Cross Street. Nos 1 and 2 are detached bungalows that although are of a similar size, they vary in their materials and design. The character of the wider area is typified by the variety of buildings in terms of their design, size and materials used with properties forming small cohesive groups that generally follow similar building lines.
7. Dwellings on the north side of Little Cross Street generally have frontages with the street. To the rear they have large gardens that contribute to the spaciousness of the overall area.
8. The proposed dwelling would be in the rear portion of the site with its front elevation being set back behind the rear elevations of both Nos 1 and 2 Eldon Street. The width of the dwelling would be wider than the front section of the site and therefore its front elevation would not be fully exposed to the street. Overall, as a result of the restrictive size and shape of the plot and the positioning of the dwelling, the development would appear cramped and would fail to respect the existing pattern of development in the area. Furthermore, it would significantly detract from the overall spaciousness of the area.
9. I find therefore that the dwelling would significantly harm the character of the area, contrary to Policies HOU2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy (CS) 2011, which, amongst other matters, seek to protect local distinctiveness and character and ensure development is of a high quality design. It would also fail to comply with saved Policies GP2, ENV32, ENV33 and H3 of the Walsall Unitary Development Plan (UDP), which seek to ensure that development makes a positive contribution to the quality of the environment and that poorly designed development which fails to properly take account of the context or surroundings will not be permitted. In addition, it would fail to comply with Policies DW3, DW9 and DW10 of the Designing Walsall Supplementary Planning Document for Urban Design (SPD), which provide guidance to ensure new development respects the character of the area. Furthermore, it would fail to accord with the design objectives of the National Planning Policy Framework (the Framework).
10. The Council also refer to saved Policy ENV17 of the UDP. However, this relates to planting trees to achieve the establishment of the Forest of Mercia and the Black Country Urban Forest. There is no evidence that the proposal would conflict with this policy.

Living Conditions of Future Occupants.

11. Bedroom 2, as identified on the drawings, would have a small easterly facing window. As a result of the size of the window and its proximity to the north elevation of the building, a limited level of natural light would serve this room.
12. The rear garden of the dwelling would be approximately 7.2m deep. This falls far short of the 12m recommended in the SPD and as a result of the short distance it would not provide an adequate outlook from the windows in the rear elevation, particularly as the outlook from other windows in the property would be restricted even further due to their proximity to the site boundary fences and walls.

13. Furthermore, the distances between the windows in the rear elevation and those in Nos 18 and 19 Blockall to the east of the site would also fall short of the guidance of 24m. Whilst I appreciate that views from the ground floor of these properties could be adequately controlled by way of an appropriately worded condition regarding boundary treatments, views into the dwelling would be possible from the first floor windows.
14. Overall, taking these factors into account, the dwelling would provide an oppressively confined level of accommodation. I find therefore that it would not provide adequate living conditions for future occupants, with regard to privacy and outlook. As such, it would be contrary to saved Policy GP2 of the UDP, which seeks to protect residential amenity. In addition it would also fail to comply with the guidance set out in the SPD. Furthermore, it would fail to accord with the design objectives of the Framework.
15. The Council have referred to a number of other policies in the CS and the UDP; however, these are not relevant to the consideration of the effect of the development on the provision of adequate living conditions for future occupants.

Living Conditions of Occupants of Neighbouring Properties

16. Vehicular access to the property would be via the existing gated access. This access lies adjacent to the side elevations of Nos 1 and 2 Eldon Street. Both of these properties have windows on these elevations that directly overlook the part of the site that would be the driveway. As a result, the parking of cars, opening/closing of car doors and general coming and goings of the occupants of the dwelling would generate a significant level of noise and disturbance that would significantly harm the usability of the rooms served by these windows. Furthermore, the driveway would enable significant views into these neighbouring windows, exacerbating the harmful effect the proposal would have on the usability of the rooms.
17. The Council operates a 45-degree code for house extensions as set out in Appendix D of the SPD. This seeks to ensure a satisfactory level of amenity. The Council explains that the extension significantly breaches the 45-degree code in relation to the rear kitchen window at No 2 Eldon Street. The appellant claims that the proposal would not be in breach of the code. However, from the observations made during my site visit, whereas the existing boundary treatment would provide some screening the dwelling would breach this code due to the proximity of the front elevation to the kitchen window.
18. I have had regard to the Council's concern regarding overlooking from the side kitchen window of the dwelling into the neighbouring rear garden. However, I am satisfied that the existing boundary treatment would adequately prevent any significant overlooking.
19. I find therefore that the development would significantly harm the living conditions of the occupants of Nos 1 and 2 Eldon Street. As such, it would be contrary to saved Policy GP2 of the UDP, which seeks to protect residential amenity. In addition it would also fail to comply with the guidance set out in the SPD. Furthermore, it would fail to accord with the design objectives of the Framework.

20. Again, I note that the Council have referred to a number of other policies in the CS and the UDP with regard to this matter. However, these policies are not relevant to the consideration of the effect of the development on the living conditions of the occupants of neighbouring properties.

Other Matters

21. I have had regard to the previous planning permission on the site for a similar development. Whilst it is not clear from the evidence before me what constituted the development plan at the time, since that permission was granted there has been a significant change in local policy through the adoption of the CS, the UDP and the SPD. Furthermore, there has also been a change in national policy through the publication of the Framework. Accordingly, the proposal has been considered against the most up-to-date local and national policy, which, for the reasons given above, it fails to comply with.

Conclusion

22. Having considered all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR