
Appeal Decision

Site visit made on 20 September 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 11 November 2016

Appeal Ref: APP/V4630/W/16/3152478

Tomell Mews, Cramp Hill, Darlaston, Walsall WS10 8ES

- 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 N Causer against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 15/1569, dated 13 October 2015, was refused by notice dated 6 January 2016.
 - The development proposed is two bedroom detached bungalow for over 60's.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of future occupiers with particular regard to outlook, outdoor amenity space, privacy and security; and,
 - the character and appearance of the area.

Reasons

Living Conditions

3. The patio doors in the combined living and kitchen area and the window in the bedroom would face a 2 metre high breeze block boundary wall, which separates the appeal site from the rear of 1 Tomell Mews. I share the Council's view that the proximity of the wall would have an overbearing impact on future occupiers of the habitable rooms and users of the garden area of the new dwelling. That effect would be exacerbated by the 2 metre close boarded fences and retaining gabion wall on the other two sides of the garden.
4. Whilst the appellant indicates an intention to lower the height of the wall or remove a section of it, that is not apparent from the submitted plans or the Design and Access Statement. Even it were theoretically possible to secure that by condition, the lowering or removal of a section of the wall would itself have an adverse effect on the privacy of future occupiers, using the living and garden areas, due to the proximity to the rear of No 1.
5. The garden area of about 51 square metres is below the minimum specified in the Council's Designing Walsall Supplementary Planning Document for Urban

Design (SPD).¹ The appellant states that the dwelling would form an addition to the sheltered accommodation at 1-3 Tomell Mews and refers to access to shared amenity space enjoyed by those occupiers. Limited details and no dimensions are provided and it is unclear to me how access to that space would be secured for future occupants of the dwelling.

6. There is no documentation before me to suggest that the property could not be sold or rented as a separate residential dwelling to any person and, therefore, the proposal needs to be considered on that basis. As no persuasive reason has been given to depart from the Council's guidance and from what I saw on my site visit, I consider that the limited garden space would have an adverse effect on the living conditions of future occupants.
7. With regard to privacy, the Council refer to possible overlooking from a proposed 3 storey block of flats which would adjoin the appeal site. As the Council advise that the relevant planning application has yet to be determined, I do not consider that it is reasonable or appropriate to take it into account in reaching my decision.
8. The Council is also concerned about the security of the garden area in relation to the proposed boundary treatments. Whilst Policy ENV32 of the saved Walsall Unitary Development Plan (UDP)² refers to security as potentially relevant in evaluating design, it is not clear to me, given the constraints of the site, what further steps could reasonably be taken to enhance security. The appellant points out that the garden is enclosed by a 2 metre high boundary on all sides.
9. The appellant also states that the development would be part of the 'gated community' at 1-3 Tomell Mews though that is not clear from the plans, which indicate that the dwelling would front onto the road and do not show gates at the access to the driveway. Notwithstanding the lack of clarity on the issue, I give limited weight to the Council's concerns about security.
10. Overall, I conclude that the proposal would harm the outlook of future occupants and that the harm could not be successfully mitigated by condition without causing an alternative harm to privacy. Furthermore, the limited outdoor amenity space would also harm the living conditions of future occupants. Consequently, the proposal would conflict with the objectives of policies GP2 and ENV32 of the UDP and Appendix D of the SPD, which amongst other things seek to ensure good design and living conditions for occupants. Those aspects of the policies are also consistent with the National Planning Policy Framework (the Framework).
11. I do not consider that Policy ENV2 of the Black Country Core Strategy³ (Core Strategy), cited in the Council's Decision Notice, is directly relevant to effects on living conditions as it is more concerned with historic character and local distinctiveness, as is DW3 of the SPD.

Character and Appearance

12. The Council state that the proposal would not reflect the wider character of the area. Whilst, there are two-storey buildings opposite the appeal site and

¹ Designing Walsall: Supplementary Planning Document for Urban Design (Revised July 2013) – Appendix D

² Walsall Unitary Development Plan (March 2005)

³ Black Country Core Strategy (Adopted February 2011)

others in the area, there are also single storey terraced bungalows along Cramp Hill and a detached bungalow to the north which faces the road. There are other single storey properties on Church Street. Furthermore, though I recognise the Council's reservations about their design, 1-3 Tomell Mews is a terrace of three bungalows which adjoins the appeal site. Therefore, I do not share the Council's view that the area is defined by dwellings of two storeys or more.

13. In view of the mix of property types, styles and development in the locality, I conclude that the proposal would not harm the character and appearance of the area. Therefore, it would not conflict with the objectives of policies ENV2 of the Core Strategy, ENV32 of the UDP, DW3 of the SPD or the Framework, which amongst other things seek to ensure that development respects local context and character.

Other Matters

14. I note the appellant's intention to use the dwelling as an addition to the sheltered accommodation for older female residents at 1-3 Tomell Mews. However, it is not a matter that I can give significant weight as the 'use' in planning terms would be as a separate residential dwelling. In any event, it does not alter my decision.

Conclusion

15. Although the proposal would not result in harm to the character and appearance of the area, the harm to the living conditions of future occupiers is decisive. It leads me to conclude that, for the reasons given above and having regard to all other matters raised, the appeal should be dismissed.

Jonathan Tudor

INSPECTOR