
Appeal Decision

Site visit made on 13 December 2016

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 6 January 2017

Appeal Ref: APP/J3720/W/16/3157804

9 Kineton Road, Wellesbourne, Warwickshire CV35 9NE

- 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 Michael Page against the decision of Stratford-on-Avon District Council.
 - The application Ref 16/00364/FUL, dated 30 January 2016, was refused by notice dated 6 June 2016.
 - The development proposed is the erection of one, two storey four bedroom house and erection of one, three storey four bed house.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Michael Page against Stratford-on-Avon District Council. This application is the subject of a separate Decision.

Preliminary matters

3. Following the refusal of the planning application, the Council adopted the Stratford-on-Avon District Core Strategy 2011 to 2031 (CS) on 11 July 2016. The policies contained therein have replaced those within the Stratford-on-Avon Local Plan Review (2006), which are referred to in the Council's reasons for refusal. The appellant has referred to the CS in his appeal statement. No party has therefore been prejudiced by the change in development plan.
4. Also since the refusal of appeal proposal the Council has granted planning permission¹ for the erection of one dwelling to the south east of the existing dwelling at No 9 Kineton Road. This therefore represents a material consideration in the determination of this appeal and renders the issuing of a split as unnecessary.

Main Issues

5. The main issues are:
 - the effect of the development on the living conditions of the occupiers of No 7D Kineton Road with particular reference to outlook, daylight and sunlight; and

¹ Planning Application Ref: 16/02241/FUL

- the effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

6. The side elevation of No 7D includes a ground floor window serving a kitchen and dining area, the direct aspect of which is towards a boundary fence and the end of a detached garage and the side of the existing dwelling at No 9 beyond. However, significant visual relief is achieved from views of the open sky above the fence to the north east, which are readily achievable. Moreover, the separation to the existing main dwelling and the pitched roof of the garage sloping away from No 7 significantly reduces the sense of confinement.
7. The appeal proposal would replace the garage with the full two storeys of the side elevation of a detached dwelling with additional living space within its roof. This would result in a considerable mass of built form in close proximity to that window and substantially more than the existing arrangement. As a result the outlook from the ground floor side window of No 7 would be dominated by a mass of built form in a way that I consider would be overbearing and oppressive.
8. Whilst there may previously have been a 3m high hedge to the boundary to No 9 at this point, this was not there at the time of my visit, and notwithstanding any replacement planting condition, I cannot be certain that this aspect would be reinstated. This therefore reduces the weight I can attach to this line of argument.
9. I accept that the analysis provided by the appellant demonstrates that the existing garage and boundary fence restricts the amount of direct sunlight entering the side window of No 7. However, although it is stated that the appeal proposal will cause no deterioration in conditions relative to the existing position, a comparable analysis has not been provided to demonstrate this assertion. Whilst I sympathise that the Council may not have requested additional assessments and notwithstanding whether or not there are errors or omissions in the assessments carried out on behalf of the occupiers of No 7, in my view, given the substantial increase in the height and mass from the appeal proposal compared with the existing, there would be a significant reduction in the sunlight and daylight reaching the side window of No 7D.
10. Although the appellant asserts that the side window is secondary to the main rear facing patio doors, I note that the latter faces to the north east whilst the side window faces to the south east. Consequently, the sunlight from this window makes a notable contribution to the light in that space which serves a combined dining room and kitchen.
11. Despite aligning the depth of the proposed dwelling with that of No 7D, the respective orientation is such that the appeal proposal would result in overshadowing of part of the rear garden of that property. The extent of the harm would not be sufficient in its own right to withhold planning permission, nevertheless, it does add to my above stated concerns. I do though accept that there would be no material impact to the front and rear facing windows of No 7D.

12. Due therefore to the adverse effects arising in terms of outlook, loss of light and loss of sunlight, I conclude that the proposal would cause material harm to the living conditions of the occupants of No 7D, contrary to CS Policy CS.9, which states, amongst other matters, that occupants of new and neighbouring buildings will be protected from unacceptable levels of noise, contamination and pollution, loss of daylight and privacy, and adverse surroundings.
13. It follows that I also find conflict with paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

14. The 'U' shaped appeal site is situated on the northern side of Kinton Road and forms part of a relatively large plot presently occupied by a detached dwelling and detached garage. This side of Kinton Road is characterised by a mix of commercial and residential properties but the appeal proposal would be primarily viewed within a context provided by two pairs of semi-detached dwellings on its north western side and detached dwellings on its south eastern side.
15. Here, the layout of the houses is such that there is a wider gap between the existing dwelling and the detached dwelling at No 9A Kinton Road than between the existing dwelling and the semi-detached dwelling at No 7D. As the aforementioned approved dwelling would be located in the larger gap on the south eastern side of No 9, my consideration is largely restricted to the effect of the additional dwelling on the north western side of No 9.
16. I was able to observe that there is a considerable variation in the space between dwellings along Kinton Road. Close to the appeal site, No 9A and No 11 Kinton Road are tightly spaced and there are other similar examples within the street scene. Within this context the additional dwelling would achieve comparable spacing and would not appear cramped. The dwelling would also be set back from the site frontage so as to conform to the existing building line and would achieve a good sized rear garden and would not therefore result in an overdevelopment of the site.
17. There is also a considerable variety to the detailed design of the dwellings within street scene and the design and proportions of the dwelling would be similar to that which has been approved on the south eastern side of No 9. The street scene drawing also demonstrates that the eaves line and ridgeline of both dwellings would relate well to the neighbouring dwellings.
18. I was able to observe that car parking already occurs in front of the existing garage and dwelling whilst the plan for the recently approved dwelling includes three car parking spaces in front of the building line. The additional dwelling would not therefore significantly increase the quantum of frontage car parking, which is already a prevalent feature in this part of the street scene. In any case, the parking area would be largely screened by the existing front and side boundary hedging.
19. Given the separation to the Wellesbourne Conservation Area and intervening features, the proposed development would preserve the character and appearance of the same, the desirability of which is fully anticipated by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

20. I therefore find on this main issue that the proposal would not be harmful to the character and appearance of the area and as such would not result in conflict with CS Policy CS.9, which in addition to the above, seeks to ensure that all forms of development will improve the quality of the public realm and enhance the sense of place, reflecting the character and distinctiveness of the locality. It follows therefore that I do not find conflict with paragraphs 56 of the Framework which highlights the importance of the design of the built environment.

Other matters

21. Whilst it is asserted that there is a particular shortage of family homes within the area, I have not been provided within any evidence to this effect. The Council also asserts that is able to demonstrate a five-year supply of housing land and this is not disputed by the appellant.
22. Nevertheless, I acknowledge that the proposal would increase housing supply, albeit very modestly, in a sustainable location and these are matters which weigh in its favour. However, although I have not found undue harm to the character and appearance of the area, I have found material harm to the living conditions of the occupants of No 7D and the harm arising would outweigh the identified benefits of the proposal. Accordingly, the proposal would not meet the social dimension of sustainable development and thus would not amount to sustainable development when considered against the policies in the Framework taken as a whole.
23. Although I acknowledge that one of the core planning principles of the Framework is to encourage the effective use of land by reusing land that has been previously developed, this is not applicable to the appeal proposal as private residential gardens are specifically excluded from the Framework's definition for previously developed land.

Conclusion

24. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

Inspector