
Appeal Decision

Site visit made on 3 April 2017

by B Bowker Mplan MRTPI

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

Decision date: 19 May 2017

Appeal Ref: APP/R3705/W/16/3166248

41 Stanley Road, Atherstone, Warwickshire CV9 2AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Adam Smith against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0376, dated 20 June 2016, was refused by notice dated 11 October 2016.
 - The development proposed is bungalow to rear accessed from Ambien Road.
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Decision

1. The appeal is allowed and planning permission is granted for a bungalow to rear accessed from Ambien Road, at 41 Stanley Road, Atherstone, Warwickshire CV9 2AS, in accordance with the terms of the application Ref PAP/2016/0376, dated 20 June 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application submitted was for outline planning permission with matters of access, layout and scale included for approval. Appearance and landscaping are reserved for later consideration and the appeal has been determined on this basis.
3. I am also determining an appeal¹ submitted for a similar development at 43 Stanley Road. The appeal at No 43 is subject of a separate decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

5. The appeal site comprises the rear garden of No 41 which slopes upwards towards Ambien Road. The dwelling would be sited amongst two storey terraced and semi-detached dwellings at Ambien Road. Properties at Ambien Road are at an elevated position in relation to the appeal site. The site presents a verdant frontage onto Ambien Road which forms part of a wider band of vegetation and trees. Despite the open and verdant character at the appeal site and adjoining rear gardens, a residential character prevails at Ambien Road.

¹ APP/R3705/W/16/3166321

6. As Ambien Road has an established residential character, the proposal would not have an urbanising effect. In conjunction with the dwelling proposed at No 43, the proposal would result in a loss of vegetation. However, taking into account the remaining extent of trees and vegetation beyond the site, the wider area would retain its verdant and open character. Also, the slope of the site and the design proposed would retain an element of openness at the site.
7. During my site visit, I saw that off street vehicular parking was a visible feature in the street scene. In this context, views of the level parking platform would not be an incongruous feature in the street scene. Nor would the sight of refuse and recycling containers be unusual in an established residential area. The setback detached form of the dwelling would be in keeping with the general layout of surrounding properties.
8. The dwelling would differ in appearance to its surroundings as it would be partly obscured by a retaining wall at ground floor level. But this would be a minor difference in appearance and would not result in the dwelling being a prominent feature in the street scene. Moreover, as outlined in the appeal decision at land adjacent to 19-21 Southfields Close², change does not necessarily equate to material harm. In this context, I cannot agree with the Council that harm would arise because of a relatively minor difference in appearance. As appearance is a reserved matter, the Council could ensure satisfactory elevation details at a later date.
9. The dwelling would reduce in height to its rear and thus have a limited visual effect when viewed from properties at Stanley Road. This factor, alongside satisfactory boundary and landscape details, would further reduce the proposal's visual effect from this vantage point.
10. Paragraphs 56, 58 and 60 of the National Planning Policy Framework highlight the importance of good design and local distinctiveness. Based on my reasoning above, the proposal would accord with these requirements.
11. Therefore the proposal would not have a harmful effect on the character and appearance of the surrounding area. Consequently, the proposal would meet the requirements of Core Strategy Policy NW12. This policy requires development to demonstrate a high quality of sustainable design that positively improve the character, appearance and environmental quality of an area.

Other Matters

12. Concern is raised regarding highway and pedestrian safety, including references to parking in the vicinity and emergency and refuse vehicle access. However, the Highway Authority raises no objection to the proposal and the on-site parking proposed is in line with Council requirements. Consequently, dismissing the appeal on highway safety grounds would be unjustified.
13. Based on the evidence before me, delaying or dismissing the appeal on wildlife grounds would also be unjustified. Nor does the evidence before me justify dismissing the appeal on grounds of land stability, flooding and drainage.
14. Concerns regarding precedent have been expressed, particularly as adjacent rear gardens have frontages onto Ambien Road. However, each application and appeal must be determined on its individual merits and the characteristics

² APP/R3705/W/16/3148101

of the appeal site are not easily replicated on a large and wide scale. Moreover, this decision would not prevent the Council resisting proposals that lead to material planning harm.

15. Concern has been raised regarding the effect of the proposal on the privacy, light and living conditions of neighbours. However, I agree with the Council's assessment which identifies the separation distances involved, the boundary fences proposed and the absence of proposed rear windows as factors that would ensure no harm in these respects. Concerns have been made regarding ownership and covenants. However these are private legal matters and a grant of planning permission would not negate or supersede any private legal rights relating to land ownership.

Conditions

16. The conditions in the attached schedules are based on those suggested by the Council. Where necessary, the conditions have been amended in the interests of clarity and precision as required by Planning Practice Guidance.
17. A condition requiring the submission of reserved matters is required in view of the outline nature of the application and a condition specifying the relevant plans is necessary in the interests of certainty. A condition restricting permitted development rights relating to household extensions, roof alterations and outbuildings is necessary to ensure the privacy of surrounding neighbours.
18. As no substantive reasoning is before me to justify removing permitted development rights relating to hard surfacing and porches, these rights are not restricted. As appearance is a reserved matter, the Council will be able to prevent openings to the rear of the dwelling at a later stage.
19. Condition 5 is necessary to ensure that the site is adequately drained. Conditions 6 and 8 are necessary to ensure adequate living conditions for surrounding neighbours. However, it is necessary to alter the timings for construction works in condition 8 to reflect the residential character of the area.
20. Although not a reason for refusal, the Council briefly raise concern regarding the maintenance, convenience and noise associated with the shared elevator. However, no substantive evidence is before me to doubt the suitability of the elevator. Therefore, I am satisfied that the Council's condition would ensure acceptable details in this respect. This condition also requires approval of refuse storage details to ensure adequate living conditions for adjoining and future occupants.
21. Conditions 9 – 11 are necessary in the interests of highway safety. However, as the incidents of extraneous material onto a public highway can be addressed through other legislation, this condition is unnecessary.

Conclusion

22. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be allowed subject to the attached schedule of conditions.

B Bowker
INSPECTOR

Schedule of conditions

- 1) Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Sections, Floor & Location Plan; Proposed Block Plan; Proposed and Existing Parking Plan, but only in respect of those matters not reserved for later approval.
- 5) Before the development commences, a scheme for the construction of the foul and surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development, details of the position and design of an electric lift and platform and details of bin storage arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be provided prior to the first occupation of the dwelling hereby permitted and thereafter maintained as such at all times.
- 7) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls and fences to be erected. The approved screen walls/fences shall be erected before the dwelling hereby approved is first occupied and shall subsequently be maintained. For the avoidance of doubt the boundary separating the new dwelling and the existing dwelling on Stanley Road shall take the form of a close boarded fence or wall of a height not less than 2 metres.
- 8) Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, and E) shall be carried out at the site without the prior written consent of the Local Planning Authority.
- 9) Demolition or construction works shall take place only between 08.00 – 18.00 hours on Mondays to Fridays and 08.00 – 13.00 hours Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 10) The access to the site for vehicles shall not be used unless a public highway verge crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority. Gates / barriers

erected at the entrance to the site for vehicles shall not be hung so as to open over the public highway extent.

- 11) The unit shall not be occupied until the parking and manoeuvring areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles. The vehicular access to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.
- 12) The development shall not be commenced until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 25.0 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

- End of schedule -