
Appeal Decision

Site visit made on 10 September 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2019

Appeal Ref: APP/D4635/W/19/3227868

Wrekin Drive, Merry Hill, Wolverhampton WV3 7HZ

- 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 Singh against the decision of Wolverhampton City Council.
 - The application Ref 18/00888/FUL, dated 30 July 2018, was refused by notice dated 8 January 2019.
 - The development proposed is for 5 houses.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant was asked to provide relevant extracts and /or documents of Policy BCCS Hous2¹ and an SPG² he referred to. The Council has been given the opportunity to comment.
3. The main parties have also had the opportunity to comment on the updated National Planning Policy Framework³ (the 'Framework') published after the Council refused planning permission. I have had regard to it in reaching my decision.

Main Issues

4. The main issues are:-
 - The effect of the proposal on the character and appearance of the area,
 - The effect of the proposed dwelling (plot 1) on the living conditions of existing occupants of 11 and 15a Wenlock Avenue (Nos.11 and 15a) with regard to outlook and light, and
 - The effect of the proposed dwelling (plot 1) on the living conditions of existing occupants of Nos.11 and 15a, with regard to privacy.

¹ Black Country Core Strategy Policy HOU2.

² Wolverhampton Council 'Residential Development' Supplementary Planning Guidance No.3 approved April 1996.

³ The National Planning Policy Framework was published in March 2012, revised 24 July 2018 and subsequently updated 19 February 2019.

Reasons

Character and appearance

5. The site is currently vacant land, but was previously garaging and parking for nearby residents. The garages have been demolished and some building materials are being stored on site, as was evident from my visit. The site is located within a predominantly residential area with a mix of house sizes and types, but is characterised by mainly semi-detached and short terraces of houses with pitched roofs and modest sized rear gardens. There are some detached houses opposite the site entrance on Wrekin Drive and nearby on Bayston Avenue.
6. The proposal seeks to erect 5 dwellings on the site comprising two pairs of 3-bed semi-detached dwellings and a larger 5-bed detached dwelling. The dwellings would be accessed via a communal driveway off the existing site access on Wrekin Drive. The semi-detached properties would each have 2 parking spaces to the front or side, and the detached dwelling on plot 1 would have its own detached double garage at the end of the cul-de-sac and 2 further spaces alongside it. Each dwelling would have a private rear garden.
7. The proposed dwellings would be sited in close proximity to the north and south shared site boundaries, but plot 1 would be particularly close to the shared rear boundaries of No.11 and 15a. Furthermore, the rear gardens would be shorter than the prevailing garden sizes in the surrounding area. As the properties are 3 and 5 bedroom properties they are likely to attract families with gardens required to accommodate areas for drying washing, sitting out and playing, as advised in the SPG. The combined effect of the tight arrangement of dwellings in close proximity to shared boundaries and overly small gardens at odds with the prevailing plot sizes, would result in a cramped form of development and overdevelopment that would harm the character and appearance of the area.
8. I note the scheme has been amended during its determination by the Council, including the re-positioning of garaging and dwellings reduced in height, but I must determine the proposal before me.
9. The Council has not raised an objection to the principle of housing on the site. I accept that the site is backland. I also consider that as it is centred in the middle of surrounding housing and there would be limited visibility of it from Wrekin Drive or Wenlock Avenue, there would be no harm to the street scene. The appellant draws my attention to a larger property in Bayston Avenue. The property I saw appears to have been extended. However, it occupies a corner plot and therefore does not present the same relationship to neighbouring properties as the appeal proposal does. Hence it is not directly comparable.
10. To conclude on this main issue, I find that the proposed development would harm the prevailing character and appearance of the area. Accordingly, it would conflict with Unitary Development Plan 2006 (UDP) Policies D4, D6, D8, D9 and H6 and Black Country Core Strategy 2011 (BCCS) Policy ENV3. These collectively seek, amongst other things, to ensure that new housing development responds positively to established patterns of development and plot sizes, ensuring that the relationship between buildings and spaces does not contribute to overdevelopment leading to cramped layouts.

Living conditions of existing occupants with regard to outlook and light

11. The side elevation of the dwelling on plot 1 would be sited in close proximity to the rear garden boundaries of 11 and 15a Wenlock Avenue in particular. The proposed dwelling would have a deep footprint and would extend for a considerable distance along the rear garden boundaries of Nos.11 and 15a. According to the appellant's Statement the two-storey gable elevation would be approximately 12.5m and 13.52m away from the nearest windows of Nos.11 and 15a respectively. This separation distance between blank walls and windows to habitable rooms would exceed the SPG advisory distance of 12m separation.
12. Despite compliance with the SPG in terms of separation distance, I find in this instance the height of the dwelling (up to 9.2m high to eaves and taller to the ridge) in combination with the considerable length of the side elevation would represent a substantial amount of built development so close to the rear garden boundaries. This would have an unneighbourly, intrusive, dominant and overbearing effect that would create an unsatisfactory outlook for the occupants of Nos.11 and 15a. From my observations on site any differences in ground levels would not be significant enough to lessen the impact, nor would the conifer trees along part of the boundary, which are outside the appeal site.
13. There would also be some reduction in daylight arising from the height and depth of the proposed dwelling situated close to the shared boundary and located to its south side. However, in the absence of any substantive evidence indicating how significant the loss would be, so I give this matter limited weight.
14. In conclusion, I find there would be harm to the living conditions of the existing occupants of Nos.11 and 15a in terms of outlook. Accordingly, the appeal proposal would be contrary to UDP Policies D7 and D8 and BCCS Policy ENV3, which collectively seek to ensure that new development relates to its surroundings and does not appear overbearing or adversely affect people's amenities in respect of their outlook.

Living conditions of existing occupants with regard to privacy

15. For privacy the SPG advises that separation distance between opposing windows should be 12m. However, a bathroom is not a habitable room so there would be less direct overlooking of Nos.11a and 15 from it. A condition could be imposed, should planning permission be granted, requiring it to be obscure glazed. Furthermore, notwithstanding the submitted plans a condition could be imposed requiring the window to be redesigned so that it is smaller or even positioned at high level.
16. As such I find there would be no harm to the living conditions of occupants of Nos.11 and 15a from overlooking and privacy. Accordingly, the proposal would not conflict with UDP Policies D7 and D8 and BCCS Policy ENV3, which collectively seek to ensure that new development does not adversely affect people's amenities in respect of their privacy.

Other Matters

17. I am aware the appellant wants to build the large dwelling for himself and his family, and build and sell the other dwellings to make full use of the site. But

planning permission runs with the land so I must determine the proposal on its planning merits.

18. The appellant advises that the site was attracting anti-social behaviour and creating a nuisance to local residents. However, I have not been presented with any substantive evidence from the appellant, Council, the Police, residents or local representatives to indicate to that the site is causing a problem in the area.
19. The appellant mentions an existing outline application. However, neither party has provided me with any further details of this and it is not clear how it relates to the appeal scheme. However, in any event I must consider the appeal proposal before me on its own merits.
20. A number of nearby residents raise a series of other concerns about the proposal but in view of the reasons for refusal and my conclusions on the main issue there is no need for me to address these in the current decision.

Conclusion and Planning Balance

21. The appellant refers to the consideration of density in BCCS Policy HOU2 and has submitted the Black Country Urban Capacity Review May 2018. The policy aims to achieve a minimum density of 35 dwellings per hectare and the appellant advises the proposed scheme would be within this. I acknowledge that paragraph 68 of the Framework recognises that small and medium sized sites can make an important contribution to housing. Furthermore, Framework paragraphs 117-119 and 122 encourage the effective use of land to which substantial weight should be attributed in meeting housing needs. These matters weigh in favour of the appeal proposal. However, I have also taken into account the design advice in chapter 12 of the Framework that the appellant refers me to. This states that good design and well-designed places are a key aspect of sustainable development. As I have found the appeal proposal would not represent good design for being cramped and harming the character and appearance of the area, as well as harming the living conditions of residents of neighbouring properties, this weighs against the scheme.
22. For the reasons set out above, having regard to all matters raised, I conclude that the proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, the appeal should be dismissed.

K. Stephens
INSPECTOR