
Appeal Decision

Site visit made on 29 October 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Appeal Ref: APP/C4615/W/19/3233684
7 Herondale Crescent, Norton DY8 3LH

- 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 Ms Carolyn Leiper against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P18/1771, dated 12 December 2018, was refused by notice dated 5 February 2019.
 - The development proposed is 1 new residential dwelling including associated services, access and external works adjacent No 7 Herondale Crescent.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the appeal site and its surroundings.

Reasons

3. The appeal relates to the large side garden of an existing bungalow on a corner plot within an established residential estate. Due to its long street frontage, its elevated position in relation to other bungalows to the east, and its mature-landscaped appearance, with tree, hedge and shrub planting within and around its boundaries, the site is a highly prominent and attractive component of the surrounding street scene at present.
4. Herondale Crescent and nearby streets are characterised by relatively closely-spaced detached and semi-detached bungalows and houses, which are generally set back from the road, often behind landscaped front gardens. In that context, the appeal site and smaller side gardens to other nearby corner plots provide a pleasant sense of openness and relief from those almost continuously built-up frontages, as well as maintaining a sense of separation between corner properties and their adjacent street frontages to the side. In its present form, the site thus makes a highly positive contribution to the character and appearance of the street scene and its residential surroundings.
5. The proposed bungalow would be similar in size and appearance to those on neighbouring plots, and its front elevation would continue the regularly-aligned building frontage of the existing bungalows facing the western part of Herondale Crescent, to the south of the site.

6. However, it would be located significantly closer to the northern part of Herondale Crescent than the bungalows at Nos 1-5 to the rear of the site, whose front elevations are all set back a similar distance from the road frontage itself, despite being slightly staggered in relation to each other.
7. Whilst slightly separated from those neighbouring bungalows to the rear, the proposed bungalow would nonetheless be viewed in the context of those existing buildings. As a result of its more prominent location and its elevated position in relation to them, the proposed bungalow would appear as an unduly dominant and highly discordant feature within that wider street scene, and would not maintain the sense of separation between buildings and their road frontages which characterise this part of Herondale Crescent.
8. Furthermore, despite only being one storey high, the footprint, presence and massing of the proposed building, which would be visible from numerous surrounding public vantage points despite the site's boundary planting, would significantly erode the sense of openness and space which characterises this large, prominent corner plot, and the contribution that it makes to the character and appearance of the street scene in its current, undeveloped form.
9. I have been referred to similarities between the proposed development layout and that indicated in a sketch indicating a 'suburban outer' area in the Council's New Housing Development Supplementary Planning Document (the SPD), and to the site sharing particular characteristics of such areas identified in the SPD. Be that as it may, such areas nonetheless vary in their individual characteristics, and the SPD is clear that new residential development should be sympathetic and relate to the character of the area, reflect the existing settlement pattern and maintain existing building lines and set backs of houses from the road, amongst other things. In this case, for the reasons given, I find that the development would not respect the prevailing character of its particular residential area, including with regard to those characteristics identified in the SPD, and that the achievement of a higher density of development on the site would be at the expense of that character. It would thus conflict with the aims of the SPD overall.
10. Therefore, for the reasons given, I conclude that the proposed development would have an adverse effect on the character and appearance of the appeal site and its surroundings. The proposal would therefore conflict with Policies CSP4, ENV2, ENV3 and HOU2 of the Black Country Core Strategy (the Core Strategy) and Policies L1 and S6 of the Dudley Borough Development Strategy. Amongst other things, those policies require development to protect and preserve local character and distinctiveness and to respect and be responsive to the context and character of the local area, and state that the density of new housing will be informed by the need to achieve high quality design, taking into account the characteristics of the area.

Planning Balance

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
12. For the reasons given, the proposal would result in significant harm to character and appearance and conflict with those development plan policies set out above. Policy ENV3 refers to certain guidance documents which are no

longer current. However, the overall aims of that policy and the requirements of those other development plan policies referred to, are consistent with those of the Framework, which requires that developments function well and add to the overall quality of the area, and are sympathetic to local character. Accordingly, I find that those policies are not out-of-date, and I give substantial weight to the conflict with them.

13. Core Strategy Policy HOU1 refers to 95% of new housing being on previously-developed land (PDL). That policy appears to have been based on a now-superseded definition of PDL, which included residential gardens. However, in this case the appeal proposal would conflict with development plan policies relating to character and appearance, and with guidance in the SPD regarding development on garden land. Therefore, even if the PDL target in Policy HOU1 was lower, the proposal before me would not comprise appropriate 'greenfield' development in any event.
14. The proposed development would provide a new dwelling in an existing residential area, close to local shops, amenities and public transport links. It would therefore contribute to local housing supply, a factor weighing in favour of the proposal. However, those benefits arising from that single dwelling would be very modest, and I afford them little weight, notwithstanding the site's accessible location.
15. The appellant has referred to the possibility that various structures or areas of hard surfacing could be constructed on the site within the scope of the property's existing permitted development rights. However, I have no specific proposals before me in that regard. Nor have I been presented with any substantive evidence to indicate that such proposals have been pursued to any degree, that there is any realistic prospect of such works being carried out should I dismiss this appeal, or that such works would necessarily cause greater harm to character or appearance than the bungalow proposed in any event. I therefore afford that suggested fallback position very limited weight.
16. The appellant could allow the boundary hedge to grow taller than it is currently. However, whilst that may reduce views across the site, it would not erode its soft-landscaped character, and would not necessarily be a permanent measure since the height of a hedge can vary depending on the tastes of individual occupants over time. Therefore, such measures would not be directly comparable to the introduction of a permanent dwelling or the harm arising from such development, which would persist for its lifetime.
17. I have noted concerns raised by interested parties with regard to other matters, including living conditions and highway safety. As I have found the proposal to be unacceptable for other reasons, I have not needed to consider those matters further. However, even were there to be no harm in those respects, the absence of such harm, or of conflict with other development plan policies, would be neutral, rather than a factor weighing in favour of the proposal.
18. Taking these factors together, even were I to conclude that the policies which are most important for determining the application were out-of-date, or if I had significant evidence to suggest that the Council was unable to demonstrate a 5 year supply of deliverable housing sites, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the modest benefits identified above, when assessed against the policies in the

Framework taken as a whole. Therefore, material considerations do not justify making a decision other than in accordance with the development plan in this case.

Conclusion

19. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR