



Appeal Decision

Site visit made on 7 October 2019 by S Watson BA(Hons) MSc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal Ref: APP/D1835/W/19/3234430

Land at No 1 Melrose Close, Worcester, Worcestershire WR2 5JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Robert Billingham against Worcester City Council.
 - The application Ref 19/00241/FUL, is dated 28 March 2019.
 - The development is proposed pair semi detached two storey dwellings on vacant land.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed pair semi detached two storey dwellings on vacant land at land at No 1 Melrose Close, Worcester, Worcestershire WR2 5JE in accordance with the terms of the application, Ref 19/00241/FUL, dated 28 March 2019 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan, 2019-02-02A proposed elevations, 2019-02-01B proposed floor plans, 2019-02-03 existing and proposed street elevations, 2019-02-03A SUDs Drainage alternative, 2019-02-05A SUD plan, 2019-02-06 Block Plan.
 - 3) Prior to their use, as part of the development hereby approved, samples of external facing, roofing and surfacing materials shall be submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the agreed materials.
 - 4) No dwelling shall be occupied until the vehicular access and parking spaces for 4 cars to be parked have been provided in accordance with the approved plans. The access and spaces shall thereafter be kept available at all time for those purposes. No shrubs, trees or other vegetation shall be allowed to grow above 0.6 metre in height within the sight lines shown on drawing no 2019-02-01B.
 - 5) Twenty-one days before any development is commenced resulting in any excavation within the site, written notice shall be given to the local planning authority. The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority and shall allow that person to observe the excavations and record items of

interest and finds, including a period of one day for unencumbered archaeological recording to take place within the trenches if in the opinion of the local planning authority features of interest are revealed.

- 6) All existing trees on the site shown on the approved plans shall be retained. If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of a similar size and species and shall be planted, in the first available planting season, in accordance with details that have first been agreed in writing by the local planning authority.

Procedural Matter

2. The Council has confirmed that the plan numbers listed above in condition 2) are those that were before it as part of the planning application.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

4. The appeal follows the failure of the Council to determine the planning application within the period. Had it been able to determine the application the council has indicated that the application would have been refused.
5. Based on the putative reasons for refusal, the main issues in this case are:
 - whether the appeal site is suitable for new housing, having particular regard to the requirements of the National Planning Policy Framework (Framework);
 - the effect of the proposal on the living conditions of nearby occupiers with particular regard to privacy; and,
 - the effect on highway safety in Melrose Close and Comer Road, with particular regard to car parking provision.

Reasons for the Recommendation

Suitability of Appeal Site for New Housing

6. The appeal site is part of a garden set on the north side of a residential street, between Nos 1 and 3 Melrose Close. The surrounding area is residential in character.
7. The Council has indicated that the proposal would be in conflict with the Framework because the appeal site forms part of a residential garden. Whilst gardens in built up areas, such as the location of the appeal site do not fall within the definition of previously developed land, I have not been referred to a part of the Framework which prevents development on such land. Nor have I been referred to any development plan policy to support the Council's case.
8. The officer report however makes it clear that the location of the appeal site is residential in character and that the residential development of the appeal site

would be compatible with the adjoining land uses, and that the proposal would result in an efficient use of land. These are matters to which I concur.

9. Moreover, the semi-detached form of the dwellings and their design would respect nearby development in Melrose Close. This would accord with Framework paragraph 127, which amongst other matters requires developments to be visually attractive, sympathetic to local character and establish a strong sense of place.
10. In light of the foregoing, I conclude that the location of the appeal site is suitable for the development proposed. There is no conflict with the Framework in this regard.

Living Conditions

11. The siting of the two new residential dwellings would largely follow the existing pattern of development in the surrounding area and infill a space between two properties. Given the built-up nature of the area some level of overlooking from first floor windows is to be expected. However, the proposed dwellings would result in no greater level of overlooking to the rear gardens of adjoining properties than is already present. The windows on the side elevation of the dwellings would be within a void above the stairs and opportunities for overlooking neighbouring properties from these windows would be limited. The proposal would not result in a loss of privacy to the degree that would be harmful to nearby occupiers' living conditions.
12. Concern has been raised by local residents that the proposal would result in overshadowing and loss of light to nearby properties and gardens. Whilst these concerns are not substantiated, I observed that the relationship of the new dwellings to nearby development would be unlikely to result in overshadowing or loss of light to the degree that would make nearby properties and gardens less pleasant to use.
13. It has been raised that the development would result in the loss of private amenity space through the erection of the two new dwellings and that this would harm the living conditions of the neighbouring occupiers. The proposal would retain a sizeable area of shared garden serving No 1 Melrose Close and No 162 Comer Road which could be used by the occupiers of these properties and provide a good standard of outdoor garden space. Accordingly, and in the absence of substantive evidence to demonstrate otherwise, I find that the proposal would not result in harm to nearby occupiers' living conditions.
14. In light of the foregoing I conclude that the proposal would create a place where a high standard of amenity would be provided for existing and future users. There would be no conflict with Framework paragraph 127 f) in this regard. I have not been directed to any development plan policies by the Council in this regard.

Highway Safety

15. Melrose Close is a cul-de-sac with a single yellow line down each side of the road which prevents on-street parking during the day around the entire close. Parking along the street is primarily provided by off-street parking, with most dwellings having converted the majority of their front gardens to parking areas. Comer Road provides some on-street parking but this is primarily controlled through single and double yellow lines.

16. Although the proposed parking areas would be tight, they would allow 2 vehicles to park off the road in front of each dwelling. It is noteworthy that the Highway Authority did not raise concern about the size of the proposed parking space.
17. I note that the Highway Authority sought details of the visibility from the new parking areas. It is not clear as to which drawing the Highway Authority commented on, however it appears from the information me that the required visibility could be achieved. A driver of a vehicle exiting the parking spaces would be likely to see vehicles and pedestrians using the road and vice versa. A safe and suitable access to the site could be provided.
18. It is acknowledged that the occupiers of the new dwellings would receive visitors at times. If there were already 2 cars parked to the front of the new dwellings, it is likely that the visitor(s) would need to park within the highway close to the appeal site, if they had travelled by car. However, there is no evidence before me to demonstrate that there would be no available car parking for such visitors to use. Nor have I any evidence that on-street car parking in the locality results in harm to highway safety. It is also noteworthy that I have not been directed to any standards where visitor parking provision is required in new development.
19. On the basis of the evidence before me and from what I have seen, I find that the proposed car parking provision would be acceptable and that harm to highway safety would not result. The proposed development would be safe, in accordance with paragraph 127 f) of the Framework.

Other Matters

20. I note the concern that the proposed dwellings may become occupied as houses in multiple occupation. However, this concern is not substantiated. I have determined the proposal on the merits of the case. A generalised concern of this nature does not lead me to conclude differently.

Conditions

21. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the Planning Policy Guidance. I have amended some of the suggested wording to reflect this advice.
22. A condition is necessary requiring that the development is carried out in accordance with the approved plans. In the interest of the character and appearance of the street scene, a condition is required for external materials to be controlled, and for the trees shown for retention to be retained.
23. A condition is necessary requiring that on-site car parking, access and visibility is provided in the interests of highway safety. In the interests of preserving the historic environment, a condition is necessary requiring an archaeological investigation of the site.
24. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance no justification for restricting extensions

and external alterations has been provided. Therefore, I find that it is not necessary to attach a condition restricting permitted development rights.

Conclusion and Recommendation

25. For the reasons given above I recommend that the appeal should be allowed with the suggested conditions.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed with the conditions set out above.

RC Kirby

INSPECTOR