
Appeal Decision

Site visit made on 31 October 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2019

Appeal Ref: APP/R1845/W/3233276

27 Perrin Avenue, Kidderminster DY11 6LL

- 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 P Perry against the decision of Wyre Forest District Council.
 - The application Ref 19/0265/FULL, dated 3 May 2019, was refused by notice dated 2 July 2019.
 - The development proposed is a three bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for a three bedroom bungalow at 27 Perrin Avenue, Kidderminster DY11 6LL in accordance with the terms of the application, Ref 19/0265/FULL, dated 3 May 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. The planning application form refers to the bungalow as having two bedrooms, however the plans submitted clearly show that it would have three. I have therefore used the description of the development given on the decision notice and on the appellant's appeal form in the banner header above, as it more accurately describes the development proposed.

Main Issues

3. The main issues are (i) the effect of the proposed development on the character and appearance of the area and (ii) whether the location of the development on garden land complies with relevant planning policies.

Reasons

Character and appearance

4. The appeal site currently forms part of the garden of 27 Perrin Avenue, a bungalow which is positioned on a large plot on the corner of Perrin Avenue and Sutton Park Road. The position and layout of No 27 is mirrored by 2 Perrin Avenue which is located on the opposite side of the road. Together, these properties form the transition between dwellings on Sutton Park Road, which are generally set back from the respective public highway and the dwellings on Perrin Avenue, which are set closer to it. The existing bungalows which run along both sides of Perrin Avenue adjacent to the site are closely positioned to one another, giving the street scene a relatively densely developed feel.

5. The proposed development would be consistent with the prevailing arrangement of existing bungalows on Perrin Avenue. Although it would result in the loss of the current gap between No 27 and 26 Perrin Avenue, the resultant development would read well in the context of the street scene, both in terms of its scale and its positioning in relation to the existing dwellings and their boundaries. As a result, the proposed development would not appear cramped in its context and would not cause harm to the character and appearance of the area in terms of its scale or positioning.
6. Variation in the design of dwellings is noted along Perrin Avenue and the proposed bungalow has been designed to reflect the general height, roof design, materials and the gable features of these existing dwellings. In this respect therefore, the development would also integrate well within the street scene and not cause harm to its character and appearance. Whilst the rear garden area of the proposed dwelling would be shorter in length than adjacent dwellings, this would not be particularly perceptible from the public domain. This factor alone would not cause harm to the character and appearance of the area.
7. For these reasons, I conclude that the development would not cause harm to the character and appearance of the area. Accordingly, there would be no conflict with the design aims of Policy CP11 of the Wyre Forest Core Strategy 2010 (CS) or Policy SAL.UP7 of the Wyre Forest District Council Site Allocations and Policies Development Plan Document 2012 (DPD), both of which seek to safeguard the character and appearance of the area.

Location of the development

8. Annex 2 of the National Planning Policy Framework (The Framework) excludes land in built-up areas such as residential gardens from the definition of previously developed land. Paragraph 70 of The Framework advises that plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. The Council does not have a specific policy precluding the development of garden land for new housing, although both Policy DS01 of the CS and Policy SAL.DPL1 of the DPD seek to direct new development towards previously developed land.
9. The Council states in its Delegated Report that the presumption in favour of sustainable development set out in paragraph 11 of The Framework is engaged in this instance and I find no reason to disagree with this position. This being the case, the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The benefits of the development include the provision of a new dwelling in a sustainable urban location. Against this, the Council has raised concern with regard to only the impact upon the character and appearance of the area, but I have found that no harm would arise in this respect. Therefore, there are no adverse impacts that significantly outweigh the benefits of the development.
10. I conclude that whilst the development would not be undertaken on previously developed land and therefore would not meet with the primary objectives of Policy DS01 of the CS and Policy SAL.DPL1 of the DPD, the presumption in favour of sustainable development set out by The Framework is engaged. As I have identified that no adverse impacts would result from the development, the

proposal meets with the objectives set out by The Framework with respect to the presumption in favour of sustainable development.

Other matters

11. Representations have been received which raise concern with regard to highways matters (including parking), drainage and water pressure. However, based upon the representations from the relevant consultees and upon the information available to me, there is no evidence that harm would arise with respect to these matters. Whilst the construction of the dwelling is likely to cause a degree of noise and disturbance, this would only be a temporary occurrence, and does not justify the withholding of planning permission. Reference has been made to a previous refusal of planning permission at the dwelling opposite the site, however I have not been provided with any details of the circumstances of this. In any event, I am required to assess the appeal primarily upon its own merits and accordingly I have done so.
12. Concern has also been raised that the development would have an adverse impact upon living conditions through overlooking, loss of light and a loss of outlook. However, due to the scale of the development, in particular its single storey nature, and its positioning in relation to the nearest dwellings, the proposal would not in my judgement cause harm to living conditions. Reference has been made to inaccuracies on the plans with regard to No 27, however this existing dwelling does not fall within the appeal site. Covenants are private legal matters and therefore cannot carry any weight in the determination of this appeal.

Conditions

13. The Council has requested conditions relating to the time period for the implementation of the planning permission and with respect to the approved plans. I consider that both of these conditions are required to define the terms of the permission. Conditions relating to external facing materials and hard and soft landscaping are required in the interests of the visual amenity of the area. Details of boundary treatments are necessary in the interests of both visual amenity and the living conditions of the occupiers of adjacent dwellings. A condition relating to the provision of the new site access and parking areas is necessary in the interests of highway safety. I have reworded the Council's proposed conditions where appropriate, in the interests of precision.
14. A condition requiring the removal of all permitted development rights usually associated with a dwelling would not in my view be necessary or reasonable. However, permitted development rights would allow the future construction of a dormer with a clear glazed window to the rear roof plane and such a window would be in close proximity to the rear garden of the adjacent dwelling. Permitted development rights would also allow for a substantial part of the curtilage to be covered with extensions or outbuildings, and due to size of the amenity space available, it is necessary to prevent this from occurring. Conditions partially removing permitted development rights in the interests of protecting the living conditions of the future occupiers of the dwelling and of adjacent dwellings are therefore both reasonable and necessary.
15. The plans show a shed to the rear garden, however details of its full dimensions and appearance have not been provided. It is therefore necessary

to impose a condition requiring such details to be submitted to and approved in writing by the Council.

Conclusion

16. For the reasons given above, I conclude that the appeal, subject to conditions, should be allowed.

Graham Wraight

INSPECTOR

Schedule of 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 location plan, 3782-01B and 3782-02A.
- 3) No construction works above ground level shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the dwelling hereby permitted the access, pedestrian visibility splays and parking facilities, including cycle parking, shown on approved plan 3782-01B shall be provided. These areas shall thereafter be retained and kept available for their respective approved uses at all times.
- 5) Prior to the first occupation of the dwelling hereby permitted details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) hard surfacing materials;
 - iii) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities.
 - iv) an implementation programme.

The approved landscaping works shall be carried out in accordance with the agreed implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no dormer windows shall be constructed on the rear elevation of the dwelling hereby permitted.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the footprint of the dwelling hereby permitted shall not be enlarged or extended (with the exception of porches), nor shall any building, enclosure, swimming or other pool be constructed within its curtilage, other than the garden shed expressly authorised by this permission.
- 8) Prior to the erection of the garden shed, precise details of its appearance and dimensions shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.