
Appeal Decision

Site visit made on 4 December 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/P1615/W/19/3236768

Oakleigh, Brierley Banks, Brierley GL17 9DH

- 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 Cinderey Smith against the decision of Forest of Dean District Council.
 - The application Ref P0425/19/FUL, dated 15 March 2019, was refused by notice dated 16 August 2019.
 - The development proposed is the erection of 2 dwellings with associated parking and turning.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on i) living conditions of future occupiers of the appeal development with regard to provision of outside amenity space; ii) whether or not adequate arrangements would be made for the disposal of foul and surface water on the site; and iii) the character and appearance of the area.

Reasons

Living conditions

3. The appeal site forms part of the garden of the dwelling of Oakleigh. There is existing residential development to the north and south of the site and residential garden to the east. To the opposite side of the road is an area of mature woodland. The site slopes markedly downhill from north to south, is largely laid to hardstanding and is currently open to view from the adjacent footpath and highway.
4. The appeal proposal seeks to introduce a pair of detached two-storey, three-bedroom dwellings on the site that would front onto Brierley Banks with vehicular access from the lane to the south. Owing to their size I consider the appeal development would likely be occupied as family homes. The submitted plans indicate the provision of outdoor amenity space predominantly to the south of the dwellings.
5. From the details before me, the amenity space provided would be limited in its extent and below the 100 square metres recommended within the Council's

Residential Design Guide Supplementary Planning Guidance 1998 (SPG). In the case of plot 1, this would be bordered on two sides by vehicular highway and to the east by the proposed driveway serving the appeal development. Plot 2 would benefit from a garden of an irregular shape, partly to the south of the dwelling adjacent to the highway, parking and turning areas and partially to the east.

6. Owing to the position of much of the proposed garden areas adjacent to the road, particularly in the case of plot 1, this space would be open to view from the adjacent public highway and footpath, and subject to a lack of privacy. Furthermore, it would also be constrained between driveways and highways and subject of significant levels of noise and disturbance. Given this and their albeit modest shortfall in size relative to the quoted standard, I find, on balance, that the proposed outside amenity space would be of diminished practical use for future occupiers of the dwellings. I consider that it would not provide an attractive or satisfactory form of outdoor amenity space for future occupiers of the appeal development.
7. The appellant contends that the proposal would provide new planting inside the boundary wall that when mature would provide an effective screen. However, I do not consider that this would adequately mitigate the harm identified particularly in the short to medium term. Nor am I persuaded that an alternative form of enclosure would be appropriate without having significant character and appearance implications.
8. The appellant has provided details of an appeal decision, allowing planning permission for a single dwelling, indicating that the garden permitted was below the recommended size in the SPD and was not to the rear of the plot. Whilst some detail has been provided, I am not familiar with the specifics of the case or its relationship to the appeal site. In any event, I have determined the appeal on its individual planning merits. The existence of other similar developments within the area does not alter or outweigh the identified conflict with policy in this instance.
9. It has also been brought to my attention that there are other gardens within the vicinity that are open to view from the road. Although I acknowledge that there is some degree of variety in the nature and form of enclosure, these points do not, to my mind, justify allowing a proposal that would not adequately safeguard living conditions of future occupiers.
10. The Council's officers report also includes concerns with regard to privacy issues for future occupiers of plot 2 of the appeal development from the existing dwelling of Oakleigh and loss of privacy for occupiers of the neighbouring dwelling of the Haven. These matters are however not included within the reason for refusal. However, with the exception of a ground floor window serving the utility room the north facing elevation of plot 2 would be blank and as such I am not persuaded that this would result in an unacceptable relationship between the properties. Owing to the position and orientation of first floor openings within the appeal proposal and relationship with the dwelling of the Haven itself, I consider on balance there would not be an unacceptable loss of privacy for occupiers of this property.
11. Notwithstanding this however, for the above reasons, I conclude that the proposal would not accord with Policy AP4 of the adopted Forest of Dean Allocations Plan 2018 (AP) which seeks, amongst other things, development

which respects the amenity of residents and others. Conflict would also occur with Chapter 12 of the National Planning Policy Framework (the Framework), including paragraph 127 (f) that seeks a high standard of amenity for existing and future users and the guidance contained within Planning Practice Guidance (PPG) and the Residential Design Guide SPG.

12. I note that reference is made to adopted Forest of Dean District Core Strategy 2012 (CS) Policies CSP1 and CSP4 and AP1 of the AP within the reason for refusal relating to living conditions. However, having assessed the content of these policies I am not convinced that they are directly relevant to the related reason for refusal and as such attribute these little weight in determination of this issue.

Drainage

13. The submitted plans provide indicative detail of drainage arrangements although concern is raised regarding a lack of information to demonstrate that foul and surface water could be adequately dealt with within the confines of the site. The appellant contends that the site does not fall within an area of high risk from flooding or surface water risk and as such further details could be required by way of condition.
14. However, it is situated on a steep slope and the appeal development would significantly alter the characteristics of the physically constrained site. In the absence of technical evidence, I am not persuaded that it has been adequately demonstrated that necessary drainage facilities for the two proposed dwellings and the existing dwelling of Oakleigh, could be provided within the confines of the site. Furthermore, owing to the lack of technical details, I don't have sufficient evidence to demonstrate that the size or practical usability of any garden areas would not be further diminished by any drainage solution provided.
15. In the absence of further details that the appeal proposal would, at least in principle, be able to cater for foul and surface water drainage, I cannot conclude that in this regard the development would accord with Policies CSP1 and CSP 2 of the CS which seek, amongst other things, to control flood risk and pollution. The proposal would also fail to accord with the requirements of the Framework, including chapter 14, and advice contained within PPG.

Character and appearance

16. The appeal site currently forms a significant gap within an established residential frontage. The street scene has variety in terms of dwelling form and orientation with some, including Oakleigh, being side onto the road and others fronting onto the highway, with varying degrees of separation between existing dwellings.
17. Although it is contended that the dwellings would appear cramped on their plot and diminish views into the forest beyond, gaps would be maintained to the south of proposed plot 1 and between the pair of detached properties. Whilst I acknowledge that gaps through to woodland offer a degree of relief within an existing built up frontage, I have not been provided with details of any significance of this particular view. Furthermore, retained gaps between the proposed dwellings and with neighbouring properties would, to my mind, maintain visual permeability through the site to woodland to the rear. In this

regard I do not consider that the introduction of such built form would either be out of character with the street scene or unacceptably diminish views through the site.

18. For the above reasons, I conclude that the proposal would not cause harm to the character and appearance of the area. Therefore, it would accord with the character and appearance aims of policies CSP 1 of the CS, AP1 and AP4 of the AP. The proposal would also accord with the design requirements of Chapter 12 of the Framework and advice contained within PPG and the Council's Residential Design Guide SPG.

Other Matters

19. I acknowledge that the provision of two additional dwellings would be a benefit of the scheme. However, the harm I have identified above with regard to the main issues, outweighs any such benefit.
20. The appellant indicates that the proposal would not result in highway safety risk or an adverse impact upon biodiversity. These factors are however to be expected in such situations and do not outweigh the harm identified above with regard to the main issues.
21. None of the other matters outweigh or alter my conclusion on the main issue.

Conclusion

22. Although I have identified no significant harm to the character and appearance of the area this does not outweigh the harm including conflict with the development plan in relation to the main issues relating to living conditions and drainage. Accordingly, for the reasons outlined above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR