



Appeal Decision

Site visit made on 24 June 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal Ref: APP/M1005/W/20/3250762

36 West Avenue, Ripley, Derbyshire DE5 3JD

- 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 & Mrs Cordwell against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2019/1235, dated 12 December 2019, was refused by notice dated 17 February 2020.
 - The development proposed is construction of a new bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, and the effect on the living conditions of existing and future occupants in terms of external space, outlook and privacy.

Reasons

Character and appearance

3. The appeal site is a chalet bungalow occupying a corner plot at the junction of West Avenue and Charnwood Drive. The site has garden to front, side and rear, with a detached garage towards the centre of the rear garden facing toward Charnwood Drive. The immediate area has a suburban character with a mix of bungalows, chalet bungalows and two storey semi-detached dwellings set out in linear patterns within often spacious plots. The dwellings on West Avenue have deep rear gardens which at the appeal site provides separation between the built form on West Avenue and that on Charnwood Drive, adding to the sense of spaciousness in the immediate area.
4. The garage would be demolished and a bungalow constructed in its place. The bungalow would be modest in its footprint and positioned roughly midway between the existing dwelling and 2 Charnwood Drive, but would project forward of their respective side and front building lines and closer to the road. The bungalow would substantially infill the gap between the existing dwellings and due to its forward position and pitched roof, it would be significantly larger and more prominent in the street scene than the garage. Along with the creation of a combined four off-street parking spaces where there is presently only one, the proposal would result in a more cluttered arrangement to the

Charnwood Drive frontage which would harmfully erode the spacious layout of the site which contributes positively to the character of the area.

5. Moreover, the bungalow would not draw its form from that of its neighbours. It would be lower in height and smaller in footprint than surrounding development, appearing as a diminutive addition in comparison to the existing dwellings to either side. As a result, it would form an incongruous addition to the street scene which would detract from the prevailing scale and layout of the surrounding area.
6. My attention is drawn to development underway opposite the appeal site where a bungalow is being constructed to the rear of 38 West Avenue. I am not provided with full details of the site circumstances and material considerations taken into account by the Council in granting this development, but the Council points to it benefitting from a larger site compared to the present appeal site due to the inclusion of part of the rear garden of 40 West Avenue.
7. Although there are similarities in the nature and scale of both developments, there would also be differences in the position of the bungalows relative to adjacent dwellings and to each other. I also note that the opposite side of Charnwood Drive features smaller bungalows as opposed to the two storey semi-detached dwellings adjacent to the appeal site. Therefore, the scale of the bungalow opposite would appear more in line with adjacent dwellings, contrary to the diminutive scale of the appeal proposal relative to its immediate neighbours. The development opposite is an isolated infill scheme which would not justify a proposal which would itself be harmful to the characteristic spaciousness of the appeal site and prevailing scale and pattern of development within the immediate surroundings.
8. Therefore, I conclude that the proposed development would result in significant harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies LS3 and H12 of the Adopted Amber Valley Borough Local Plan 2006 (the Local Plan), which seek to reflect the principles of good design, by conserving or enhancing the quality and local distinctiveness of the built environment; respecting the character of the locality in terms of the scale, layout and nature of development, and taking account of the relationship between the development proposals and neighbouring buildings, and the spaces between and around those buildings.

Effect on living conditions

9. The retained dwelling at No 36 would have rear garden depth of 8.1m, which would fall short of the recommended depth of 10.5m set out in the Council's Residential Development Supplementary Planning Document (SPD) (October 2007), which adds that the minimum garden depth will normally only be relaxed in relation to single storey development whereby a reduction will not result in overlooking of other properties.
10. The occupants of No 36 presently look out at the side wall of the detached garage, but its low height and flat roof means there is still outlook beyond the garage and light to the rear windows and patio area is not severely obstructed. The bungalow would have a pitched roof, slightly wider footprint than the garage and would present a tall, blank gable wall to No 36, resulting in a larger and more imposing development at some 8m from the neighbouring rear windows. I acknowledge that No 36 would continue to benefit from front and

side gardens and, in spatial terms, the level of external space provided would be adequate. However, the rear patio is fenced in and offers the most private space within the curtilage of the dwelling, and the position and scale of the proposed bungalow would harmfully reduce the outlook from the rear windows and patio, increasing the sense of enclosure to the neighbouring property to the detriment of the living conditions of occupants of No 36.

11. I note the appellants' statement that a roof could be erected on the garage under permitted development. However, notwithstanding that no reason for doing this has been advanced, I am doubtful that such development would amount to permitted development, as the garage appears to stand within 2m of the boundary of the curtilage of the dwelling, where the height of a curtilage building is limited to 2.5m.¹ Moreover, whilst I recognise that the appellants themselves are the present occupants of No 36 and are clearly not opposed to the development, the planning system works for the overall public interest and I must have regard to the fact that the effects of the proposal would be permanent and would affect future occupants.
12. Turning to the proposed dwelling, it would have a rectangular side garden of some 6m width and nearly 9m depth which would offer versatile outdoor space. There would also be a 3m wide strip to the rear, and a smaller area of garden to the front. The dwelling would be a modest, one-bedroom development, for which a combined 117.18m² of external space would be more than adequate. Moreover, the plans indicate the side garden would be enclosed by fencing and there are no windows to the side elevation of 2 Charnwood Drive which would ensure users of the side garden would benefit from a private outdoor space. Whilst I note the Council's concern that overlooking could occur to the rear part of the garden from the upper window of No 36, this part is to the northern side of the dwelling and unlikely to be favoured by future occupants over the privacy and south-westerly aspect of the side garden.
13. For these reasons, I conclude that the proposal would be acceptable in respect of the living conditions of future occupants of the proposed dwelling. However, the proposal would lead to a harmful loss of outlook to occupants of 36 West Avenue, and so would conflict with saved Policies LS3 and H12 of the Local Plan which require new development to take account of the relationship between the development proposals and neighbouring buildings, and the spaces between and around those buildings and to not unduly affect the amenities or privacy of adjoining or adjacent properties. There would also be conflict with the similar aims of the National Planning Policy Framework which seek to secure a high standard of amenity for all existing and future occupiers of land and buildings.²

Planning Balance

14. The Council states that saved Policy H3 does not take account of the need to provide a supply of homes in the long term and in this respect is inconsistent with the approach to housing delivery in the Framework. However, on my reading, it is consistent with the Framework's encouragement of use of brownfield land. Given the Council states it can demonstrate a five year supply of deliverable housing land, this suggests the policy is not unduly constraining the delivery of housing within the Borough or preventing sustainable

¹ Schedule 2, Part 1, Class E, Paragraph E.1(e)(ii) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

² Paragraph 127

development within settlements. Moreover, I find that other policies most important for determining the application, namely Policies LS3 and H12, are consistent with the Framework and should also be afforded significant weight. Taking them together, I consider that the 'basket' of policies is not out-of-date for the purposes of Paragraph 11(d) of the Framework. Given this, and the Council's ability to demonstrate a five year supply of deliverable housing land, I find that the 'tilted balance' is not engaged in this case, and the proposal falls to be determined against the development plan, taking account of other material considerations.

15. I recognise that the proposal would add to the housing supply, and would be located within a defined settlement where occupants would be able to access and contribute to local services and facilities by means other than the private car. However, the benefit of an additional dwelling would be limited view the small scale of the proposal. Whilst I note the potential suitability of the dwelling for elderly occupants, in the absence of a mechanism to restrict its occupation to older people, the dwelling would be capable of general occupation. As such, this benefit attracts only limited weight in favour of the proposal. Benefits arising from construction activity and economic activity by future occupants would be similarly limited in scale.
16. The benefits of the proposal, taken together, would not amount to material considerations which would outweigh the significant harm to the character and appearance of the area and to the living conditions of occupants of 36 West Avenue and consequent conflict with the development plan, to which I afford significant weight, and would not justify a decision being made other than in accordance with the development plan, taken as a whole.

Conclusion

17. Therefore, the appeal is dismissed.

K Savage

INSPECTOR