



Appeal Decision

Site Visit made on 6 January 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2021

Appeal Ref: APP/V4630/W/20/3259725

3 Norman Road, Walsall WS5 3QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Avtar Soomal against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/0431, dated 17 April 2020, was refused by notice dated 21 August 2020.
 - The development proposed is demolition of an existing 2-bed bungalow and construction of a new 4-bed bungalow with loft accommodation.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Avtar Soomal against Walsall Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council has confirmed that it made its decision based on drawing nos. HH-002 Rev A and HH-003 Rev C. However, in the case of the first drawing, a revised drawing reference HH-002 Rev B has been submitted as part of the appeal. Correspondence from the appellant's agent to the Council indicates this drawing was provided to the Council prior to them issuing their decision. Given the bulk, form and appearance of the proposal is substantively the same on both drawings, no party would be prejudiced by me taking the most recent drawing, Revision B, into consideration as part of my assessment.

Main Issues

4. The main issues are the effect of the proposal on:
 - (a) the character and appearance of the area;
 - (b) the living conditions of occupiers of neighbouring dwellings at No 1 Norman Road and No 8 Greaves Avenue with particular regard to means of outlook and light;
 - (c) air quality; and
 - (d) if there is any harm identified under main issues (a), (b) or (c), whether such harm is outweighed by the personal circumstances put forward by the appellant.

Reasons

Character and appearance

5. Norman Road is characterised by a mix of mainly detached two-storey and single storey dwellings. Dwellings are generally set back from front boundaries and predominantly have roof forms which slope towards the highway. Where gables are provided to front elevations they are generally subservient in form. The existing dwelling on the appeal site and the row of dwellings that it sits within display these prevailing characteristics. The general consistency in the design and form of dwellings on Norman Road positively contributes to the character and appearance of the area.
6. The scale, form and mass of the gabled fronted design of the development would contrast considerably with the general appearance and prevailing roof forms of neighbouring dwellings on Norman Road. The disparity in the design approach would be made more prominent in the street by virtue of the position of the front elevation being set significantly forward of the neighbouring dwelling at No 5 Norman Road. For these reasons, the development would sit uncomfortably with its immediate surroundings.
7. My attention has been drawn to a gable fronted dwelling at No 27 Greaves Avenue. However, this particular dwelling sits within a row of similar gable fronted dwellings. Therefore, this example does not persuade me that the appeal proposal would successfully integrate with the street scene on Norman Road.
8. I conclude that the development would have significantly harmful effect on the character and appearance of the area. In that particular regard the development would conflict with the aims which seek that development makes a positive contribution to the quality of the environment taking account of its context and surroundings and respecting and enhancing local identity in Saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan (2005) (UDP) and Policy DW3 (Character) of the Designing Walsall Supplementary Planning Document (SPD) for Urban Design (2013).

Living conditions for neighbouring occupiers

9. The side elevation of the dwelling would be aligned with a substantial portion of the side boundary of the private rear garden of No 1 Norman Road. The development would be of a greater bulk and mass than the dwelling that it would replace. Even so, the roof would reduce in height towards the shared boundary with No 1. The distances quoted in the Council's report also indicate that there would be sufficient space between the development and the nearest facing window at No 1 to retain suitable levels of outlook. No 1 would also retain a relatively open aspect towards the boundary with the rear garden serving No 8 Greaves Avenue. These factors would combine to ensure that the development would not have an overbearing or enclosing impact on the windows or private garden area serving No 1 and that the occupiers of this property would also continue to receive adequate levels of daylight.
10. The development would only partially align with the rear boundary of No 8 Greaves Avenue. Given the overall depth of the rear garden at No 8 and the distance to the windows serving this dwelling, I am satisfied that acceptable

means of outlook and light would also be retained for occupiers of this neighbouring property.

11. I have assessed the potential relationship of the development with these neighbouring properties based on the evidence before me and from my observations on site. However, I also note the distance between the side elevation of the development and the nearest habitable windows facing the site would comply with the guidance in the Designing Walsall SPD for Urban Design. This further persuades me that the relationship of the development with neighbouring living conditions would be acceptable.
12. I conclude that the development would have an acceptable relationship with the living conditions of occupiers of the neighbouring dwellings at No 1 Norman Road and No 8 Greaves Avenue with particular regard to means of outlook and light. In those particular regards the development would accord with the aims which seek amongst other things to protect neighbouring living conditions in Policies GP2 and ENV32 of the UDP.

Air quality

13. The Council is concerned that an Air Quality Low Emission Scheme has not been provided and that it has not been demonstrated how the development will contribute towards improving air quality and reducing the Borough's carbon footprint.
14. Policy H1 of the UDP amongst other things promotes energy efficiency and other sustainability initiatives. However, the policy principally relates to the renewal of existing residential areas. The extracts of the guidance in the Black Country Air Quality Supplementary Planning Document (SPD) (2016) provided by the Council set out amongst other things that there are a variety of measures that can be incorporated into developments to mitigate air quality impacts and that the appropriateness of each measure for individual developments must be assessed on a site by site basis. The SPD confirms amongst other things that, as a minimum, new developments should include the provision of electric vehicle charging points and the installation of low NOx boilers.
15. There is nothing before me to indicate that the replacement dwelling would be likely to have more than a very marginal impact on air quality. The Council have also confirmed that these are matters that could suitably be dealt with by condition. I concur that this would be a proportionate method of ensuring that the development would adequately address air quality.
16. I conclude that subject to an appropriate condition the development would be unlikely to result in any material harm to air quality in the Borough and would comply with the sustainable aims of Policy H1, the Council's Air Quality SPD and the Framework.

Personal circumstances and the planning balance

17. Paragraph 12 of the Framework confirms amongst other things that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

18. I have concluded that the development would have an acceptable relationship with the living conditions of occupiers of No 1 Norman Road and No 8 Greaves Avenue. Measures to ensure that there would be no material harm to air quality could be secured by condition.
19. I have carefully considered the reasons why the appellants have applied for planning permission. The proposed dwelling would have the potential to provide enough accommodation for the appellant's elderly parents to live at the property, one of whom is disabled, and would also facilitate the provision of respite care for their sister and a cousin both of whom have a protected characteristic.
20. I have no doubt that the proposals would be of benefit to the appellant in providing support to their family. These are personal circumstances to which I afford weight in favour of the appeal. In weighing the personal circumstances in the balance, this has to be considered against the very significant effect that the development would have upon the character and appearance of the area.
21. I have given due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to the provisions of the Human Rights Act 1998.
22. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the character and appearance of the area can be reasonably safeguarded. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the appellant and their family members human rights. Therefore, whilst I acknowledge the personal circumstances of the appellants, these are not matters which outweigh the significant harm that would be caused by the proposal to the character and appearance of the area.
23. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the up-to-date development plan.

Conclusion

24. For the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR