



Appeal Decision

Site Visit made on 19 January 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2021

Appeal Ref: APP/R3705/W/20/3261679

42 Austrey Road, Warton, Tamworth B79 0HW

- 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 R Virk against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2020/0215, dated 3 April 2020, was refused by notice dated 6 October 2020.
 - The development proposed was originally described as 'Replacing of existing dwelling with 3 bed dormer bungalow'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have considered the appeal on the basis of the revised description of 'Replacing existing building with a 2 bedroom dwelling' which was agreed between the Council and the appellant during the planning application process and reflects the plans before me.
3. The planning application form refers to a 'Mr R Verk'. However, I have used the spelling of the appellant's name given on the appeal form, appellant's statement and the Council's decision notice for the purposes of my decision.
4. The Council suggests that it does not rely on the Saved Policies of the North Warwickshire Local Plan (LP) (2006). I acknowledge that the reasons for refusal refer solely to Policies from the North Warwickshire Local Plan Core Strategy (CS) (2014). However, as part of the suite of policies provided, Saved Policy TPT6 (Vehicle Parking) and accompanying Appendix 4 of the LP have been provided and are relevant to my considerations under the first main issue. The Council has also confirmed that the emerging Submitted Local Plan for North Warwickshire is still going through examination. Therefore, given I am unaware of any outstanding objections or requirements for modifications in respect of the emerging plan, I have assessed parking requirements under the currently adopted standards in the LP.

Main Issue

5. The main issues are:
 - the effect of the development on highway safety; and
 - whether the proposal would provide acceptable living conditions for future occupiers of the proposed development with particular regard to

privacy, the provision of private outdoor space, security, refuse storage and on-site parking facilities.

Reasons

Highway safety

6. The appeal site is situated within a predominantly residential area and fronts Austrey Road which forms part of the main arterial route through the village of Warton. Footways are provided either side of Austrey Road and the footway narrows where the existing building on the appeal site fronts the highway. The speed limit to the front of the site is 30mph and there are no parking restrictions. At the time of my visit pedestrian and vehicular traffic on Austrey Road was relatively frequent. There was not a high prevalence of vehicles parked on the highway close to the site. However, I acknowledge that this only provides a snapshot of the highway and parking conditions in the area.
7. Paragraph 109 of the National Planning Policy Framework (the Framework) states that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety'.
8. The proposed layout indicates that 2 off street parking spaces would be provided. Therefore, this would not exceed the maximum standard of 2 on-site parking spaces for a dwelling with 2 bedrooms or more as required by Saved Policy TPT6 (Vehicle Parking) and accompanying Appendix 4 in the LP.
9. The Highway Authority suggests that both spaces would need to be 4.8 metres (m) in depth and 3.0m in width but has not provided any adopted guidance which specify these dimensions. Even so, it was evident from my site visit that the parking area would be likely to be relatively cramped. However, it was clear that one vehicle would comfortably fit on the proposed parking area. This would still be within the maximum standards set out in the LP. Any residual on street parking associated with a single two-bedroomed dwelling would be unlikely to be at a level that it would result in any significant inconvenience for road users or give rise to an unacceptable impact on highway safety.
10. Drivers exiting the appeal site in a forward gear would be likely to have adequate visibility of any pedestrians or oncoming traffic approaching the site from the north. However, the position of the proposed dwelling with its front elevation abutting the footpath would significantly impede visibility towards the south. In that regard there would be the potential for vehicular conflict with pedestrians approaching the site from the south on this side of Austrey Road. The potential risks would be exacerbated in situations where vehicles were being reversing towards the highway. Therefore, in that particular regard the development would have an unacceptable impact on highway safety.
11. Notwithstanding the above, my attention has been drawn to the existence of a fallback position in respect of the established lawful use of the site as a car repairs garage. Even though a considerable period of time has passed since the building was last in that use, the building remains largely intact and would be capable of re-use with minimal intervention. On this basis, the use has not been abandoned and could recommence without planning permission. Sales particulars have also been provided which demonstrate that the site has been marketed with reference to its most recent use as a garage and repair business.

12. The footprint of the existing building is similar to the proposed dwelling. Associated vehicular activity with a car repairs garage would differ from a dwelling insofar as vehicular movements would likely be restricted to times where any business would be operational. The size of the site and associated building would also be likely to be self-limiting in terms of the scale of any such operation and the likely level of associated vehicular movements. However, the overall level of vehicle movements to and from the site and their relationship with highway safety would be likely to be comparable to those associated with the use of the site for a single dwelling. This represents a legitimate fall-back position to which I attach significant weight.
13. The Council is also concerned that window openings would overhang the pavement. If planning permission were to be granted, a condition could be attached requiring these windows to incorporate inward opening elements only or alternative forms of ventilation.
14. I conclude that the development would conflict with the highway safety aims of Policy NW10 (Development Considerations) of the CS. However, the impact of the development on highway safety would be neutral when the fallback position is taken into account.

Living conditions for future occupants

15. The main ground floor windows for the dwelling would be to the front elevation which would abut the footpath on Austrey Road. Therefore, in order to provide suitable levels of privacy for occupiers of the dwelling it is likely that these windows would need to be fitted with opaque glass or blinds. This would be detrimental to the means of outlook for occupiers and could not be compensated by windows being provided to the rear elevation given the close proximity of the rear boundary. The only other means of outlook would be a side window which would also be positioned in close proximity to the street and would face towards an area that would be likely to be occupied by parked vehicles and bins. Therefore, in trying to address a lack of privacy, this would be likely to lead to other issues in that occupant of the dwelling would not be provided with a suitable internal living environment.
16. The dwelling would not benefit from any private outdoor space. The appellant contends that there are parks and countryside nearby. Even so, the occupants of a two-bedroomed dwelling should reasonably expect to have some private garden for the purposes of sitting out, hanging out washing and outdoor storage including secure storage of bins away from the street. Therefore, the close proximity of public open space would not meet the reasonable needs of the occupiers of the dwelling.
17. There is no substantive evidence before me to persuade me that the development would be particularly susceptible to crime. The prominent position of the dwelling within the street would ensure that it would benefit from a reasonable level of natural surveillance. I am satisfied that the development would also be served by adequate on-site parking facilities having particular regard to the maximum standards in the LP referred to under the first main issue. Even so, the acceptability of the development in these regards does not overcome the other deficiencies identified in terms of living conditions for occupiers of the dwelling.

18. I conclude, when the issues of insufficient levels of privacy and a lack of private outdoor space are considered together, they would amount to very significant harm to the living conditions of future occupiers of the dwelling. In those regards the development would be contrary to the high quality, sustainable design requirements of Policy NW12 (Quality of Development) of the CS. The development would also conflict with Paragraph 127 of the Framework which amongst other things requires that development creates places with a high standard of amenity for existing and future users.

Other Matters

19. The specialist heritage advice provided during consideration of the planning application identified the existing building as a non-designated heritage asset. From what I saw on site and the evidence before me, I find no reason to disagree with this. I am also satisfied that the proposed rebuild would not undermine its significance insofar as its replacement would reinstate and retain some legibility in terms of architectural style. However, even if no harm would result from the perspective of preserving the historic environment, that is a matter of neutral consequence and does not outweigh my conclusions on the main issues.

Conclusion

20. I have found that the development would have a neutral impact on highway safety having regard to the fallback position on the site. The development would remove a derelict building and would also make a limited but positive contribution towards the Council's housing requirements.

21. However, occupants of the dwelling would not be provided with acceptable living conditions. This is a matter which attracts significant weight and tips the balance firmly against the proposal.

22. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the development plan and the Framework. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR