



Appeal Decision

Site Visit made on 5 March 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2021

Appeal Ref: APP/P1805/W/20/3262623

142 Crabtree Lane, Bromsgrove B61 8PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Executors of F M Lammas against the decision of Bromsgrove District Council.
 - The application Ref 20/00683/OUT, dated 15 June 2020, was refused by notice dated 20 October 2020.
 - The development proposed is erection of one residential dwelling (outline - all matters reserved except access).
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Decision

1. The appeal is allowed and planning permission is granted for erection of one residential dwelling (outline - all matters reserved except access) at 142 Crabtree Lane, Bromsgrove B61 8PQ in accordance with the terms of the application, ref 20/00683/OUT, dated 15 June 2020, subject to the conditions in the Schedule at the end of this decision.

Preliminary Matter

2. The application sought outline planning permission with approval of details of access. I have considered the access details provided but treated the information on layout and scale as being submitted for illustrative purposes.

Main Issues

3. The main issues are (i) the effect of the proposal on the character and appearance of the area, and (ii) the effect on the living conditions of occupiers of neighbouring properties in terms of outlook and light.

Reasons

Character and appearance

4. The appeal property is a bungalow with large front and rear gardens. The neighbouring property, 140 Crabtree Lane (No 140) is a 2 storey house on a narrower plot. On the other side of the site is a pair of semi-detached houses with 5 dwellings behind which form The Orchard. These residences are set back from the road but can be seen from Crabtree Lane across the frontage of the appeal property as well as from adjoining properties. The mix of house types and plot sizes as well as the different orientation and relationship of buildings to the highway give the area an interesting but irregular character.
5. The proposed dwelling would be alongside and follow the line of houses at the end of The Orchard. As such, it would reflect the established layout despite not fronting Crabtree Lane. The proposed plot would be similar in size to those on

The Orchard and so the development would not appear unusually cramped. Also, the existing bungalow would retain a back garden as well as the large front lawn. As such, the sub-division and loss of openness of the site would be compatible with the varied nature of properties in the locality. I understand The Orchard was built on arable land rather than garden but this fails to affect my view in this regard.

6. As it would be positioned to the rear, it is likely the development would be at least partly screened from the road by the existing bungalow. Therefore, it would not be prominent and would have no significant effect on the visual qualities of the public realm. Sensitive landscaping could be secured through a reserved matters approval to ensure the access visibility splays cause no harmful effect on the street scene.
7. For the above reasons, I conclude the proposal would not harm the character and appearance of the area. In these regards, it would accord with policies BDP7 and BDP19 of the Bromsgrove District Plan 2017 (DP) and the Council's High Quality Design Supplementary Planning Document 2019 (SPD). Amongst other things, these aim to ensure development integrates with its surroundings and is in keeping with the quality of the local environment.

Living conditions

8. As the site is already overlooked, it is probable that the proposal would be seen from the rear of No 140 as well as adjoining properties on The Orchard and Lynden Close. Also, it is likely to be visible from the rear windows and retained back garden to the appeal property.
9. However, the indicative plans show the site is large enough to accommodate a house set away from the boundaries and a significant distance from windows in nearby dwellings. The plans also indicate scope to provide additional boundary treatments that would help screen the building. Furthermore, as scale is a reserved matter, the proposal could be designed as a low level building.
10. The Council's concern that the scheme would not comply with the SPD guidance in respect of separation distances is based on the assumption it would be a 2 storey building located close to the back boundary. However, matters of layout and scale are reserved for future consideration. Given the position of nearby residences relative to the site, I am satisfied a low level dwelling could be designed and located so as to avoid excessive overshadowing and overbearing effects.
11. As such, I conclude the proposal would not harm the living conditions of occupiers of neighbouring properties in terms of outlook and light. In this regard, it would accord with DP policy BDP1 and the SPD which, amongst other things, requires consideration be given to a proposal's impact on residential amenity.

Other Matters

12. A number of other concerns have been raised. Ground floor windows in the proposed dwelling would not create new viewing angles onto neighbouring properties compared to the existing situation. A 2 storey or higher building may introduce additional overlooking from elevated windows. However, scale and appearance are reserved matters and so there is no reason why the

- development could not be designed as a single storey building or with first floor windows positioned so as to avoid an unacceptable loss of privacy.
13. Construction noise as a result of the proposal would be for a temporary period and it is unlikely to harm the living conditions of nearby residents given the scale of the development. There is no substantive evidence that traffic movement associated with the development would cause unacceptable noise disturbance or air pollution. Boundary treatments could be secured through reserved matters approval to prevent nuisance caused by car lights and to help prevent unauthorised entry onto neighbouring properties.
 14. On my visit I saw that trees to the front of the site have already been removed. Vegetation in the back garden would need to be cleared although this consists of small trees, bushes and shrubs that make no meaningful contribution to the character of the area. Also, compensatory planting could be secured through the landscape reserved matters condition. The appellant's ecological survey found it unlikely that the development would affect any protected species. A planning condition could be imposed to secure measures that protect and enhance the biodiversity value of the site.
 15. The plot is of a size to ensure sufficient garden space would be included to serve the needs of future occupiers as well as provide adequate parking and turning space. Also, a parking area is proposed to serve the existing bungalow and so it is unlikely the development would lead to additional on-road parking. The scheme would result in only a small increase in the use of the existing access and would enable vehicles to enter and leave the site without reversing. A condition could be imposed to improve visibility onto the road and so the development would not prejudice highway safety.
 16. There is no evidence that indicates the site is liable to flooding or that the development would exacerbate flood risk. Even if the site constitutes greenfield rather than previously developed land, I have been referred to no planning policy that precludes development on gardens. The Council has advised that it is unable to demonstrate a 5 year supply of housing land as required as a minimum under the National Planning Policy Framework. As such, the evidence suggests that there is a need for the proposal despite the fact that planning permission has been granted for residential development elsewhere.
 17. Representations have been made to the effect that the rights of nearby occupiers, under the Human Rights Act 1998, including Article 1 and Article 8 of the First Protocol, would be violated if the appeal were allowed. However, I have found that the proposal would not harm the living conditions of the occupiers of nearby properties. Therefore, the degree of interference that would be caused would be insufficient to give rise to a violation of rights under the First Protocol.
 18. I am unconvinced from the limited information provided that the proposal to add an additional storey onto the existing bungalow would result in the appeal scheme being unacceptable in any regard. In the absence of any substantive evidence to dismiss the appeal on this or any of the above grounds, the concerns raised do not override or affect my conclusions on the main issues.

Conditions

19. I have considered the list of conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for reasons of precision and to avoid unnecessary pre-commencement conditions. Also, while not suggested, I have imposed a condition setting out reserved matters submission and development implementation deadlines.
20. For reasons of clarity, I impose a condition that requires the access to be carried out as shown on the approved drawing but not the indicative plan. For highway safety reasons, conditions are imposed that require the provision and retention of pedestrian visibility splays as well as the access with bound surfacing, parking and turning facilities. A condition is also imposed to ensure measures are provided to protect and enhance the site's biodiversity value.
21. Conditions specifically requiring approval of external materials and landscape details are unnecessary as these are covered by the reserved matters conditions. Also, as none are proposed, there is no reason to include the suggested condition in respect of access gates.

Conclusion

22. For the reasons given I conclude that the appeal should succeed.

Jonathan Edwards

INSPECTOR

Schedule of Planning Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters"), shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The access to the development hereby permitted shall be carried out in accordance with the following approved plans: 3470/1 and 3470/2-500.
- 5) The development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of carriageway are provided on both sides of the access. The splays shall thereafter be maintained free of obstruction exceeding a height of 0.6m above the adjacent ground level.
- 6) The development hereby approved shall not be occupied until the approved access as well as parking and turning facilities as approved

under any reserved matters application have been fully provided. The first 5 metres of the access measured from the edge of the carriageway, shall be surfaced in a bound material. These facilities and areas shall thereafter be retained and only used for access and vehicular parking and turning purposes.

- 7) The development hereby approved shall not be occupied until details of measures to safeguard and enhance the biodiversity value of the site have been submitted to and approved in writing by the local planning authority. These details shall include information on bird nesting boxes, bat roosting boxes, terrestrial animals refugia and appropriate native species planting. The details thus approved shall be fully provided and implemented prior to the first occupation of the dwelling hereby approved and shall thereafter be retained.