



Appeal Decision

Site Visit made on 2 March 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/C4615/W/20/3260004

27 Shelton Lane, Cradley B63 2XE

- 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 Mrs Tracy Webb against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P19/1567, dated 31 October 2019, was refused by notice dated 25 March 2020.
 - The development proposed is erection of 1no. 2 bed bungalow on open ground.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1no. 2 bed bungalow on open ground at 27 Shelton Lane, Cradley B63 2XE in accordance with the terms of the application, Ref: P19/1567 dated 31 October 2019, subject to the conditions set out in the Schedule of this decision.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application. I have omitted the site address in the description of development as it is not an act of development.

Main Issue

3. The main issue is the effect of the proposed development upon the character and appearance of the area.

Reasons

4. The appeal site comprises a broadly triangular shaped parcel of land located on the junction of Shelton Lane and Stourdell Road. The site is partially fenced off from No 27 and has largely been cleared but still contains the remains of trees and perimeter hedging along the rear of the site. The site neighbours a wedge of open space on Stourdell Road which together results in a spacious open aspect on the corner.
5. The area is characterised by steep changes in levels with noticeable clusters of houses built on hillsides with pockets of trees and green spaces creating pleasant interludes between the built form. The area displays variety in terms of property design, plot size and shape, density and separation. The change in

levels combined with open spaces and varied built form results in a spacious and pleasant residential environment.

6. There is no doubt that the proposed development would alter the open aspect at the road junction. However, the bungalow would be set away from the corner and its position and modest scale would maintain a degree of openness, despite some erosion of the site resulting from the development. Furthermore, the neighbouring open space would remain unaffected continuing to contribute to the character of the area.
7. Whilst it is likely that the site would be enclosed there is no reason to suggest that an appropriate boundary treatment and planting scheme could not be secured by condition that would be appropriate to the character of the area.
8. The submitted Tree Survey recommends the removal of several trees. However, these trees have already been felled and I have nothing before me to suggest that they have been felled unlawfully. Since the trees have already gone, no difference could be made by withholding planning permission.
9. I conclude that the proposed development would not adversely affect the character and appearance of the area. As such it would accord with Policies CSP4, ENV2, ENV3 and HOU2 of the Black Country Core Strategy (2011) which, amongst other things, seek high quality design of the built and natural environment, development to preserve and where appropriate enhance local character and housing to take into account the characteristics and mix of uses in the area where the proposal is located.
10. It would accord with Policies L1 and S6 of the Dudley Borough Development Strategy (2017) which, amongst other things, require development to respect and respond to the context and character of the surrounding area.

Conditions

11. In addition to the standard time three-year limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty.
12. A condition relating to external materials, hard surfacing and boundary treatment has been imposed to ensure the satisfactory appearance of the development. A condition relating to the access, parking and turning areas has been imposed in the interests of highway safety. A further condition requiring details of electric vehicle charging points to be approved is necessary in the interests of sustainable travel.
13. In the interests of health I have imposed a condition regarding land remediation in the event that contamination is found during construction works.
14. The Council has suggested a condition for reinstatement of a hedgerow and replacement planting. However, I have found it necessary to reword the condition for implementation of a landscaping scheme to be submitted that complements the character of the area. I have also found it necessary to ensure that dead or diseased plants are replaced for 5 years following completion of the development.
15. The Council has suggested conditions for details of tree protection measures, submission of a detailed Arboricultural Method Statement, details of services

- and foul and surface water drainage layout and details of hard surfacing within the Root Protection Area of trees. However, as the trees on site have already been felled, I find that these conditions are not relevant or necessary.
16. The Council has suggested a condition requiring a method statement for the control of dust and emissions from the construction. However, I am not persuaded that such a condition is necessary or reasonable given the modest scale of the development.
 17. The Council has also suggested a condition for any gas boiler to comply with a specified emission concentration rate. However, no clear justification for the condition has been provided. As such I find it is not necessary and has not been imposed.
 18. The Council has suggested removing permitted development rights for the enlargement, improvement or other alteration of a dwellinghouse, construction of additional storeys, additions or alterations to the roof, the construction of a porch, or a building or enclosure incidental to the enjoyment of the dwellinghouse and hard surfacing falling within Classes A, AA, B, C, D, E and F of Schedule 2, Part 1 and gates, fences and walls and means of access to the highway falling within Classes A and B of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
 19. Paragraph 53 of the National Planning Policy Framework advises planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance I consider it would be unreasonable to impose such a blanket condition. In terms of alterations to the roof falling within Class C of the GPDO these would be small scale and would not adversely affect the living conditions of nearby occupiers. In addition, porches under Class D would be small scale and unlikely to harm the overall appearance of the development.
 20. Taking into consideration the condition imposed relating to boundary treatments and hard surfacing states that they must be retained for the lifetime of the development it is not necessary or reasonable to remove permitted development rights falling within Class F of Schedule 2, Part 1 and Class A of Schedule 2, Part 2 of the GPDO. In addition, no clear justification has been provided for the removal of such rights in respect of Class B of Schedule 2, Part 2 of the GPDO.

Conclusion

21. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing Number 1-248-001 Rev A; Block Plan Drawing Number 1-248-002 Rev D; Scheme Layout Plan Drawing Number 1-248-010 Rev B; Ground Floor and Roof Plan Drawing Number 1-248-011 Rev B and Elevations and 3D Views Drawing Number 1-248-012 Rev B.
- 3) No development shall commence above ground until details of the materials to be used in the construction of the external surfaces of the proposed development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence above ground until details of the hard surface materials and boundary treatments shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before any part of the development is first occupied and thereafter retained for the lifetime of the development.
- 5) The development hereby permitted shall not be first occupied until details of the access, parking and turning area have been submitted to and approved in writing by the local planning authority. Development shall then be carried out in accordance with the approved details, prior to the first occupation of the dwelling hereby permitted. The approved areas shall then be retained thereafter for the life of the development.
- 6) The development shall not be occupied until details of electric vehicle charging points have been first submitted to and approved in writing by the local planning authority. The electric charging points shall be implemented as per the approved details and shall thereafter be retained for the lifetime of the development.
- 7) The development shall not be occupied until details of the soft landscape works have been first submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and

submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouse, additions or alterations to the roof, or buildings or enclosures incidental to the enjoyment of the dwellinghouse falling within Classes A, AA, B and E shall be constructed.