



Appeal Decision

Site Visit made on 01 June 2021

by James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/C4615/D/21/3269357

7 Hillcrest Avenue, Brierley Hill DY5 3QJ

- 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 and Mrs B Foster against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P20/1590, dated 16 October 2020, was refused by notice dated 11 January 2021.
 - The development proposed is the construction of a free standing timber framed Granny Annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the occupiers of the proposed annexe accommodation and the appeal property, with particular regard to privacy; and
 - the effect of the proposed development on highway safety with particular regard to parking provision.

Reasons

Character and Appearance

3. The appeal site is occupied by a two-storey semi-detached frontage dwelling, typical of others in the immediate area, which is also characterised by single tier development. It has a large, open and undeveloped garden extending to its rear. The site is part of a rectangular block, formed by other dwellings that face onto Hillcrest Avenue, Church Street, Crescent Avenue and High Ercal Avenue. Together, and due to being tacked onto one another, the gardens to the dwellings form a large and uninterrupted green area, defining clearly the structure of built form to space in this cluster of dwellings. This layout contributes positively to the character of the area.
4. The proposed annexe would occupy a significant proportion of the appeal site's garden, significantly reducing its open feel and subsequently impinging on how the gardens together function as a large area of uninterrupted space. I accept that there are a number of outbuildings in these gardens. However, they

appear to be limited to sheds and storage buildings, clearly ancillary to the main dwelling and noticeably smaller in scale than the appeal scheme. I am mindful that the occupation of the proposed annexe could be subject of a condition ensuring it remained ancillary, but it is more the size, scale and location of the building that would be the cause of harm in my view. That said, some of this has been driven by the extent of accommodation that is proposed to be contained within it.

5. The building, whilst its occupation could be controlled, would have the appearance, scale, form and arguably function (due to a possible separate access) of a separate dwelling. As well as the above therefore, it would run against the single tier grain of development that defines the area. It would be of a backland type, appearing somewhat alien in the above context.
6. Given the height of the proposed development, it would project noticeably above fences that separate the appeal site from neighbouring gardens. The adverse effect the building would have on the defined character of the area, for the reasons I have given, would therefore also translate to one on its appearance, being visually prominent from a number of neighbouring gardens.
7. The proposed development would therefore be contrary to Policy ENV3 of the Core Strategy¹, Policies L1 and S6 of the Development Strategy² and Planning Guidance Note No. 17 House Extension Guide. Together, these policies and guidance require new development to respect and respond to the context and character of the surrounding area and be of a high-quality design which is appropriate in form, scale and mass.

Living Conditions

8. The distance between the proposed annexe and the rear of the dwelling would retain roughly half of the existing garden. This would, according to the appellant, be shared by the occupants of the dwelling and the annexe.
9. The Council's New Housing SPD³ prescribes minimum amenity space requirements for new housing. However, on the basis that the development proposed is annexe accommodation, designed around single occupation which would be ancillary to the main dwelling and not new housing in the true sense, I do not consider that the proposed development would necessarily need to adhere to them.
10. The garden space which would separate the proposed annexe from the main dwelling could be used by occupiers of both the main house and the annexe, as both would still be living within the same single planning unit. Even with the annexe, the length of the main part of the garden would measure approximately 13m, which would actually exceed the minimum garden length for a 4-bedroom dwelling as set out in the New Housing SPD. The retained garden would therefore provide adequate private amenity space for the occupiers of the appeal property and the annexe.
11. The Council has highlighted that the separation distance between the proposed annexe and the main house would be approximately 13m, which would fall short of the separation distance prescribed by the New Housing SPD and the

¹ The Black Country Core Strategy 2011

² The Dudley Borough Development Strategy 2017

³ New Housing Supplementary Planning Document 2013

Planning Guidance Note No. 17 House Extension Guide, which requires a minimum separation distance of 22m between front and rear facing windows to habitable rooms of separate dwellings. As above, given that the proposed development would be annexe accommodation to be used in conjunction with the main house and not a separate dwelling, these minimum separation distances need not be applied as rigidly. Any occupiers of the annexe would be living as part of the same household as those in the main dwelling, so no issue of overlooking or privacy would give rise to harmful effects.

12. The proposed development would therefore provide acceptable living conditions for occupiers of both the annexe and the existing dwelling and thus be consistent with Policy L1 of the Development Strategy, the New Housing SPD and Planning Guidance Note No. 17 House Extension Guide, which together require new development to avoid an unacceptable level of harm to the privacy of neighbouring dwellings.
13. Policy HOU1 of the Core Strategy (referenced in the Council's reason for refusal) sets out detail of proposed housing land supply over the plan period, so isn't relevant to the issue of private amenity space. Similarly, Policy ENV2 of the Core Strategy concerns the preservation of historic character and local distinctiveness, so again is not relevant to the level of garden space to be provided.

Highway Safety

14. With the addition of the proposed annexe, the appeal property would effectively have 4 bedrooms. Table 1 of the Parking Standards SPD⁴ says that a 4-bedroom dwelling should have a minimum of 3 dedicated parking spaces.
15. The appeal property currently has a compact driveway and adjacent garage at the front, providing a maximum of 2 dedicated parking spaces. However, as the Council has highlighted, neither the parking space nor the garage meet the minimum space standards prescribed by the Parking SPD to be considered useable. As per the Parking SPD, parking spaces should measure 3.3m by 5m and garages should measure 3m by 6m (internally). As per the Council's measurements, the on-site parking space at the appeal property measures 2.8m by 5.1m and the garage measures 3.1m by 5.1m.
16. Nonetheless, a car was parked on the driveway during my site visit, which does demonstrate that a vehicle can be comfortably parked there, irrespective of the size standards set out in the Parking SPD. Similarly, the garage appears capable of accommodating a car. Arguably, the appeal property can therefore accommodate 2 vehicles, leaving a shortfall of one dedicated parking space. It's possible that a shortfall of dedicated parking spaces to serve the appeal property could lead to a slight increase in on-street parking.
17. Where local factors permit, the Parking SPD does allow a deviation from minimum parking requirements, provided there is no detriment to highway safety. It was clear on my site visit that on-street parking was already common along Hillcrest Avenue. Due to the substantial width of the road and pavements, on-street parking did not appear to interfere with the free flow of traffic along the road, nor with pedestrian movement. Notwithstanding the shortfall of dedicated parking spaces to serve the appeal property were the

⁴ Parking Standards Supplementary Planning Document 2017

development to be carried out, I'm satisfied that the road could comfortably accommodate a slight increase in on-street parking without causing detriment to highway or pedestrian safety.

18. The proposed development would therefore be consistent with the Parking SPD and Policy TRAN2 of the Core Strategy, which ensure any transport implications of new development would not be to the detriment of highway safety.

Conclusion

19. Whilst I have found for the appellant in regard to the second and third main issues, these are each a lack of harm which, by definition, cannot be used to weigh against harm. That harm would be to the character and appearance of the area in the terms I have described it, which would result in conflict with the development plan. It is for this reason that the appeal should be dismissed.

James Blackwell

INSPECTOR