



Appeal Decision

Site Visit made on 10 August 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Appeal Ref: APP/C4615/W/21/3274157

Land at rear of 27 Bromsgrove Street, Halesowen B63 3JH

- 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 Hunnington Properties against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P20/1421, dated 24 September 2020, was refused by notice dated 1 March 2021.
 - The development proposed is the erection of a new bungalow, garden and parking space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new bungalow, garden and parking space at land at rear of 27 Bromsgrove Street, Halesowen B63 3JH in accordance with the terms of the application, Ref P20/1421, dated 24 September 2020, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - the living conditions of the occupants of 27 Bromsgrove Street and the future occupants of the proposal, with regard to privacy and outlook.

Reasons

Character and Appearance

3. The site is on the edge of a relatively high density residential area and is accessed from an existing track that rises steeply up from Bromsgrove Street (the A459). The access track continues past the appeal site to adjacent houses that are set behind a boundary wall and gate, the closest house of which appears prominent in views up the track. Due to the rise in ground levels the rear elevations of houses on Glendale Close are visible from the track, their rear gardens adjoining the site. There are a variety of house styles in the vicinity of the site such that no one style appears particularly dominant, with a mix of hipped and gable roofs and a range of brick colours and render. Along Bromsgrove Street, views between houses are generally of other houses on higher ground behind. The topography is such that this is typical of the locality and contributes to its high density feel.

4. The proposal would make use of the existing access track, and as such its access would not appear contrived. The proposed dwelling would front on to the rear of No 27, within land that currently forms part of its rear garden. However due to the difference in ground levels between the appeal site and No 27, the proposal would appear more as a separate plot, distinct from the generally linear pattern of development along Bromsgrove Street, rather than appearing contrary to it. The scheme is well located within its plot such that it would maintain a good degree of separation from its boundaries. For example, a distance of 3.1m is shown between the proposed front elevation of the bungalow and the boundary with the garden of No 27. As such I find that it would not appear unduly cramped within its plot.
5. Nearby properties generally appear as two storey, however due to the rising ground levels the proposed bungalow would fit neatly into the hillside and would appear as a positive addition, helping to bridge the gap in heights between No 27 and the properties higher up the track. Its simple L-shaped form and hipped roof would not jar with the varied styles in the immediate vicinity.
6. Consequently, I find that the proposal would not harm the character and appearance of the area. It would therefore accord with Policies CSP4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy (2011), and Policy L1 and S6 of Dudley Borough Development Strategy (2017) which, amongst other matters, generally seek to ensure developments deliver high quality design that enhances local character. For these reasons it would also accord with paragraph 130 of the Framework which seeks to ensure developments are sympathetic to local character. Similarly, the proposal would be consistent with the aims of the New Housing Development Supplementary Planning Document ('SPD') (2013) which is designed to ensure new residential development respects local character.

Living Conditions

7. The extent to which the proposal would affect the privacy of the occupants of the house and garden at No 27 would be highly limited by a proposed intervening close boarded 1.8m high fence along the length of the adjoining boundary. Given the single storey nature of the proposal, views of No 27 and its garden from within the proposed dwelling and its adjacent garden would consequently be minimal. Similarly, with the boundary fence in place, the potential for views into the proposal's house and garden from No 27 would also be highly limited. Consequently, privacy of the future occupants of the proposal's house and garden would be similarly protected. I therefore find that the proposal would not be harmful to the living conditions of the occupants of No 27, or the future occupants of the appeal scheme, with respect to privacy.
8. The proposed development provides dual aspect rooms that are shown as living/dining/kitchen space, with single aspect bedrooms, one facing onto its rear garden and the other to the front. Whilst the front facing window would look towards the proposed boundary fence, there would be a distance of over 3m of intervening garden. As such, I am satisfied that the outlook from all its rooms would be acceptable.
9. Views from ground floor and first floor front and side facing windows at No 27 would be unaltered as a result of the proposal. A distance of over 16m would remain between the ground floor window at No 27 and the front elevation of

the appeal building, and a distance of over 13m at first floor level. Whilst this breaches the separation distance of 22m between front to rear facing windows as specified in the New Housing Development SPD (2013), as already described, the potential for direct visibility or overlooking from the appeal site into No 27 would be minimal. Moreover, rear facing habitable room windows at No 27 are limited to one at ground floor level (indicated as a dining room on submitted floor plans) and one first floor bedroom window. From these windows, little more than the roof form of the proposed dwelling would be visible over the proposed boundary fence.

10. Consequently, the simple form of the proposed single storey building would not appear overly dominant from the rear facing bedroom window at No 27, even taking into account the sizeable change in ground levels between No 27 and the appeal site. Whilst the rear garden of No 27 would be shortened, that the scheme maintains sufficient garden space for the occupants of No 27 is not a matter in dispute. In any event houses along Bromsgrove Street do not have long range views from their rear elevations or gardens due to the size of their plots and position on sloping ground. For these reasons, although views from the house and garden at No 27 would not be completely unrestricted, I find that the change to outlook from a limited number of rear facing windows and the garden of No 27 would not be so significant as to have an unacceptable effect on living conditions for its occupants.
11. Concluding on this matter, the proposal would not harm the living conditions of the occupants of No 27 or the future occupants of the proposal with respect to privacy or outlook. It would therefore accord with Policy L1 of the Dudley Borough Development Strategy, which supports development on previously developed land on sustainable sites, subject to certain criteria. This includes being of an appropriate design, not harming living conditions of neighbouring occupants with respect to matters such as privacy and outlook, and providing suitable living conditions for its future occupants.
12. For similar reasons, the proposal would also accord with paragraph 130 of the Framework which seeks to ensure developments achieve a high standard of amenity for existing and future users. Whilst the proposal falls short of one criteria in the SPD with respect to separation distances between front and rear facing elevations, I conclude that it nevertheless meets the aspirations of the SPD overall, including protecting the privacy and outlook for existing occupants.

Other Matters

13. I am aware that there is currently an extant planning permission allowing for the erection of a new dwelling adjacent to No 27, and the appellant has made reference to this in their appeal submission. The Council has not raised any concerns as to the effects of the appeal scheme on the approved development, should it be built out, and from my site visit observations, I agree with this approach.

Conclusion and Conditions

14. Having considered the current proposal in light of the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

15. The Council suggested conditions in the event the appeal is successful, and I have considered these and amended them as necessary, without altering their meaning, in light of the Framework and Planning Practice Guidance. In addition to the standard time limit condition, it is necessary to specify the approved plans as this provides certainty. In order to minimise disruption to adjacent residents I have included a condition specifying hours of construction. I have also included a condition requiring details of the parking area to ensure an adequate system for drainage of that part of the site is provided. Conditions requiring approval of details of landscaping and external materials are required to protect the character and appearance of the area.
16. I attach a condition requiring details of car charging (to maximise sustainable travel choices), bin stores (to avoid adverse effects on neighbouring living conditions), and boundary treatment (to protect living conditions of neighbouring occupants and those of the appeal scheme). A condition requiring details of site access is required in the interests of highway safety. A condition requiring compliance with an emission specification for any gas boilers to be installed is required to protect air quality. Finally, a condition removing permitted development rights for alterations to the building is appropriate in this instance, to protect the character and appearance of the locality and living conditions of neighbouring occupants.

Rachel Hall

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 510/100A; 510/101A; and 510/102.
- 3) Construction works shall take place only between 07:00 to 18:00 Monday to Friday and 08:00 to 17:00 Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
- 4) No development of the parking area shall take place until details of permeable materials to be used in its construction or a sustainable drainage system for that area shall have been submitted to and approved in writing by the local planning authority. Those details shall include arrangements to secure their effective operation for the lifetime of the development. The parking area shall be surfaced and laid out and any approved sustainable drainage details implemented prior to first occupation of the development hereby permitted, and retained thereafter for the lifetime of the development.
- 5) No development shall commence (excluding site clearance and initial ground works) until there shall have been submitted to and approved in writing by the local planning authority a scheme of soft landscaping. The agreed scheme shall be carried out in accordance with the approved details in the first planting season following the first occupation of the development. 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.

- 6) No above ground development shall commence until details of the type, colour and texture of the materials to be used in the construction of the external surfaces for the development hereby approved shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) The development hereby approved shall not be occupied until
 - i) an electric vehicle charging point for the future occupants of the dwelling;
 - ii) the types, sizes and locations of boundary treatments, including the boundary between the site and 27 Bromsgrove Street; and
 - iii) the bin stores,have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Upon implementation, the details specified in this condition shall thereafter be retained and maintained as such for the lifetime of the development.
- 8) The development shall not be occupied until the site access, together with parking area within the site, have been laid out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The approved details shall include access lines, widths, levels, gradients, cross sections, drainage and lighting and once implemented shall be retained thereafter for the lifetime of the development.
- 9) Any gas boilers installed within the development hereby approved must meet a dry NO_x emission concentration rate of <40mg/kWh.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no extensions or additions to the dwellinghouse, or alterations or enlargements to the roof (Classes A - D of Part 1, Schedule 2 of the GPDO) shall be carried out without the express grant of planning permission.