



Appeal Decision

Site visit made on 26 October 2021

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/Q4625/W/21/3274320 52 Woodlea Drive, Solihull B91 1PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Lynch against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2021/00074/VAR, dated 21 December 2020, was refused by notice dated 9 March 2021.
 - The application sought planning permission to erect replacement dwelling without complying with a condition attached to planning permission Ref PL/2020/01065/MINFDW, dated 22 July 2020.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 5728/01C.*
 - The reason given for the condition is: *To ensure compliance with the approved plans and details to safeguard amenity and the quality of the environment in accordance with Policy P14 and P15 of the Solihull Local Plan 2013.*
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Decision

1. The appeal is allowed and planning permission is granted to erect replacement dwelling at 52 Woodlea Drive, Solihull B91 1PQ in accordance with the application PL/2021/00074/VAR made on 21 December 2020 without complying with conditions Nos 1, 2, 3 and 8 set out in planning permission PL/2020/01065/MINFDW granted on 22 July 2020 by the Solihull Metropolitan Borough Council, but otherwise subject to the conditions set out in the schedule at the end of this decision.

Background and Main Issue

2. At the time of my site visit the dwelling had been erected. This appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.
3. The appellant is seeking the variation of condition No 1 to allow the alteration of the approved plans to align with the dwelling as built. These alterations include a steeper pitch to the main roof, a section of flat roof, changes to the roof lights, and the reduction in depth of the front projections. The local planning authority are of the view that the scale, mass, and design of the development resulting from the changes are out of character with the immediate setting of the site and the wider area.

4. The main issue is therefore the effect varying the condition has on the character and appearance of the host building and its surroundings.

Reasons

5. The appeal site is within a residential area that is characterised by relatively large, detached dwellings of varying styles, size and heights which are set back from the road by deep gardens and driveways. During my observation on site, I noted a number of local properties which, whether by their original design or later alterations, stood out as feature properties within the street scene.
6. The site itself contains a detached dwelling which is somewhat taller than, and different in style to, the neighbouring properties. However, this primarily stems from the design of the original permission. Whilst the steeper pitch of the main roof may have resulted in additional bulk, this is very limited in relation to the scale of the property as a whole. Moreover, the section of flat roof and the reduced depth of the front projections, in comparison to the extant permission, limit the overall visual bulk and massing of the building taken as a whole. Given the variety of roof heights in the area, the additional height of the host dwelling's roof above the neighbouring properties is not an incongruous or harmful feature within the street scene.
7. Notwithstanding the example at No 31 Woodlea Drive, from my observations on site, I find that flat sections of the main roof are not a typical feature within the street scene. Nevertheless, the flat roof before me is not a prominent feature given its siting back from the road, and the park to the rear of the property, and is only glimpsed when viewed at an angle. Therefore, given the limited scale and visibility of the flat roof, I find that it is not a harmful or intrusive feature within the street scene. Moreover, the changes to the roof lights would be very limited and not detrimental to the character and appearance of the area.
8. In light of the above, the alterations to the plans agreed under permission PL/2020/01065/MINFDW are not harmful to the character and appearance of the host dwelling or its surroundings. They therefore comply with Policy P15 of the Solihull Local Plan which, amongst other things, requires that development is of a high quality design which respects the surrounding built environment and conserves the local character and streetscape quality. The proposal also complies with the overarching design aims of the National Planning Policy Framework (the Framework).

Other Matters

9. I do not find that the differences between the approved scheme and that before me are so significant so as to unacceptably affect the living conditions of neighbouring occupiers by way of overshadowing. Moreover, there is no substantive evidence that the proposal has adversely affected the neighbouring solar panels to the north of the development.
10. While I note concerns regarding the content of the original application and plans being misleading, it is not my place to consider the motivations of the appellant and as such this matter has not been determinative in this appeal. On the evidence before me I have found that the development does not harm the character or appearance of the area. With regards to provision of parking, the

development before me has no more bedrooms than that approved under the original planning application.

11. It is possible that similar development may be proposed in the surrounding area and I understand the concerns regarding a precedent being established. However, I have found that the development is not harmful and each proposal must be considered on its own merits.

Conditions

12. I have had regard to the conditions attached to the original permission and those suggested by the Council as well as the advice on planning conditions set out by the Framework and the Planning Practice Guidance (the PPG). In the interest of clarity and enforceability I have made some changes to the wording.
13. In the interests of enforceability and certainty, a condition is required setting out the approved plans. The conditions that limit permitted development rights for new windows and require some windows to be obscure glazed are still relevant and so I have also reimposed them.
14. However, as the development has been carried out, the standard three year commencement condition is no longer relevant. Moreover, from the evidence before me and my observations on site I find that the external materials are suitable and that a condition requiring their provision in accordance with details first submitted and approved by the Council is unnecessary.
15. It was clear during my site visit that construction works had been completed and so a condition requiring the protection of vegetation during the construction process is no longer relevant or necessary.
16. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

17. For the reasons given above, and having regard to the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out above.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plan numbered: 5728/01H

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), no windows or other openings shall be inserted in the side elevations of the development hereby permitted at first floor level.
- 3) The first floor windows to be installed in the side elevations facing Nos 50 and 54 Woodlea Drive shall be obscurely glazed, and non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall thereafter be permanently retained in that condition.
- 4) The development hereby approved shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing material. Soft landscape works shall include planting plans; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of 5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place within the next planting season (October-March), unless the Local Planning Authority gives its written consent to any variation.
- 6) The development hereby approved shall not be first used or occupied until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.