
Appeal Decision

Site Visit made on 25 October 2021 by B Phillips BSc MSc MRTPI

Decision by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/C4615/W/21/3278246

136 Lyde Green, Halesowen, B63 2PF

- 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 J Brookes against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P20/1753, dated 12 November 2020, was refused by notice dated 8 January 2021.
 - The development proposed is the erection of a 1 bed dormer bungalow (following demolition of existing garage) (resubmission of P19/1714).
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a 1 bed dormer bungalow (following demolition of existing garage) (resubmission of P19/1714) at 136 Lyde Green, Halesowen, B63 2PF, in accordance with the terms of the application, Ref P20/1753 dated 12 November 2020, subject to the conditions set out in the schedule below.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are the effects of the proposed development on the character and appearance of the area and highway safety, with particular regard to access.

Reasons for the Recommendation

Character and appearance

4. The appeal property is sited on the corner of Lyde Green and Wesley Avenue, which is a short cul-de-sac running parallel behind this part of Lyde Green. This part of Wesley Avenue has a number of detached single storey garages facing the road, including an existing garage at the rear of and serving the appeal property.
5. Black Country Core Strategy (CS) (2011) Policy HOU1 requires at least 95% of all housing development to take place on previously developed land (PDL). Whilst the appeal site, comprising a residential garden, does not meet the

Framework¹ definition of PDL, the policy preamble also recognises that additional capacity will come forward including 'other sites' which are likely to include residential intensification sites, '*subject to policy sustainability and detailed site considerations.*'

6. The New Housing Development Supplementary Planning Document (2013) (SPD) specifically sets out an example of appropriate garden land development. It describes as appropriate development which retains sufficient garden space whilst maintaining the character and layout of the area, within close proximity to local services and reflecting the existing settlement pattern and the resulting plot sizes. The Council raise no issue with the proximity of local services, and I have no reason to disagree in this respect.
7. The proposed dwelling, replacing the existing garage, would have a direct road frontage and therefore would not represent backland development, despite being located to the rear of the appeal property. It would sit in keeping with the linear pattern of highway fronting dwellings along both Lyde Green and Wesley Avenue and the surroundings.
8. There are no other independent dwellings on this short part of Wesley Avenue and as such it is slightly different to the surrounding streets, however, it is residential in character and neighboured by dwellings to the north and south. In this context, the proposed dwelling would not appear out of place. Moreover, there is a mix of dwelling type and height in the immediate vicinity, with two and three storey properties and some dormer bungalows evident. As such, the proposed bungalow would not appear out of place, particularly given the single storey garage structures along this part of Wesley Avenue, including the structure that the proposed dwelling would replace.
9. Whilst the appeal property and its eastern neighbours have lengthy rear gardens, there is a large variety in plot sizes within the vicinity of the appeal site, including along Wesley Avenue, and as such, the proposed development would reflect the form and grain of existing surrounding development.
10. It is concluded that the proposal would maintain the character and appearance of the area in accordance with CS Policies CSP4, HOU1, HOU2, ENV2 and ENV3, in addition to Policy L1 of the Development Strategy (2017) (DS), which collectively seek to ensure that, amongst other criteria, proposed housing understands local distinctiveness and positively responds to and enriches site context and local character. These policies are consistent with the Framework and the National Design Guide (2019), which, amongst other matters, requires development to be sympathetic to local character, in addition to the advice set out in the SPD.

Highway Safety

11. The proposed dwelling would be served by an existing access serving the garage building. The Council have raised no issue with this arrangement, and I have no reason to disagree.
12. Whilst unclear on the plans, the Council set out that the additional parking space proposed directly next to the new dwelling is to be used by the existing host property, and the appellant has not disagreed with this. The proposed parking space would be closer to the host property than the existing garage,

¹ National Planning Policy Framework (2021)

and access is provided through a gate into the rear garden. The parking space would therefore be close by and accessible to the occupiers of the main property and would not necessarily result in street parking to the side of the dwelling.

13. As set out above, a number of existing parking spaces with dropped kerbs are accessed off this part of Wesley Avenue. These parking spaces and the access to a parking area on the western side are constrained by tall boundary treatments which limit visibility.
14. The proposed boundary treatment along the highway south of the new access, of 1.8m high brick wall and fencing, would be the same height as existing. This would limit visibility to the south, however, this is similar to the existing access areas on this part of Wesley Avenue. Pedestrians and highway users therefore would anticipate and would be aware of the possibility of car manoeuvres. In addition, on this side of the road, the substantial width of the pavement means that there is a high probability that drivers using the parking area would be able to see other users of the highway clearly and vice versa.
15. The likely frequency of vehicle movements to and from the access associated with a 1 bed dwelling would also be low. The risk of conflict between pedestrians and vehicles using the parking area would also therefore likely be low, even when including the street cabinet sited next to the new parking space that would reduce visibility to a limited extent to the north.
16. In view of the above, I conclude that the proposal would not undermine highway safety. Consequently, there would be no conflict with the highway safety objectives of, in particular, DS Policies L1 and S17, in addition to the advice set out in the Parking Standards Supplementary Planning Document (2017) (Parking Standards SPD).

Conditions

17. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal is allowed. Conditions relating to the start date of development and compliance with the application plans are necessary in the interest of clarity. In addition, I agree that a condition requiring details of materials to be agreed is also necessary in the interest of the character and appearance of the locality.
18. A condition requiring the submission of a construction method statement is considered necessary, in order to help minimise the negative effects of construction phase on neighbouring occupiers. For similar reasons, a condition limiting construction working hours is also necessary.
19. A condition securing details (and implementation) of hard landscaping, and including the parking spaces, is considered necessary, in the interest of the character and appearance of the locality and highway safety. For the same reason, in addition to securing privacy, detail of the boundary treatment is also considered necessary.
20. Whilst it is stated that the appeal site is located within an Air Quality Management Area, it is not demonstrated why specific control relating to gas boilers is necessary or reasonable in this area or for this development.

21. However, the CS Policy ENV8 sets out clearly that vehicular traffic is the main contributor to poor air quality in the Black Country, and the Parking Standards SPD sets out that an external charging point shall be provided adjacent to at least 1 parking space for each dwelling. As such a condition requiring the implementation of a charging point is appropriate and necessary.
22. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. Given the limited height of the proposed dwelling, the Council have not provided this clear justification and as such the suggested condition removing permitted development rights and preventing any further windows is not considered appropriate.

Conclusion and Recommendation

23. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be allowed with the suggested conditions.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree that the appeal should be allowed with the conditions set out in the Schedule.

Hollie Nicholls

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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: GD2107.02A, GD2107.04A, GD2107.05, GD2107.06A.
- 3) No development above damp proof course level shall commence until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted 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.
- 4) The dwelling hereby approved shall not be occupied until details of the hard landscape works 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 and thereafter retained as such.
- 5) No development above damp proof course level shall commence until details of the accesses into the site, together with parking areas [including details of widths, levels, gradients, cross sections and drainage] have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the accesses into the site, together with parking areas within the site have been laid out in accordance with the approved details. These areas shall thereafter be retained and not be used for any other purpose for the life of the development.
- 6) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority detailing measures for the control of dust and emissions arising from the demolition and construction of the development. As this condition is necessarily required prior to any development commencing, it has been agreed by the appellant. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 7) Prior to the occupation of the development hereby approved, details of all boundary enclosures shall be submitted to and approved in writing by the local planning authority. The approved details shall be carried out and thereafter maintained within 3 months following their approval.
- 8) No development above damp proof course level shall commence until details of the electric vehicle charging points, to be provided for the dwellings in accordance with the Council's standards (Parking Standards SPD), has been submitted to and approved in writing by the local planning authority. Prior to first occupation the electric vehicle charging points shall be provided in accordance with the approved details and shall be maintained for the life of the development.
- 9) Construction works shall not take place outside the hours of 07:00 to 18:00 hours Mondays to Fridays and 08:00 hours to 17:00 hours on Saturdays nor at any time on Sundays or Public Holidays.