



Appeal Decision

Site visit made on 22 February 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/D1835/W/21/3286598

344 Bath Road, Worcester WR5 3EZ

- 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 Rod Palfrey against the decision of Worcester City Council.
 - The application Ref 20/00869/FUL, dated 13 November 2020, was refused by notice dated 30 September 2021.
 - The development proposed is the subdivision of garden and erection of a detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of garden and erection of a detached dwelling at 344 Bath Road, Worcester, WR5 3EZ in accordance with the terms of the application, Ref 20/00869/FUL, dated 13 November 2020, subject to the conditions set out in the attached schedule.

Applications for Costs

2. An application for costs was made by Mr Rod Palfrey against Worcester City Council. This application is subject to a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on a) the safe use of the highway; b) the effect of the proposed development on the character and appearance of the area; and c) biodiversity with specific regard to designated green space.

Reasons

Highway safety

4. The proposed development would utilise an existing access. My visit to the appal site was a snapshot in time in regard to highway conditions but it was reasonable to conclude that levels of traffic would increase during peak hours. The crux of the matter for the Council and in regard to this main issue was that the intensification of the use of the existing access, which had substandard visibility for such, would not be appropriate. The evidence before me shows a widened access and visibility splays of 50 metres in both directions
5. Bath Road is heavily trafficked but, the access would be out on to a straight section of road with no on street parking. The proposal would increase the opening of the access to approximately 4.5 metres. This combined with the cross over would provide opportunity for any vehicles exiting the site to see any approaching vehicles and vice versa. There is a hedge to either side of the

access, which could impact on visibility should it become overgrown, however a condition could be imposed requiring the visibility splay to remain free from obstruction. Additionally, approximately 60 metres to the north of the appeal site is a speed camera, therefore vehicles are generally slowing down when moving towards the access.

6. With the above in mind, vehicles utilising the proposed access would have good visibility and the net increase in use of the access by a single dwelling would not have a harmful impact on highway safety. Accordingly, I find no conflict with paragraph 111 of the National Planning Policy Framework (the Framework) which seeks to ensure that development does not have an unacceptable impact on highway safety.

Character and Appearance

7. The appeal site is located within a predominantly residential area characterised by a mix of detached and semi-detached dwellings of different architectural designs, set back from the road and even spaced, providing a pleasant spacious and uniform environment. Neighbouring the site to the south and west is a children's hospice, however due to landscaping and set back is not immediately visible from Bath Road. The appeal site comprises part of a large private garden to the side of 344 Bath Road and is designated as Green Space within the South Worcestershire Development Plan (DP) along with nearby land and buildings which link to the River Severn. Existing on the appeal site are a number of outbuildings and dilapidated structures.
8. Policy SWDP 38 of the DP identifies that Green Space includes a range of private and public open spaces and associated community facilities. The purpose of the policy is to protect Green Space from development unless exceptional circumstances are demonstrated. In this case, the development of the appeal site with a single dwelling would not fall within any category of the exceptions set out under this policy. The proposal therefore conflicts with Policy SWDP 38.
9. The appellant has drawn my attention to a certificate of lawfulness¹ for a detached outbuilding, containing a home office, gym and storage area, on the site. As the appellant has had plans drawn up and recently gained a certificate of lawfulness for the building, it is likely that this development would occur in the event that this appeal is dismissed. Although Policy SWDP 38 does not prevent a householder from exercising their permitted rights, this fallback position is clearly a matter which I need to consider, particularly with regard to its effect upon the purpose of the Green Space designation.
10. The supporting text to Policy SWDP 38 explains that Green Spaces contribute to biodiversity, the character of the area and provide a sense of openness and space. I observed that whilst the appeal site contributes to the open and spacious qualities of the area, this is limited due to the existing outbuildings and dilapidated structures located on the site. The development of the site with the permitted and not insignificantly scaled outbuilding would change the appearance of the appeal site and would reduce the sense of openness and space in this part of Bath Road. I attach significant weight to this fallback position.

¹ 20/00148/CLPU dated 2nd April 2020

11. The appeal proposal would see the removal of a number of existing structures from the site. Whilst the proposed dwelling would have a larger footprint than the approved outbuilding, the appellants' submission details that with the removal of existing structures, the area of land covered by development would only be a 1 square metre increase. Although the proposed dwelling would be two storey, when combined with the removal of other structures, its impact on the openness and spaciousness of the area would not be significantly greater than the permitted scheme and existing outbuildings.
12. The new dwelling would sit in a spacious plot, be of modern design, matching the neighbouring dwelling, and its relationship to the highway and nearby dwellings would respect the spacious and attractive qualities of the area. Although the proposal would reduce the amount of open Green Space in this location, when combined with the proposed removal of existing outbuildings that reduction would not be significantly greater to that which would result if the permitted outbuilding were constructed upon the site. Accordingly, the proposal would not significantly change the essential character and appearance of the area over and above the permitted scheme on the site. Open, undeveloped space around the building would be retained and views across the appeal site to the wider area of Green Space beyond would be apparent from Bath Road.
13. The proposal would conflict with Policy SWDP 38 of the DP. However, it would not have a meaningfully greater impact on the Green Space designation than the fallback position. Additionally, the scheme would accord with paragraph 130 of the Framework that seeks developments that are visually attractive and are sympathetic to local character.

Biodiversity

14. In terms of the biodiversity value of the appeal site, an undeveloped site would be likely to have more biodiversity value than a developed site, however the appeal site has a number of outbuildings and domestic paraphernalia and as such cannot be considered to be undeveloped. Additionally, I have not been provided with evidence that details the value of the appeal site to biodiversity in the area.
15. The Council are concerned that the proposal, and associated activities, would impact local biodiversity. Whilst lighting would be additional, this can be sensitively designed to reduce any impact. The submission details that new lighting would be designed to avoid increasing illumination of the site and would follow the principles laid out in the 'Bats and Artificial Lighting in the UK' (2018). Whilst the proposal would see the loss of three trees, it also proposes additional landscaping in the form of tree and hedgerow planting and wildflower planting. Additionally, bat boxes would be included in the proposed dwelling. Such features would be likely to provide habitats and support a number of species. Consequently, I consider that the proposal would result in an enhancement to biodiversity.
16. As noted above, the proposal conflicts with Policy SWDP 38, however it would not have a significantly greater impact on the Green Space designation than the permitted scheme on the site. Additionally, the proposal would contribute to and enhance the natural and local environment. Accordingly, I conclude that despite the conflict with the development plan that these matters are material

considerations which indicate that the development should be permitted in this case.

17. The proposal would conflict with Policy SWDP 38 of the DP. However, it would not have a meaningfully greater impact on biodiversity impacts than the fallback position. I conclude that the scheme would accord with paragraph 174 of the Framework that seeks to ensure that development minimises impacts on biodiversity.

Other Matters

18. The proposed dwelling would be adjacent to the southern boundary of properties along Norton Close, that benefit from south facing gardens. The distance of the proposed dwelling from the boundary of neighbouring properties would ensure that there would be no harmful overshadowing. Additionally, the windows in the side elevation, facing the rear of properties on Norton Close, would be small and serve a utility room at ground floor and a bathroom at second floor. Whilst the window at first floor could increase the perception of overlooking, the effect of this could be mitigated through a condition requiring obscure glazing.
19. I note the comments of the Council's Drainage Officer pertaining to an existing surface water drainage issue. I have therefore attached a condition relating to thereto, ensure that the site drains, as a minimum, at its current rate and does not increase any surface water run-off.
20. Whilst the comments regarding archaeological remains have been noted, I have not been provided with any cogent evidence that the site is of archaeological importance or that archaeological remains are likely at this site.
21. From reviewing the submission, I note that a small section of the appeal site appears to be unregistered. Whilst this area does fall within the appeal site, the area of land is very small and located in the north east corner of the site. Nevertheless, matters related to the ownership of the land would be separate to and would not ultimately influence the assessment of the planning merits of the proposal.

Conditions

22. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). The appellant has viewed these conditions and whilst broadly agreeing, have suggested some alterations. I have altered the wording of some conditions in order to ensure they comply with the PPG.
23. I have attached conditions relating to time limit and plans for clarity. Boundary treatment and biodiversity conditions are necessary in order to ensure the hard landscaping and biodiversity mitigation is completed and maintained. I consider an amended landscaping scheme necessary in order to ensure native trees are planted as part of the scheme. A condition regarding surface water drainage to be necessary in order to ensure that there is no increase in surface water run off. Conditions regarding improving the access, maintaining visibility and the provision of cycle storage are necessary in order to ensure a safe access and to promote the use of alternative methods of travelling. Landscaping and biodiversity conditions are necessary in order to ensure the proposed landscaping and biodiversity mitigation is completed and maintained.

Conditions regarding energy saving are required in order to comply with the Council's policies on energy consumption and sustainability, however I have amended these as details have been provided with the submission.

24. With regards to the Council's request for a condition requiring further details of external materials, a schedule of material is included on the elevational drawings of the proposed dwelling. As such, I see no reason that this condition should be included. I have given careful consideration to the inclusion of the condition removing permitted development rights. Having had regard to the PPG's advice on the inclusion of such restrictions, the proposed development, whilst currently having a similar impact on the Green Space to the fallback position, if extended or outbuildings developed could significantly reduce the available Green Space. As such, I consider the condition to be necessary.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

1. The development must be begun not later than the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 1152.A01 Rev A, 1152.D01, 1152.D02, 1152.D03 Rev A.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additions, extensions or external alterations, buildings or enclosures other than those expressly authorised by this permission shall be constructed on the application site.
4. Prior to the commencement of the development hereby permitted, a scheme for surface water drainage shall be submitted to, and approved in writing by the local planning authority. Prior to submission of the scheme an assessment shall be carried out into the potential of disposing of surface water by means of a sustainable drainage system (SuDS), and the results of this assessment shall be submitted to and approved by the local planning authority. If infiltration techniques are used then the plan shall include the details of field percolation tests. There shall be no increase in surface water run-off from the site compared to the existing preapplication greenfield run-off rate and cater for up to a 1 in 100 year storm event plus 40% allowance for climate change. The scheme shall provide an appropriate level of runoff treatment. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. Where a sustainable drainage scheme is to be provided, the submitted details shall: i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; ii. include a timetable for its implementation; iii. provide a management and maintenance plan for the lifetime of the development which shall include robust arrangements to secure the operation of the scheme throughout its lifetime.
5. Details of the proposed boundary treatments including any gates, walls or fences shall be submitted and approved in writing by the local planning authority prior to commencement of the above ground works. The approved boundary treatments shall be implemented prior to occupation of the buildings and retained thereafter.
6. A revised landscaping plan shall be submitted and approved in writing by the local planning authority prior to commencement of above ground works. Details of landscaping shall include existing vegetation to be retained and trees and plants to be planted (including native plant species) and no

invasive species with a schedule detailing sizes and numbers of all proposed trees/plants.

7. 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 buildings 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.
8. The development hereby permitted shall not be first occupied until the window on the side (northern) elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
9. The measures set out in the Biodiversity Enhancement Plan and Bat Surveys and Mitigation Strategy shall be implemented in full prior to the first occupation of the dwelling hereby permitted and retained as such thereafter.
10. The access as detailed on drawing no. 1152.SK12 Rev D shall be implemented in full prior to the first occupation of the dwelling hereby approved and retained as such thereafter. The visibility splays shall remain free of any obstruction exceeding a height of 0.6m above the adjacent ground level.
11. The development hereby permitted shall not be first occupied until sheltered, secure and accessible cycle parking to comply with the Council's adopted Streetscape Design Guide has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter the cycle parking shall be kept available for the parking of bicycles only.
12. The details set out in the Energy Statement by Avon Solutions shall be implemented prior to the first occupation of the dwelling hereby permitted and shall remain operational for the lifetime of the development.
13. An Ultra-Low NO_x boiler with maximum NO_x Emissions less than 40 mg/kWh shall be installed prior to the first occupation of the dwelling hereby permitted.