



Appeal Decision

Site visit made on 26 April 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/D4635/W/21/3289097

161 Castlecroft Road, Finchfield, Wolverhampton WV3 8LU

- 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 Judith Starr against the decision of Wolverhampton City Council.
 - The application Ref 21/01234/FUL, received by the Local Planning Authority 20 August 2021, was refused by notice dated 2 December 2021.
 - The development proposed is the demolition of existing bungalow and erection of dormer bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing bungalow and erection of a dormer bungalow at 161 Castlecroft Road, Finchfield, Wolverhampton WV3 8LU in accordance with the terms of the application Ref 21/01234/FUL, received by the Local Planning Authority 20 August 2021, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers at 163 Castlecroft Road, with particular regard to privacy.

Reasons

3. The existing dwelling, which is the subject of this appeal (No.161), follows a largely consistent front building line with adjoining properties which extend in an easterly direction towards The Avenue and steadily taper towards Castlecroft Road. In contrast, No.163 Castlecroft Road (No.163), on the opposite side of the appeal dwelling, is set well back from the road, clearly distinct from the siting of properties to the east, with its frontage largely in line with the rear of the appeal dwelling.
4. The replacement dwelling would have an enlarged footprint which, front to back, would largely mirror the footprint of 159 Castlecroft Road (No.159), although extending slightly deeper into its rear garden. As a consequence, the proposed dwelling would extend back to be almost fully alongside No.163 and be sited slightly closer to it.
5. I noted on my visit that the gable of No.163 facing the appeal proposal has a narrow first floor window and a window of similar width on the ground floor, both almost centrally placed in the gable. A timber fence primarily forms the property boundary between the houses with this giving way to a tall hedge between the rear gardens. Although no plans are before me to identify exactly the relationship of the proposed side-facing window to bedroom 3 with those in

- No.163, I noted on site that these windows would be offset, so there would be little intervisibility between them. In any case, the appellant has suggested a willingness to provide obscure glazing which would avoid any loss of privacy.
6. The occupants of No.163 appear to enjoy a high degree of privacy in their rear garden as dwellings to either side are bungalows, and it does not currently appear to be overlooked. Due to the position of the proposed dormer to bedroom 3 on the roof and the alignment with its garden, views would be predominantly directed southerly across its own rear garden. Whilst there may be a limited degree of overlooking of the garden of No.163, the position of the dormer and distance from the adjoining garden would prevent occupants looking across the whole of its garden, ensuring that it retains a degree of privacy, especially towards the house's rear elevation.
 7. There is no objection from the Council to the principle of rebuilding or the general design, size and siting of this replacement dwelling. I consider that the limited degree of overlooking possible from bedroom No.3 would not be significant and it is reasonable for the property in this position to have views over its own garden from the first floor. Similarly, I find that there would not be an unacceptable degree of overlooking from the rear dormers towards No.159 and its rear garden.
 8. The proposal would extend further back so there may some overshadowing of the side windows of No.163. However, the space between the dwellings and the southerly aspect of the rear elevations will ensure that loss of light and overshadowing will not be significant.
 9. I find there would be no harm to the living conditions of the neighbouring occupiers at 163 Castlecroft Road, with particular regard to privacy. The proposal would accord with the objectives of the 2021 National Planning Policy Framework (the Framework), which seeks to ensure that living conditions are not harmed. Nor would there be any conflict with the development plan policies and Supplementary Planning Guidance cited by the Council.

Conditions

10. Conditions requiring the time period within which the planning permission may be implemented, and for development to be carried out in accordance with the approved plans are necessary in the interests of certainty.
11. Conditions regarding materials, levels, landscaping and boundary treatments are necessary in the interests of protecting the character and appearance of the area and the living conditions of occupiers of adjacent dwellings. A condition requiring details of the disposal of foul and surface water will ensure that the site is suitably drained.
12. A condition regarding operational hours for the construction period is required to protect the living conditions of surrounding residents, and a condition regarding an electric vehicle charging point is necessary in the interests of protecting the air quality.
13. The Council has suggested restricting permitted development rights to prevent further extension of the proposed dwelling without prior planning permission being obtained. The Planning Practice Guidance says that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. I have no substantive evidence that an extension

would be harmful. Accordingly, the suggested condition is unnecessary and unreasonable and would not therefore meet the tests for conditions set out in the Framework. I do, however, consider that it is reasonable and necessary to attach a condition to secure the obscure glazing to the side window.

14. I have made some changes to the Council's suggested conditions and timings for the submission of information in the interests of clarity and consistency, and to ensure compliance with the Framework and Planning Practice Guidance.

Conclusion

15. For the reasons given above, having considered the Framework and the development plan as a whole and taking into account all other matters raised, I conclude that the appeal should be allowed.

G Bayliss

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing site location plan (dated 2 June 2021), Proposed Elevations (Drawing 21.310.11), Proposed Floor Plans and Section AA (Drawing 21.310.10) and Proposed Block Plan (Drawing 21.310.BP).
- 3) Prior to the construction of the new dwelling details of the materials to be used externally in the construction of the proposed dwelling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the construction of the new dwelling details of all proposed excavations, and existing and proposed site and slab levels shall be submitted to and approved in writing by the local planning authority. These details shall include the proposed grading of land areas including the levels and contours to be formed, showing the relationship of proposed levels to existing surrounding landform and buildings and areas required for drainage purposes. Development shall be carried out in accordance with the approved details.
- 5) Prior to the construction of the new dwelling details of the landscaping of the site (including hard surfaces, boundary treatments and wherever appropriate the retention of existing trees) shall be submitted to, and approved in writing by the local planning authority. The approved landscaping scheme shall be fully implemented within one year of either the first occupation or use of the development or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the Local Planning Authority.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), areas of soft landscaping shall not be replaced by the provision of a hard surface, nor shall they be used for parking or storage, unless otherwise agreed in writing by the local planning authority.
- 6) Prior to the construction of the new dwelling details of all proposed and retained boundary treatments (including all walls, fences and other means of enclosure on the boundaries of and within the site) shall be submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be provided prior to occupation of the dwelling and thereafter retained at all times.
- 7) Prior to the construction of the new dwelling details for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the occupation of the dwelling hereby permitted and thereafter shall be maintained as such.

- 8) No work relating to the construction of any development hereby permitted (including works of demolition) shall take place other than between 0800 and 1800 Monday to Friday, 0800 to 1300 on Saturday or at all on Sundays or Bank and Public Holidays.
- 9) Prior to the occupation of the development hereby permitted, details of charging facilities for electric vehicles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling hereby permitted and shall thereafter be maintained as such.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other revoking, replacing and re-enacting that Order with or without modification) the side-facing window to bedroom 3 shall be obscurely glazed unless 1.7 m above the interior first floor level, with restrictors fitted to allow opening for fire egress only.