



Appeal Decision

Site visit made on 10 May 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2022

Appeal Ref: APP/V4630/W/21/3289058

Land adjacent 74 to 76 High Street, Moxley WS10 8SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Anthony Igaroola against Walsall Metropolitan Borough Council.
 - The application Ref 21/0614, is dated 19 April 2021.
 - The development proposed is an additional two bedroom two storey unit joined onto one of the approved terraces under application ref. 18/0677.
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Decision

1. The appeal is dismissed, and planning permission for 'additional two bedroom two storey unit joined onto one of the approved terraces under application ref. 18/0677' is refused.

Procedural Matters

2. The appeal was made following the failure of the Council to give notice of their decision on the application within the statutory period. The Council have confirmed that were they to have issued a decision, they would have refused planning permission. I have been provided with what would have been their reasons for refusal as part of their Statement of Case, which the appellant has had opportunity to comment upon.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - whether the proposed development would provide acceptable living conditions for future occupiers, and for occupiers of the neighbouring residential property, with particular regard to outlook, light and the provision of suitable outdoor amenity space.

Reasons

Character and Appearance

4. The appeal site is located within an area comprising a mix of uses, including residential, retail and commercial. The site is split into two parts which sit either side of six substantially completed but currently un-occupied terraced dwellings approved under planning permission Ref 18/0677. Nearby residential

properties consist of a range of styles and designs including detached, semi-detached and terraced properties which predominately front onto the public highway, with their private amenity space located to the rear. The site is bounded to the east and north by a premises currently occupied by a car sales and car repairs business, and fronts onto High Street.

5. The western section of the appeal site utilises the vehicular access and parking area previously approved in relation to the terraced dwellings, whilst also seeking an additional parking space for the proposed dwelling. The proposed two storey dwelling would be constructed on a broadly triangular parcel of land between the end terrace and the business premises to the east. The proposed dwelling would be built adjoining the existing terrace gable end, therefore extending the row of terraced dwellings.
6. Whilst the width, height and appearance of the proposed dwelling would mirror the terraced dwellings it would adjoin, there would be little separation distance between the proposed development and the business premises to the east. In particular, the height and close proximity of the rear wall of the business premises would result in the proposed dwelling appearing cramped, awkward and an uncomfortable form of development.
7. Although the proposed dwelling would run flush with the front elevations of the adjoining terraced dwellings, its rear elevation would be noticeably stepped back from the adjoining rear elevations. Whilst I acknowledge that this design seeks to overcome the reasons for refusal of previous planning application (Ref 20/1257), including reducing its proposed footprint to increase the amount of external amenity space available, the proposed design only further exacerbates the cramped and awkward appearance of the proposed development.
8. Due to the size, shape and layout of the appeal site, a large percentage of its proposed private amenity space would be situated to the side and front of the dwelling, at odds with the prevailing character of nearby residential properties. Consequently, and by virtue of its location immediately at the back of the footpath running along the busy throughfare, this amenity space would be particularly exposed and open to views from the street. A bin store and bicycle store are also proposed in this area, which would add visual clutter and result in further harm being caused to the character and appearance of the area.
9. The proposed development would therefore conflict with saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan (2005) (UDP), Policy ENV3 of the Black Country Core Strategy (2011) (BCCS) and Policy DW3 of the Designing Walsall Supplementary Planning Document (SPD). These policies, amongst other things, seek to ensure that developments achieve an appropriate visual relationship with adjacent areas, the street, and the character of the surrounding neighbourhood.

Living Conditions

10. The proposed dwelling would be located in close proximity to the business premises which abuts the sites boundary to the east and north. Whilst there are no windows proposed in the side elevation of the appeal dwelling, by virtue of its height and proximity, the rear wall of the adjacent business premises would have an overbearing and oppressive impact when viewed from rear facing habitable rooms of the proposed dwelling, creating an unwelcomed

sense of enclosure and confinement. Consequently, I find that the proposal would achieve a poor standard of outlook to the detriment of future occupiers.

11. Furthermore, given the proximity of the adjacent business premises and the orientation of the proposed dwelling, the amount of natural light that would reach the rear facing habitable rooms would be severely limited, adversely affecting the living conditions of future occupiers. This situation is further exacerbated in relation to the living room at first floor level, whose only window would be on the rear elevation of the property.
12. Appendix D of the SPD sets out various guidance for residential developments, including that private gardens should be 12 metres in length or a minimum area of 68 square metres. The submitted layout plan details that the private amenity space associated with the proposed dwelling falls just short of the stated minimum area, with 35 square metres provided to the rear, and a further 30 square metres located to the side and front of the dwelling.
13. The area of amenity space located to the front of the proposed dwelling would be exposed and open to views from the public highway, and therefore I consider that the useability of this space is likely to be very limited. Additionally, the remaining amenity space to the side and rear of the property would be dominated and largely enclosed by the adjacent business premises and the appeal property itself, resulting in an unsatisfactory standard of private amenity space.
14. Although the proposal would see the end terrace dwelling lose a large amount of its private amenity space, with the retained space falling short of the area stipulated within the SPD, it would nevertheless be of a similar size and shape to the rear amenity spaces of neighbouring residential properties. Similarly, whilst the rear amenity space of the proposed dwelling would be near to the rear habitable rooms and private amenity space of the end terrace dwelling, the layout of the rear amenity spaces is one typically found at terraced dwellings. I do not consider therefore that the proposed development would give rise any undue noise and disturbance or result in the living conditions of the existing end terrace dwelling being unduly harmed.
15. Whilst I find that no harm would be caused to the living conditions of occupiers of the end terrace dwelling, this is a neutral factor and does not diminish the unacceptable standard of living conditions for future occupiers of the proposed dwelling.
16. I therefore conclude that the proposed development would fail to provide an acceptable standard of living conditions for future occupiers, with particular regard to outlook, light and the provision of suitable outdoor amenity space. The development would therefore conflict with saved Policies GP2 and ENV32 of the UDP, Policy ENV3 of the BCCS, and Policy DW3 and Appendix D of the SPD. These policies, amongst other matters, seek to ensure that new development takes account of its context and surroundings and ensure that all occupants have a satisfactory level of amenity.

Planning Balance

17. The Council has confirmed that it cannot demonstrate a deliverable housing land supply of 5 years. Therefore, the most important policies for the determination of the application are out of date and I am taken to paragraph

11 (d) (ii) of the National Planning Policy Framework (the Framework), which sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

18. I have found that the proposed development would cause harm to the character and appearance of the area and to the living conditions of future occupiers. This harm would be long lasting, and as such I ascribe it substantial weight. It would be contrary to the aims of the Framework in regard to its requirements for high quality and add to the overall quality of the area whilst also providing a high standard of amenity for both existing and future occupiers, as specifically set out by section 12.
19. The proposal would provide economic and social benefits through the construction phase and the additional contributions of the occupiers to the local economy. The one new dwelling would also contribute to the supply of housing and the Council's shortfall. Given the scale of the proposed development contributions would be modest and in some cases time limited. As such, I ascribe these benefits limited weight.
20. I also acknowledge that the property is located within an existing settlement, and thus future occupiers would have good access to services. This would however need to be the case for the principle of the proposed development to be acceptable. It would, in any event, be a lack of harm rather than a benefit to the scheme.
21. With that in mind, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent sustainable development for which the presumption in favour applies.

Conclusion

22. The proposal would conflict with the development plan, when taken as a whole, and there are no material considerations, including the approach of the Framework, which would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

David Jones

INSPECTOR