



Appeal Decision

Site visit made on 24 May 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 16 June 2022

Appeal Ref: APP/D1835/W/21/3289906

40 Coombs Road, Worcester WR3 7JG

- 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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Roger Hughes of Newfield Homes Ltd against Worcester City Council.
- The application Ref 21/00886/REM is dated 29 September 2021.
- The application sought planning permission for demolition of existing single storey extension and garage and erection of 3 bedroom house to side of existing house, without complying with a condition attached to planning permission Ref 21/00092/FUL, dated 5 July 2021.
- The condition in dispute is no.2 which states that "The development hereby permitted shall be carried out and completed in accordance with the following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission – 05 Rev c Proposed Block Plan; 01 Location Plan; 02 Rev A Proposed Plans; 03 Rev A Proposed Elevations; 04 Rev A Street Elevation; Rev D Proposed Block Plan; Water Management Statement; Energytest Energy Statement; 02 Proposed SAP; 01 Baseline SAP; 05 Rev D Proposed Block Plan; Water Management Statement"
- The reason given for the condition is "to ensure compliance with the approved scheme".

Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing single storey extension and garage and erection of 3 bedroom house to side of existing house, at 40 Coombs Road, Worcester WR3 7JG, without complying with condition 2 previously attached to planning permission Ref 21/00092/FUL, dated 5 July 2021, but subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council have subsequently confirmed that they have no objection to the proposal, subject to conditions.
3. By varying the list of plans under condition 2, the appellant seeks to amend the design of the previously approved development. Previously approved plans (referenced 02 Rev A - Proposed plans; 03 Rev A - Proposed Elevations; 04 Rev A - Street Elevation; and 05 Rev D Proposed Block Plan) would be substituted with amended plans (referenced 2137/P/01).

4. Externally, the proposed amendments consist of a modest single storey projection added to the front and a revised window layout. A shed and cycle stand would be moved back within the site. There are also internal layout changes. The proposed amendments would result in a dwelling that was not substantially different from the one that was approved, so the proposal can be considered to be a minor material amendment.
5. In accordance with Section 73 of the Town and Country Planning Act 1990, I shall consider only the question of the conditions subject to which planning permission was granted. I cannot undertake a complete re-consideration of the original application.
6. I have considered objections raised by interested parties only in so far as they relate to the proposed amendments to the plans listed under condition 2. Objections were raised regarding overlooking and the appearance of the proposal. These matters form the basis of the main issues for this appeal.
7. At the time of my site visit, the previously approved development had commenced, with the single storey side extension to the existing dwelling having been demolished and the foundations for the new dwelling in place. The location of the new dwelling is not proposed to change.

Main Issues

8. The main issues are the effect of the development proposed under the amended plans on:
 - The character and appearance of the surrounding area; and
 - The living conditions of neighbouring occupants, with regard to privacy.

Reasons

Character and appearance

9. Coombs Road is predominantly residential, consisting mainly of semi-detached dwellings. Whilst the scale is relatively consistent, the dwellings feature a variety of external materials and detailing, with many appearing to have been altered or extended. This gives the area a mixed character and appearance.
10. The location and general scale of the dwelling subject to this appeal would be unchanged from that which was previously approved. The approved scheme remains a fallback position. The proposed pitched roof single storey front projection would be modest and in proportion to the rest of the dwelling. There are other similar front projections in the immediate streetscene. The proposed amended windows would remain in proportion to the dwelling and the layout gives the front elevation a balanced appearance. The design of the dwelling proposed under the amended plans would therefore be appropriate to the context and would integrate effectively with the surrounding area.
11. Moving the shed and bike stand further into the site, next to the bin store, would reduce clutter visible from the street. The relocation to an area which previously contained a garage, would not necessitate the removal of additional vegetation. The amended location would be taken into account in the consideration of the landscaping scheme required under a condition.

12. I conclude that the development proposed under the amended plans would not have a detrimental impact on the character and appearance of the surrounding area. Consequently, the proposal would comply with policy SWDP 21 of the South Worcestershire Development Plan, which amongst other things, seeks to ensure that buildings are well designed and make a positive contribution to the visual quality of the environment.

Living conditions - Privacy

13. The separation distances and orientation mean that the amended windows in the front and rear elevation of the proposal will not have an unacceptable impact on neighbouring privacy. The size and location of the amended windows would allow no significantly greater overlooking of neighbouring properties than the previously approved windows. The amended plans also include a small ground floor window in a side elevation and a high level rooflight to the rear. The ground floor window would serve a toilet and any minor overlooking would be blocked by boundary treatments. The size and location of the rooflight means that it would not increase the level of overlooking, particularly towards dwellings along Droitwich Road, above that which would already be possible from the first floor windows. The boundary fence which would afford adequate protection for neighbouring privacy with regard to the amended location of the shed and bike stand.
14. I conclude that the development proposed under the amended plans would not harm the living conditions of neighbouring occupants, with regard to privacy. Consequently, the proposal would comply with policy SWDP 21 of the South Worcestershire Development Plan, which amongst other things, seeks to ensure that neighbouring dwellings retain an adequate level of privacy.

Other Matters

15. An interested party noted the inclusion of en-suite facilities in the amended internal layout, stating this could result in the dwelling being used as a house in multiple occupation. No such intention has been stated by the appellant, so this is not for consideration under this appeal.

Conditions

16. This appeal grants a new planning permission. The Council have suggested a list of conditions that largely replicate those attached to the original permission, with condition 2 varied to specify the amended plans. The appellant has been made aware of the suggested conditions and stated that they had no comments to make. I have considered the suggested conditions and amended them only as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
17. As the development has commenced, it is not necessary to impose a time limit condition. It is necessary to specify the approved plans as this provides certainty. A condition has been imposed to ensure that the access and on-site parking are implemented, in the interest of highway safety. To protect the character and appearance of the site and surrounding area it is necessary to add a condition to secure the implementation and maintenance of landscaping.
18. Finally, permitted development rights have been removed for extensions or external alterations. Due to the proximity of neighbouring dwellings and the modest size of the amenity space for the proposed dwelling, this is both

necessary and reasonable, to protect the living conditions of neighbouring occupants and to retain sufficient outside amenity space to meet the needs of future occupants of the dwelling.

Conclusion

19. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed. I will grant a new planning permission with condition 2 varied and reimpose the undisputed conditions that remain reasonable and necessary and capable of taking effect.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be carried out in accordance with the following approved plans and documents: Drawing no. 2137/P/01; 01 Location Plan; Water Management Statement; Energytest Energy Statement; 02 Proposed SAP; 01 Baseline SAP.
- 2) The dwelling hereby approved shall not be occupied until the access and vehicle and cycle parking facilities shown on Drawing no. 2137/P/01 have been implemented in full and shall thereafter be retained and kept available at all times for their approved uses. Pedestrian vision splays of at least 1m x 1m shall be provide at the access and maintained as such in perpetuity.
- 3) The dwelling hereby approved shall not be occupied until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
 - (i) a plan(s) showing details of all existing trees and hedges on the application site.
 - (ii) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - (iii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.The approved scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the dwelling, or the completion of the development, whichever is the sooner. All planted materials shall be maintained for five years and any trees or plants which are removed, die, are seriously damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and/or re-enacting that Order with or without modification) no extensions or external alterations shall be made to the dwelling hereby approved.