



Appeal Decision

Site visit made on 1 August 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2022

Appeal Ref: APP/P1805/W/21/3289921

Hagley Specialist Cars, 5 Worcester Road, West Hagley, DY9 0LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Sharr Homes Ltd against the decision of Bromsgrove District Council.
 - The application Ref 21/01533/REM, dated 4 October 2021, sought approval of details pursuant to condition No 2 of planning permission Ref 19/00833/S73, granted on 29 July 2019.
 - The application was refused by notice dated 3 December 2021.
 - The development proposed is reserved matters application for the erection of 5 no. dwellings following outline planning permission 19/00833/S73 (Matters for approval: design, external appearance, scale and landscaping).
 - The details for which approval is sought are: design, external appearance, scale and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Sharr Homes Ltd against Bromsgrove District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have taken the description of development from the Council's decision notice as this more accurately reflects the proposed development.
4. As described above, outline planning permission was granted for five dwellings on the site in 2019. The principle of residential development of the site has therefore been established and are not matters before me. The reserved matters application, which is the subject of this appeal, seeks approval for design, external appearance, scale and landscaping.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of 7 Worcester Road, with particular reference to outlook and light.

Reasons

6. The appeal site is located in a predominantly residential area. The site contains buildings associated with a car dealership and garage, both of which are now

vacant. The site extends into a field to the rear which extends behind No's 7 and 9 Worcester Road. The proposed development seeks to demolish the vacant building and replace them with two dwellings, and a further three dwellings would be provided on the field.

7. The Council are mainly concerned with Plot 3 which would be constructed immediately adjacent to the boundaries of No's 7 and 9. Plot 3 would see the construction of a detached two-storey dwelling approximately 8.8 metres in height. The proposed dwelling would be located within 8 metres of the rear of No 7 and would extend across most of its rear garden. The Council's High Quality Design Supplementary Planning Document (2019) states that a separation distance of 12.5 metres should be maintained between two storey dwellings where a flank wall faces a window in order to ensure that there would not be any overbearing or overshadowing.
8. Given the limited distance between Plot 3 and the rear of No 7, combined with the height and depth of the proposed dwelling at Plot 3, the proposed development would have a significantly detrimental effect on the living conditions of the occupiers of the neighbouring property. The proposed dwelling would appear as a dominant feature which would have an overbearing effect on the outlook from both the garden and rear facing rooms of No 7. Additionally, the proximity of the proposed dwelling to the rear windows of No 7, particularly the single storey extension, would significantly restrict levels of light entering it, which would result in the rooms they serve being unduly gloomy to the detriment of its usability and the occupants of No 7.
9. I note the appellant's concerns regarding the recent single storey extension at No 7, which was approved after outline permission was granted at the appeal site. However, from the evidence it would appear that the single storey rear extension resulted from an application for prior approval¹ where the development accorded with permitted development rights.
10. I conclude that the proposed development would significantly harm the living conditions of the residents of No 7, with particular reference to outlook, contrary to Bromsgrove District Council District Plan (2017) (DP) Policies BDP1 and BDP19 and the guidance contained within the SPD which seek, amongst other things, to ensure that the impact on residential amenity is considered and that overshadowing and overbearance is avoided. The proposed development would also be contrary to paragraph 130 of the National Planning Policy Framework (Framework) that seeks high standards of amenity for existing users.

Other Matters

11. The appellant has made reference to case law² regarding there being no power to reserve matters of which the details have already been approved under an outline planning permission. It is clear from the original outline planning permission that matters relating to external appearance, scale and landscaping were reserved matters. I note that the outline permission conditioned development to be undertaken in accordance with a plan detailing the layout of the proposed development. I have been provided with a copy of this plan.

¹ 19/01138/HHPRIO

² Chiveley Parish Council v Newbury District Council

12. Whilst the plan demonstrates a proposed layout, it does not detail the scale of the proposed dwellings. Reference is made to a 4 bedroom dwelling at Plot 3, but no elevational drawings are provided. Whilst the principle of a dwelling in the position of plot 3 has been established through the extant outline, I have found that the specific details of the plot 3 proposed under the appeal scheme would be harmful to the living conditions of the occupiers of No 7.

Conclusion

13. The appeal scheme would conflict with the development plan and there are no material considerations, including the approach of the Framework, which would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

Tamsin Law

INSPECTOR