



Appeal Decision

Site visit made on 6 September 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/T3725/W/22/3296453
2 Wordsworth Avenue, Warwick CV34 6JD

- 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 Mrs Kam Heung Ling against the decision of Warwick District Council.
 - The application Ref W/21/1555, dated 13 August 2021, was refused by notice dated 14 January 2022.
 - The development proposed is Erection of a 2 bed dwelling and associated parking. New window to bathroom on first floor to existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:-
 - The effect of the development on the character and appearance of the area.
 - The effect of the development on protected species (bats)
 - The effect of the development on the private amenity space available for new and existing residents

Reasons

Character and appearance

3. The appeal property is adjacent the junction of Wordsworth Avenue, Browning Avenue and Milton Avenue. It is a semi-detached property in an area predominately residential in nature, made up of semi-detached properties following a relatively simple design pattern and layout, although some properties have been extended and altered.
4. The host property and the other half of the pair are set out at approximately 45 degrees to the junction, effectively "turning the corner" of Browning Avenue and Wordsworth Avenue.
5. Corner pairs such as these have larger plot sizes, whilst the "straight line" pairs are closer together, creating a symmetry motif in the locality. Adding another property on to the end of the pair would create a terraced visual design, which is not a feature of the area.

6. I find that it would break the symmetry of the corner properties and whilst the new property would be subservient to the existing pair, it would look incongruous and out of character within this relatively traditional street scene in an area characterised and defined by semi-detached properties.
7. As such, I find conflict with policy BE1 of the Warwick District Local Plan (2017) (the LP) which amongst other matters, expects development to contribute to the character and quality of the area through good layout and design, harmonise with the existing settlement and enhance the established urban character of streets, squares and other spaces.
8. I also find conflict with the design guidance and advice give in the Residential Design Guide Supplementary Planning Document (the SPD) and the National Planning Policy Framework.

Protected species

9. The appellant has suggested that surveys could be carried out by condition if the appeal were to be granted. However Circular 06/2005: Biodiversity and Geological Conservation states that it is essential that the presence or otherwise of protected species is established before planning permission is granted, and that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.
10. I realise that at the time of the appeal submission that it may not have been a suitable time of year to carry out a bat survey. However, such circumstances are not unusual and do not amount to exceptional circumstances to justify dealing with the matter by condition. I must determine the appeal on the basis of the evidence before me.
11. Therefore, in the absence of certainty regarding the likely effect of the proposal on bats and whether adequate mitigation could be incorporated within the scheme as necessary. I conclude that the proposed development could give rise to an unacceptable risk of harm to biodiversity, with specific regard to a protected species (bats).
12. It would therefore conflict with policy NE2 of the LP which states that development will not be permitted that would destroy or adversely affect protected species and all proposals likely to impact on these assets will be subject to an ecological assessment.

Private amenity space

13. The Council have indicated that the level of private amenity space available to both the host dwelling and proposed dwelling are substandard according to the advice set out in the SPD but have not provided any calculations as evidence to substantiate the claim, and also have commented with regard to the shape of the amenity space.
14. The appellant has supplied measurements to demonstrate that both properties can demonstrate acceptable levels of private amenity space. I note that the SPD does not take into account space that would be overlooked from the public realm, so that would discount the front amenity space.

15. The calculations indicate that there would be a significant amount of rear amenity space lost for the host property by the subdivision of the area, and I find that remaining area of private amenity space at the rear of the existing property does not meet the requirements of the SPD and would cause material harm to the living conditions of the residents of the existing property with such a significant reduction in the level of private amenity space available.
16. In light of the lack of private amenity space available, I find conflict with policy BE3 of the LP, which expects development not to have an adverse impact on the amenity of nearby residents, as well as the advice give in the SPD in relation to acceptable levels of private amenity space.

Conclusion

17. The proposal conflicts with the development plan when taken as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

Paul Cooper

INSPECTOR