

Appeal Decision

Site visit made on 26 September 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2022

Appeal Ref: APP/R1845/W/22/3291732

51 Brinton Crescent, Kidderminster DY11 6NT

- 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 Mr M Childe of Mar2Build against the decision of Wyre Forest District Council.
 - The application Ref 21/0670/PIP, dated 30 June 2021, was refused by notice dated 16 December 2021.
 - The development proposed is a bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal application is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle from the technical detail. Planning permission does not exist unless both the permission in principle and the technical details are approved. This appeal relates to the first of these two stages. The PPG sets out that the scope of permission in principle applications is limited to location, land use and amount of development.
3. The Wyre Forest Core Strategy (2010) and the Site Allocations and Policies Local Plan (2013) referred to by the Council in its decision notice have been superseded by policies in the Wyre Forest District Local Plan (2022) (LP) which has been adopted since the appeal was submitted. I must make a decision based on the development plan at the time of my decision. The aims of both sets of policies referred to are broadly similar and thus neither main party has been prejudiced by this change.
4. The description of development in the heading above has been taken from the planning application form. Part E of the appeal form states that the description of development has changed but, nevertheless, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

5. The main issues are:

- The effect of the proposed development upon the character and appearance of the area;
- The impact upon trees;
- The effect of the proposed development upon the living conditions of existing occupiers; and
- Whether the proposed development would provide satisfactory living conditions for future occupiers.

Reasons

Character and appearance

6. The appeal site comprises the side garden of 51 Brinton Crescent located close to the junction with Woodward Road. The site is partially fenced off from No 51 and contains miscellaneous items with perimeter hedging along parts of the site. A protected Pine tree sits in the neighbouring garden close to the boundary. The site neighbours a wedge of open space on the road junction which together results in a spacious open aspect on the corner.
7. Whilst the area displays variety in terms of property design, plot size and shape and separation it is largely characterised by two storey dwellings set back from the highway behind low walls and hedges which contribute to a spacious and pleasant residential environment.
8. There is no doubt that Kidderminster is a suitable location for new housing, as the main town in the district. The site is within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot or by public transport, providing them with transport choice and not an over-reliance on a car.
9. Notwithstanding the above the proposed development by virtue of its single storey height and its position in the street scene would be at odds with the scale and pattern of development locally. The development, due to its position, would be unduly incongruous and prominent eroding the sense of openness that currently exists on this corner adversely affecting the character and appearance of the area. This impact would be significant despite the presence of a boundary fence.
10. I acknowledge that consideration of the proposal is limited to location, land use and amount of development. However, based on the evidence before me, I am not satisfied that as proposed the scheme would be appropriate to its context.
11. As such, the proposed development would be contrary to LP Policies DM.2 and DM.24 which, amongst other things, require new infill development to contribute to the existing character of the area in terms of design, density and layout and development to respond to surrounding buildings and distinctive features and qualities that contribute to the visual interest of the townscape.

Impact on trees

12. Located in the garden of 31A Woodward Road is a protected Pine tree. Due to its position, form and height it is highly visible, given the spaciousness that exists at this corner it positively contributes to the visual amenity of the area.
13. The Council's Arboricultural Officer has expressed concerns regarding the proximity of the proposal to the root protection area and the impact upon the long-term sustainability of the tree.
14. Whilst the appellant contends that details of the foundation design would be reserved for technical details stage, the potential effect on the tree is a significant consideration given the site's immediate setting and the proximity of the proposed building to the tree. I am not satisfied that this matter has been investigated to demonstrate that there would be no harm to the tree during construction or during the lifetime of the development.
15. As such, the proposed development would be contrary to LP Policy DM.26 which, amongst other things, requires developments to acknowledge the importance of existing trees and provide adequate room for growth. It would also be contrary to paragraph 131 of the National Planning Policy Framework (the Framework) which, amongst other things, seeks to retain existing trees wherever possible.

Living conditions of existing occupiers

16. The proposed dwelling would be a single storey bungalow facing the garden of No 31A. According to the Council the proposed development would be sited less than 5m to the boundary with this property.
17. I acknowledge that the proposal would be in relatively close proximity to the neighbouring boundary. However, taking into account the single storey height of the proposed development, I find that it would not result in any significant overlooking and loss of privacy to the neighbouring garden or property.
18. The proposed development would result in the reduction of amenity space for the occupants of the host property. However, the resultant garden would still be usable and residents would be able to use Brinton park located within a short distance. As such, the resultant amenity space would be sufficient and, in this regard, would not unduly harm the living conditions of the occupants of the host property.
19. For the reasons above, I conclude that the proposal would not cause material harm to the living conditions of the occupiers of No 31A or the host property and would therefore accord with LP Policy DM24 which, amongst other things, require developments to provide an adequate level of privacy. It would also accord with paragraph 130 f) of the Framework which, amongst other things, requires developments to have a high standard of amenity for existing and future users.

Living conditions for future occupiers

20. The size and shape of the appeal site results in a proposed development whereby the amenity space would be located to the side and rear of the proposed dwelling. It has been designed to take the depth of the site into

consideration providing the proposed dwelling, garden area and parking spaces.

21. The amenity space proposed in terms of size and shape would be useable and adequate for future occupants given the size of the proposal. It is unlikely to be occupied other than by a single person or couple who may not have the same amenity space requirements as a family.
22. The amenity space would reflect the variety of garden sizes and shapes in the local area. Furthermore, future occupants would be able to use the park nearby.
23. As such, I conclude that the living conditions of future occupiers would not be unacceptably compromised resulting from the amenity space proposed. The development would accord with the Framework which, amongst other things, requires developments to have a high standard of amenity for existing and future users.

Other Matters

24. Whilst the development may well provide housing for the elderly it would still be a component of market housing rather than a form of specialist accommodation. I have not been presented with any compelling evidence that the Council is failing to meet its requirement in the delivery of either market or specialist housing to justify a proposal that I have found to be harmful.
25. I acknowledge that the development would contribute to the district's housing supply. The proposal would provide a limited amount of short term employment during construction of the house and future occupiers would support local services and facilities. However, these benefits would be modest and outweighed by the harm that I have identified.
26. I acknowledge that the proposal may enhance natural surveillance and improve security of the site. However, these factors would not outweigh the harm that I have identified in relation to character and appearance and the impact upon a protected tree.
27. The proposed development would contribute towards supporting local facilities through Council Tax and New Homes Bonus. However, this would largely mitigate the impact of the proposal in planning terms. As such, this is a matter of neutral consequence in the balance.
28. The appellant contends that it would be possible to erect an outbuilding on the site, utilising permitted development rights in Class E of Schedule 2 of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I am not aware that a Certificate of Lawful Development has been approved for any such development. Furthermore, this proposal relates to an independent and self-contained dwelling and not for a residential outbuilding. In this case, I am not persuaded that there is a reasonable likelihood that the appellant would opt to erect an outbuilding on the site if planning permission for the appeal development was to be refused. I therefore afford this matter only limited weight in the overall planning balance and, furthermore, I have determined this appeal on its own individual planning merits.

29. The appellant has drawn my attention to planning permission for a new dwelling on a site in Stourport on Severn. However, from the details before me, it appears that the merits and circumstances of this scheme is materially different to the appeal proposal before me. In any case, every proposal must be considered on its own merits, as I have done.

Conclusion

30. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR