



Appeal Decision

Site visit made on 19 January 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2023

Appeal Ref: APP/G4620/W/22/3300353

39 Pear Tree Drive, Great Barr, Sandwell, Birmingham B43 6HT

- 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 Mandeep Dobbs of Pear Tree Property Investments Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/66593, dated 1 February 2022, was refused by notice dated 13 May 2022.
 - The development proposed is construction of new two bedroom bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of new two bedroom bungalow at 39 Pear Tree Drive, Great Barr, Sandwell, Birmingham B43 6HT in accordance with the terms of the application, Ref DC/22/66593, dated 1 February 2022, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Character and appearance

3. Houses on Pear Tree Drive are generally two storey detached properties positioned to a consistent building line. However, the proposed dwelling would front on to Grove Vale Avenue where there is a predominance of bungalows in the vicinity of the appeal site. Bungalows close to the entrance of Newton Close also form part of the immediate site context. The bungalows are positioned relatively close to one another and have tiled roofs, many with a front projecting gable and a detached or integral garage. They are set behind modest front drives and gardens with low level boundaries. The general consistency of scale, layout and form is a positive, defining feature of the character and appearance of the surrounding area.
4. The proposal would be set behind a modest front drive. It would be single storey, with a plain tiled roof and front projecting gable. Therefore the scale and form of the proposed dwelling would appear generally consistent with that of others in the immediate vicinity. Given the low rise form of the proposal and its position on lower ground relative to No 39, it would not obscure views of the rear of No 39 from Grove Vale Avenue. Therefore despite the rear garden of No 39 being curtailed, the proposal would retain a sense of space between No 39

and the proposed dwelling. The previous appeal decision for this site (Ref APP/G4620/W/21/3279536) found that the proposed two storey house and garage would appear cramped and at odds with its surroundings. Whereas the proposed bungalow and single adjoining garage would appear as a natural continuation of the pattern of development on this part of Grove Vale Avenue.

5. Consequently, the proposal would not harm the character and appearance of the surrounding area. Therefore it would comply with Policy ENV3 of the Black Country Core Strategy (February 2011) and Policy SAD EOS 9 of the Site Allocations and Delivery Development Plan Document (December 2012). These generally seek to ensure proposals achieve a high quality of design and are compatible with their surroundings. Furthermore, it would not conflict with the aims of the Council's Revised Residential Design Guide Supplementary Planning Document (January 2014), including for proposals involving plot subdivision to avoid harm to the existing street scene (paragraph 2.1 k.).

Other Matters

6. I have had regard to the various comments of interested parties which have been received in response to the proposed development. There is a difference in levels between the appeal site and that of 108 Grove Vale Avenue. However, the single storey nature of the proposal and the degree of separation with No 108 would considerably limit its dominance in views from No 108 and its outside space. In views from the front and rear windows of No 108, the extent to which the proposal would be visible would be highly limited.
7. Similarly, the scale and positioning of the proposal relative to No 108 would be highly unlikely to result in unacceptable harm to the occupants of No 108 with respect to loss of daylight or sunlight. Furthermore, the degree of separation between the proposed dwelling and garage and that of No 108 is consistent with the general pattern of development here. Therefore, any noise or disturbance associated with a single dwelling and its parking and garaging would not be so significant so as to be harmful in this residential context.
8. I note the concerns raised in respect of a potential loss of privacy for occupants of 41 Pear Tree Drive in their rear garden. However, the single storey nature of the proposal would limit the extent to which its future occupants would have visibility into the rear garden of No 41. Furthermore, it is reasonable to impose a condition to require additional planting and appropriate boundary treatment to be installed prior to first occupation of the proposal. This would ensure the proposal would not cause loss of privacy for occupants in the rear garden of No 41. The proposed dwelling would be orientated at right angles to No 41. Therefore I am satisfied that sufficient separation would be achieved between existing and proposed buildings, thus avoiding harm to occupants of No 41 in that regard.
9. Whilst the proposed rear garden for the appeal dwelling would be modest, it would provide adequate outside space for a two bedroom house, even excluding land to the side of the dwelling where levels may make the space less usable. Given the degree of set back of the proposed site access from the bend in the road on Grove Vale Avenue, the proposed vehicular access arrangements would achieve sufficient visibility to ensure compliance with relevant standards. I note that the Highways Authority also raised no objection in this respect. Given the modest scale of the proposal, it is unlikely to result in any significant increase in traffic or on street parking in the locality.

10. I have also had regard to concerns about whether the site boundaries shown within the appeal are entirely correct. However, there is no definitive evidence in this respect. In any event this does not alter my assessment of the planning merits of the proposal. In respect of whether the proposal would set an unwelcome precedent, it is the scale and context particular to this scheme that mean that it would not harm the character and appearance of the surrounding area or the living conditions of nearby residents. Therefore I see no potential for this decision to set an unwarranted precedent.

Conditions

11. The Council has suggested conditions in the event the appeal is successful and the appellant confirmed their agreement to those. I have considered those in light of the National Planning Policy Framework (Framework) and Planning Practice Guidance and made small changes in some instances as set out below. It is necessary to specify the approved plans as this provides certainty. In order to minimise disruption to adjacent residents I have included a condition specifying hours of construction.
12. I have combined two suggested conditions to require that a construction method statement is submitted, to ensure the proposal is carried out without harm to the adjacent watercourse. It is necessary for this condition to be pre-commencement to ensure that it addresses the full extent of the construction works. The appellant confirmed their agreement to this pre-commencement condition. Given the modest scale of the proposal a separate condition dealing with dust suppression is not necessary.
13. Details of existing ground and proposed floor levels are required before works start to ensure the development achieves a satisfactory relationship with surrounding development. The appellant also confirmed agreement to this pre-commencement condition. Details of external materials need to be approved in the interests of the character and appearance of the area. Landscaping details are required to be approved in order to achieve a suitable level of privacy for occupants in adjacent gardens. In the interests of highway safety, it is necessary to include a condition requiring that the visibility splay at the front of the site is maintained without obstructions over 900mm in height.
14. Details of electric car charging are required to facilitate travel by more sustainable transport modes. To ensure drainage from the site is suitably managed I have imposed a condition requiring submission of foul and surface water drainage details. No substantive evidence is before me to indicate that a condition is necessary to specify any gas boiler installed as part of the development. Therefore I have not included a condition in that regard.
15. The Council suggested a condition to remove permitted development rights for extensions to the building including loft conversions/dormers and outbuildings. However, the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance also advises that conditions of this nature may not pass the test of reasonableness and necessity. Given the modest plot size and the restrictions of the GPDO¹, opportunities for enlargement of the building or erection of outbuildings would be relatively

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

limited. Therefore evidence of substantive harm from implementation of such permitted development rights is not persuasive.

16. Furthermore, I am satisfied that additions or alterations to the proposed roof under Class B or C of the GPDO would not unacceptably harm the character and appearance of the surrounding area. Therefore removal of those permitted development rights in their entirety cannot be clearly justified. Nevertheless, such additions or alterations could result in overlooking from the appeal dwelling into rear gardens of neighbouring houses, resulting in an unacceptable loss of privacy to adjacent occupants. Therefore, I have imposed a condition to ensure that in the event of future additions or alterations to the proposed roof, any windows in the rear elevation or roof would be obscured glazed and non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.

Conclusion

17. For the above reasons, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Rachel Hall

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 1515/6 (Amendment A – March 2022); 1515/5 (Amendment A – March 2022); 1515/1 (Amendment A – March 2022); 1515/2 (Amendment A – March 2022); 1515/3 (Amendment A – March 2022); 1515/4 (Amendment A – March 2022).
- 3) Demolition or construction works shall take place only between 0730 – 1800 on Mondays to Fridays, and 0830 – 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for measures to protect the adjacent watercourse from pollution or damage during the construction phase. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 6) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development above slab level shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The details shall include all boundary treatments including additional soft landscaping along the boundaries of the rear garden of the proposed dwelling. The landscaping works shall be carried out in accordance with the approved details before the development is first occupied. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) The visibility splay shown on Site Plan (Ref 1515/5 Amendment A – March 2022) shall be provided and retained with no obstructions over 900mm above adjoining road level for the lifetime of the development.
- 9) The development hereby permitted shall not be occupied until an electric vehicle charging point has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The charging point shall be retained for the lifetime of the development.
- 10) No development shall take place, excluding site clearance, preparatory work and demolition, until details have been submitted to and approved in writing by the local planning authority of the foul and surface water drainage for the site, and the foul and surface water drainage shall then be installed in accordance with the approved details prior to first occupation.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order), any window inserted on a wall or roof slope forming the rear elevation of the dwellinghouse (under Class B or C of Part 1, Schedule 2 of the GPDO) must be (i) obscure glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.