



Appeal Decision

Site visit made on 21 February 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/P1805/W/22/3304391

64 Kidderminster Road, Hagley, Stourbridge, Worcestershire DY9 0QL

- 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 Dominic Taft against the decision of Bromsgrove District Council.
 - The application Ref 22/00772/FUL, dated 3 June 2022, was refused by notice dated 20 July 2022.
 - The development proposed is for the removal of single-storey side extension and erection of a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for removal of single-storey side extension and erection of a dwelling at 64 Kidderminster Road, Hagley, Stourbridge, Worcestershire DY9 0QL in accordance with the terms of the application, Ref 22/00772/FUL, dated 3 June 2022, and the plans submitted with it, subject to the conditions in a schedule at the end of this decision.

Main Issues

2. The main issues are:
 - i) the effect of the proposal upon the living conditions of neighbouring occupiers with particular regard to outlook and privacy; and
 - ii) whether the proposal would provide satisfactory living conditions for the future occupiers of the dwelling with particular regard to amenity space and privacy.

Reasons

3. 64 Kidderminster Road is a two-storey semi-detached dwelling with a hardstanding to the front and garden to the side and rear. It is situated on a busy road within a predominantly residential area. The dwelling has been extended to the side with a single storey garage and car port, both of which are proposed to be removed. Dwellings in the locality are predominantly two-storey detached and semi-detached dwellings with brick or rendered elevations under a tiled hipped roof; some with gable features. The proposed dwelling is a detached dormer bungalow with a tiled hipped roof with rendered and brick elevations.

Living conditions for neighbouring occupiers

4. Two roof lights would be positioned to the rear roof slope of the proposed dwelling. Due to their height and positioning, there would be no direct overlooking towards 62 Kidderminster Road or 79 and 81 Park Road.
5. The existing close boarded fence and vegetation, between the rear garden of 62 Kidderminster Road and the site, would prevent direct overlooking of ground floor windows of this neighbouring property.
6. No windows are proposed to the side elevations of the dwelling. Windows to the front elevation would be at an oblique angle to the neighbouring dwelling at 62 Kidderminster Road. As such there would be no loss of privacy through overlooking to this neighbouring property.
7. Given the existing boundary treatment, the low eaves height of the dwelling, its hipped roof design, and the intervening space to the rear elevation of 62 Kidderminster Road the dwelling would not result in a significant loss of daylight and sunlight, outlook or appear overbearing to the occupiers of this neighbouring property.
8. The dwelling would not result in a significant loss of daylight and sunlight to the front area of 64 Kidderminster Road. As such I agree with the Council that the living conditions of the occupiers of this neighbouring property would not be adversely affected.
9. The scale of the development is such that the additional dwelling would not materially harm the living conditions of neighbouring residents from noise and disturbance impacts associated with additional cars and residents coming and going from a single dwellinghouse.
10. Taking all of the above into account, I conclude that the dwelling would not harm the living conditions of the occupiers of neighbouring properties with particular regard to privacy and outlook. Consequently, I find no conflict with the Bromsgrove District Council High Quality Design SPD 2019 (SPD), Policies BDP1 and BDP19 of the Bromsgrove District Plan 2017 (DP) or the principles of the National Planning Policy Framework (the Framework) which seek to ensure all developments are compatible with adjoining uses and protect the living conditions of neighbouring occupiers.

Living conditions for the future occupiers of the dwelling

11. The garden for the dwelling would be below the advisory garden depth as set out in the SPD. However, taking account of its width, the dwelling would be provided with an area in excess of the minimum private amenity space guidelines, as set out in the SPD. Owing to the size and location of the garden, to the rear and side of the property, future occupiers of the dwelling would be provided with sufficient useable private amenity space. As such I find no conflict with the principles of the SPD or Policies BDP1 and BDP19 of the development plan which require residential development to provide sufficient functional space for everyday activities and to meet people's needs and expectations from their home.
12. The garden directly to the rear of the house is the most important in providing a private space for the future occupiers of the dwelling. Due to the orientation of the first-floor rear windows of 81 Park Road there would be no significant overlooking of this garden area. Accordingly, the occupiers of this neighbouring

property would not have a harmful effect upon the living conditions of the future occupiers by way of overlooking.

13. The first-floor rear elevation windows of 62 Kidderminster Road would overlook the side garden of the dwelling. Ground floor windows of this property are screened by the close boarded fence and vegetation along the shared boundary. Whilst the first-floor windows of 62 Kidderminster Road would overlook the side garden of the dwelling, the most important garden area is positioned to the rear of the dwelling. This area is sufficiently far away that the future occupiers of the dwelling would not endure significant overlooking from this neighbouring property.
14. The side garden of the dwelling already experiences some overlooking from 62 Kidderminster Road. Whilst the use of the site would be intensified by the provision of an additional dwelling, for the reasons set out above, future occupiers of the dwelling would not suffer from unacceptable privacy and overlooking.
15. I note the SPD, in assessing the relationship between development and neighbouring properties, indicates minimum separation distances. I accept that the proposed dwelling would not meet the separation distances specified. However, taking account of the height and design of the dwelling in relation to neighbouring properties, occupiers of the dwelling would, nevertheless, be provided with adequate living conditions.
16. For these reasons, I conclude that the development would provide satisfactory living conditions for the future occupiers of the dwelling with particular regard to amenity space and privacy. Accordingly, I see no conflict with Policies BDP1 and BDP19 of the development plan or the Framework which seek to ensure all development proposals are compatible with adjoining uses and provide a good standard of accommodation for its occupiers.

Other Matters

17. The Framework glossary states that previously developed land excludes land in built-up areas such as residential gardens. As such, the site does not constitute previously developed land. The garden to the donor site and dwelling would be smaller than some neighbouring properties. However, garden sizes in the immediate area vary and the proposal would not result in a form of development out of character with the pattern of development in the locality. As such, I find no conflict with Policy BDP19 of the development plan which requires development to fully integrate into the residential area and be in keeping with the character and quality of the local environment.
18. It has been suggested that a building could be constructed in accordance with Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO). I have no details before me to clarify this position. However, this does not affect my conclusions on the main issues.
19. The Council accepts that it cannot demonstrate a five-year housing land supply. The development would contribute a single dwelling to housing land supply, which carries weight in support of the proposal. As I find no conflict with the development plan having regard to paragraph 11 c) of the Framework permission should be approved without delay.

Conditions

20. The Council has provided a list of conditions contained within the responses from consultees, which I have assessed regarding the advice provided in the Framework and the Planning Practice Guidance (PPG).
21. To meet legislative requirements, I have imposed a standard condition relating to the commencement of development and it is necessary to require compliance with the submitted plans.
22. Due to significant road traffic noise, it is necessary to require a scheme of mitigation works to address environmental noise.
23. Conditions would secure an appropriate access and parking arrangements in order to ensure the development could be accessed safely from the highway. A condition for cycle parking is included to promote sustainable travel in accordance with the Council's policy.
24. A condition for the provision of electric vehicle charging points is imposed to promote sustainable travel and improve air quality.
25. A condition for the submission of a drainage scheme is not reasonable for the scale of development and not necessary having regard to the existing areas of hardstanding and that the development would not result in additional run-off from the site.

Conclusion

26. For the reasons given above, and having regard to all other matters, I conclude that the development would comply with the Framework and the development plan as a whole. The appeal is therefore allowed.

R Gee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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 plans: Location Plan, Existing & Proposed Site Plan 01, Proposed Plans & Elevations 02 and Indicative Streetscene 03.
- 3) The development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway shall be provided on both sides of the access. The splays shall thereafter be maintained free of obstruction exceeding a height of 0.6m above the adjacent ground level.

- 4) The development hereby approved shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a solid bound material.
- 5) The development hereby approved shall not be occupied until the parking and turning facilities have been provided as shown on drawing ref Existing & Proposed Site Plan 01.
- 6) Bicycle parking shall be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before the first occupation of the dwelling and shall be maintained without impediment to its designated use throughout the life of the development.
- 7) Prior to the first occupation of the dwelling a scheme of noise mitigation for both internal and external areas shall be submitted for approval. The approved scheme shall be implemented in full and maintained as such throughout the life of the development.
- 8) An electric vehicle charging point shall be provided in accordance with a scheme to be approved by the local planning authority. The vehicle charging point shall be provided in accordance with the approved details prior to first occupation of the dwelling and shall be retained operational for the lifetime of the development.

*****End of Schedule*****