



Appeal Decision

Site visit made on 6 June 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2023

Appeal Ref: APP/P1805/W/23/3316105

135 Crabtree Lane, Bromsgrove, Worcestershire B61 8PQ

- 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 Rod Dyer against the decision of Bromsgrove District Council.
 - The application Ref 22/01251/FUL, dated 16 September 2022, was refused by notice dated 7 December 2022.
 - The development proposed is a 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 proposal on the living conditions of existing occupants of No.72 Melbourne Road (No.72) with particular regard to outlook and overshadowing,
 - The effect of the proposed development on the character and appearance of the area, and
 - Whether or not the proposed development would provide acceptable living conditions for future occupants with regard to private garden space.

Reasons

Living conditions for occupants of No.72

3. Loss of outlook occurs where development would have an adverse overbearing effect that would result in an unduly oppressive living environment for existing and future residents. The proposed dwelling and its eastern elevation would be located in very close proximity to the side garden boundary with No.72.
4. Whilst the dwelling would be 1½ storeys with a hipped roof sloping away from the boundary it would nonetheless represent a substantial amount of built development that would extend along the shared boundary. Furthermore, at this point the appeal site boundary has been adjusted to extend into part of the garden of No.72, thus reducing the width of the garden of No.72. The narrowed garden and extent of built development would mean the proposed dwelling would loom up in close proximity to users of the garden. The overall garden is of a good length and even if this area was not the most used part of the garden, it would nonetheless be passed through on a regular basis as occupiers of No.72 walked to and from their garage and driveway. Hence the reduced

garden width and close proximity of substantial built form to the boundary would have an unneighbourly and overbearing effect that would create an unsatisfactory outlook for users of the garden of No.72.

5. The two self-contained units at Nos. 68 and 70, even if on a higher ground level, are located alongside the existing garage of No.72 and hence are not in the middle of its garden boundary and therefore do not have the same relationship or overbearing impact.
6. As the sun moves across the site, during the afternoon the proposed dwelling would cast shadow and reduce light to the part of the garden of No.72 adjacent and in close proximity to it. As the garden narrows to accommodate the encroachment of the appeal site and proposed dwelling, this would exacerbate the extent of overshadowing over that part of the garden, even if it does not affect the area of garden/patio nearest No.72 itself. As already mentioned, this part of the garden would be regularly passed through enroute to and from the garage and driveway, so the overshadowing would be frequently experienced (when the sun is shining) unlike perhaps an area at the bottom of an underused garden.
7. I conclude that the proposed development would harm the living conditions of the existing occupants of No.72 with regard to outlook and overshadowing. Accordingly, the proposal would be contrary to District Plan Policy BDP1e). This seeks to ensure that development is compatible with adjoining uses so as not to adversely impact on residential amenity. It would also be contrary to guidance in the Council's High Quality Design Supplementary Planning Document (the 'Design SPD').

Character and appearance

8. The appeal site is located on the corner of Crabtree Lane and Melbourne Road and comprises part of the garden of No.135 Crabtree Lane (the host property) and part of the garden and detached garage of the adjoining semi-detached property No.72. The area is an established residential area on the edge of Bromsgrove. There are mix of house types, styles and designs, and whilst predominantly two storey dwellings there are a number of bungalows close to the site. As Crabtree Lane bends round the site it becomes narrower with hedgerows giving it a more rural appearance, before revealing new houses and the rears of back gardens of properties on Melbourne Avenue.
9. Due to the site's curved corner location, it is read in context of both Melbourne Road and Crabtree Lane. Properties along Melbourne Road (on the appeal side of the road) are generally set back from the road with long 'front' gardens. Most have an assortment of garages or shed structures erected at the end of the gardens closest to the road or have created parking spaces. The communal parking created to serve a row of 4 newer terraced houses at No.64 disrupts the linear rhythm of this part of Melbourne Road. To the east of the site the two garages at Nos. 68 and 70 have been converted into two self-contained residential units and share a roof across the driveway, with accommodation in the roof and feature gable frontages. These buildings are domestic in appearance and taller than most other neighbouring garages/sheds, including those at the host property and No.72, and are a prominent feature in the street scene.

10. With the site being on a curved corner with a mature hedge around and the gardens on the host property and No.72 being at an angle to the road, the pattern of long front gardens of Melbourne Road is disrupted and less marked. Furthermore, the appeal site is accessed off the more rural part of Crabtree Lane to the west, not Melbourne Road, and the proposal would also be.
11. Crabtree Lane has a looser grain and pattern of development with properties set back varying distances from, and at different angles to, the road thus creating a less uniform pattern of development, and this continues at the corner of Melbourne Road. The garage building on the appeal site and the adjacent garages and self-contained units give this corner a relatively built-up character and appearance, despite the open land to the west of the site on the side of Crabtree Lane, which is earmarked for additional housing. As such the appeal site adds to the variety and eclectic mix of plots and properties.
12. The proposal would involve demolishing the detached garage and two other outbuildings and part of the garage of No.72. A detached 2-bedroom 1½ storey dwelling would then be erected on part of the footprint of the garages and what is currently part of a tarmac parking area for the host property. The dwelling would have a cottage-style appearance, designed with a varied roofscape of hipped roof slopes, pitched roof gables and catslide roofs. These design features, together with the overall asymmetry, would reduce the overall massing of the property. Furthermore, the new dwelling would be set back from the road on a staggered building line with the new garage to be built for No.72 and the existing self-contained units at Nos.68 and 70, such that sufficient space would remain between buildings to ensure the more varied and looser pattern of development. The proposed dwelling would assimilate into its surroundings without harming the varied character and appearance of the area at the junction of Crabtree Lane and Melbourne Road.
13. Accordingly, the proposal would not conflict with Policies BDP7 and BDP 19 of the Bromsgrove District Plan (the District Plan), which together seek to ensure that development is of a high quality design and makes the most efficient use of land whilst maintaining the character of the area.

Living conditions for future occupants

14. The garden for the proposed dwelling would be largely sited to its side and occupy the tapered end of the site. The Council contend the size of the garden does not meet the suggested 70sqm, as set out in the Design SPD. The appellant disputes this, stating the submitted plans show the garden, excluding the parking area, would extend to 70 sqm. However, none of the plans I have before me are annotated to state or show the garden would be 70sqm.
15. Nonetheless, the garden area would be of a usable shape that would provide space around the dwelling for sitting out, general enjoyment and drying laundry. By comparing the length of the shared parking area, part of the garden would be about 10 metres in length, a separate requirement of the Design SPD for private gardens.
16. I saw that the existing hedge was of a decent height and density to provide sufficient screening of the site and the existing garage. It would therefore provide a satisfactory boundary treatment to the proposed dwelling and afford adequate privacy to future users of the garden. The existing boundary hedge is shown to be retained on the proposed site plan. I have no reason to doubt the

hedge would need to be removed. I saw there were a variety of roadside boundary treatments in the immediate vicinity including hedges, walls, fences and various combinations, such that there is no single characteristic boundary treatment.

17. I am satisfied that the proposed garden, whilst smaller than the suggested minimum, would, on balance, be of sufficient size and shape to provide future occupants with adequate garden space that would be sufficiently private. Accordingly, the proposal would accord with District Plan Policy BDP1e) whose aims are outlined above, despite some conflict with guidance in the Design SPD.

Other Matters

18. The appellant draws my attention to a number of dwellings that have been erected in the gardens of other nearby properties. However, from the details provided and what I saw on my visit none present the same relationship and context as the appeal proposal - some were backland development not readily visible from the road, others were more prominent than the proposed dwelling would be. Whilst they demonstrate the Council has allowed some gardens to be sub-divided, they do not set a precedent as each site was of a different size and location with a different context such that they are not directly comparable to the appeal proposal, which I must consider on its own merits.

Planning Balance and Conclusion

19. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. In the absence of such, paragraph 11d) of the National Planning Policy Framework (the Framework) is triggered. This means that the policies which are most important for determining the application are to be considered out-of-date and that permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. The proposed dwelling would contribute to reducing the Council's deficit of housing and would be in an accessible location that would reduce reliance on the car and help climate change. It would also mean a more efficient use of land. While I have not been presented with specific evidence that there is an identified need for smaller two-bed properties within the District, the proposed dwelling would still be a modest contribution to housing land supply.
21. There would be some economic benefits by providing local employment during the construction period and by supporting the local economy. However, these benefits would be very limited given that only one dwelling is proposed. Any biodiversity gain would be very limited when a section of hedgerow would be removed to facilitate parking for the proposed and host dwellings. The New Homes Bonus and additional Council Tax revenue cannot be regarded as a benefit as they are mechanisms for off-setting the impacts of new development on an area.
22. I have found there would be harm to the living conditions of existing occupiers of the neighbouring property. This would cause a lasting harm that would be contrary to the Framework's aims of promoting good design with a high standard of amenity including for existing users. This would be an adverse impact of granting planning permission that would, in my view, significantly

and demonstrably outweigh the benefits I outline above when assessed against the policies in the Framework taken as a whole.

23. The lack of harm to the character and appearance of the area or the living conditions of the future occupants carries neutral weight in the planning balance.
24. I have found that the proposal would conflict with local design policies and therefore it would conflict with the development plan as a whole.
25. For the reasons above I conclude that the appeal proposal would not accord with the development plan and the material considerations I outline above including the Framework, are not sufficient to outweigh this conflict. Consequently, the appeal should be dismissed.

K Stephens

INSPECTOR