



Appeal Decision

Site visit made on 16 August 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/R3705/W/23/3317627

81 Witherley Road, Atherstone CV9 1NA

- 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 Owen Mullings against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2022/0042, dated 20 January 2022, was refused by notice dated 21 October 2022.
 - The development proposed is residential development of one five-bedroom dormer bungalow with detached garage and associated external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The originally proposed development was for the erection of 2no. five-bedroom detached dwellings. During determination of the application the number of dwellings was reduced and changed from two-storey dwellings to a dormer bungalow. The description I have used above is what was agreed between the parties, and which appears on the refusal notice.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site comprises what is currently the large rear garden of the host property, 81 Witherley Road (No.81), which is a detached dormer bungalow. The host property and appeal site are situated on Witherley Road, a main tree-lined route in an established residential area with different characters and appearances. There are a mix of detached and semi-detached dwellings of different ages, designs, styles and sizes.
5. No.81 falls within a distinct part of Witherley Road extending from the neighbouring property Peel House, a locally listed building, to the junction with Manchetter Road. Along this stretch of Witherley Road there is a unified character and prevailing pattern of development on both sides of the road, with detached and semi-detached houses fronting and accessed from the road but set back from it behind good-sized front gardens and driveways on a strong building line. The properties also have good-sized long linear rear gardens, that form distinctive and intrinsic elements of the pattern and grain of development along this part of Witherley Road. For the most part the long rear gardens of

- properties on the south side of Witherley Road back on to the grounds of St Benedict's RC Primary School, although the rear garden of the host property backs onto properties built at the end of the cul-du-sac at Nursery Road. The host property and its long linear garden therefore positively contribute to the prevailing character and appearance of the area.
6. The proposal would involve the creation of a new driveway along the side of the host property that would share the existing access point off Witherley Road, but which would be widened. The new driveway would go between the host property and the neighbouring property Peel House. A dormer bungalow would be erected towards the bottom of the existing garden, together with a detached double garage with accommodation above. The garden for the host property would be reduced in length and width but would still remain sizeable.
 7. Whilst the existing property is a bungalow, and the proposed one would also be a bungalow of similar footprint, it would be located behind an existing property and would put built development in the rear garden where there is none at present. The proposed dwelling would not front Witherley Road or have a street frontage or have any direct access off it. Moreover, the garden of the host property would be reduced in size and would lose its linear form. These factors conspire to disrupt the prevailing pattern and grain of development such that the proposal would not reflect the character and appearance of the area. Consequently, the proposal would have an adverse impact on the character and appearance of the area.
 8. Policy LP30 of the North Warwickshire Local Plan (the 'Local Plan') expects new development, including that for backland and infill, to respect and reflect the existing pattern, character and appearance of its setting. Whilst the proposed and existing dwellings are bungalows and even if the proposed dwelling is subservient, it would nonetheless still harm the character and appearance of the area.
 9. The appellant refers to the 'infill' development criteria in Policy LP30. In the absence of a definition in Policy LP30, a common understanding of an infill plot is a 'small gap for one or two dwellings in an otherwise built-up frontage'. The appeal site is not within a built-up frontage and therefore could not be regarded as infill development. In any event, infill development is still expected to reflect the prevailing character of the surrounding street scene, which it would not do.
 10. The policy also states that the 'more unified the character and appearance of the surrounding buildings and built form, the greater the need will be to reproduce the existing pattern'. I appreciate that views of the proposed dormer bungalow would be limited from Witherley Road, and a new access point would not be created such that there would not be a second access gap created. Nonetheless, whilst public views would be limited this does not mean the development is not capable of causing harm.
 11. The appellant draws my attention to a number of 'back land' development allowed by the Council or on appeal. I saw a private road, The Rowans, leading to a small residential development on the other side of the road to the rear of 14 Witherley Road, which was allowed over 15 years ago. The development does not front the road and does not reflect the prevailing form of development along this stretch of Witherley Road, as already described. Hence it does not set a precedent for the appeal proposal.

12. A property erected in the rear garden of 89 Church Walk, also granted some years ago, disrupts the linear pattern of rear gardens of properties fronting Church Walk. However, the dwelling is accessed off Church Walk, which I saw has a different character and appearance to Witherley Road and hence is not directly comparable.
13. A development of new dwellings has been built on garden land to the side and rear of 19 Witherley Road on a prominent corner with Convent Lane. I saw that the new dwellings have direct frontage, access or connection to either Witherley Road or Convent Road and hence they do not occupy a landlocked backland site as the appeal site does. Consequently, this development is not directly comparable.
14. I am advised of a recent appeal decision that allowed a dwelling to the rear of 79 Witherley Road. The appellant advises the development was refused for residential amenity issues, which is not the same as character and appearance. I have only been presented with quoted extracts from the appeal decision, so have no plans or details. However, it is clear from the extract that the new dwelling would be accessed off Nursery Road, and hence would have a different context and relationship to the appeal site and would not be a landlocked backland site. The Inspector stated that the new dwelling and extended cottage would be located "at the end of the cul de sac" [Nursery Road] and "The position of the proposal behind Peel House would not be at odds with the urban grain...as it would be seen with the adjoining Nursery Road properties...Overall the development would not harm the character and appearance of the area." Whilst that appeal scheme was determined under the same development plan policies, the proposals are clearly different in nature and context, regardless that their rear gardens may be of a similar size.
15. The appellant also quotes from an appeal decision in Charnwood Borough that mentions long gardens. However, the decision is of little relevance as it relates to a site in a different part of the country with a different local authority that would have different planning policies.
16. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts before the decision-makers or Inspectors at the time, and the specifics of the site in question and its context.
17. Some of the examples demonstrate that the Council has allowed housing development in back gardens on a number of sites over the years for various reasons. However, I find they are not directly comparable to the proposal before me and therefore do not set a precedent for allowing harmful development on the appeal site. In any event, I must consider the appeal proposal on its own merits.
18. Accordingly, the proposed development would be contrary to Local Plan Policy LP30, whose aims are outlined above. It would also be contrary to Local Plan Policy LP1, which is a broad-brush policy that seeks to promote sustainable development and design that positively improves a settlement's character and appearance.
19. The erection of one dwelling would see some associated modest socio-economic benefits arising from the construction of the dwelling and its longer-term contribution to the local area. The boost that one dwelling would make to

the Council's supply of housing would be very limited when the Council is currently able to demonstrate it has more than a 5-year supply of housing land. These benefits would not outweigh the harm I have identified to the character and appearance of the area.

Other Matters

20. I have had regard to the proximity of the locally listed property, Peel House, with its architectural and historic interest. Peel House is a discrete property already enclosed by boundary walls and fences with little visual or physical relationship with the appeal site and proposed dwelling. Coupled with the intervening distance I am satisfied that the proposed dwelling would not harm the significance of the non-designated heritage asset.

Conclusion

21. The proposed development would not accord with the development plan and there are no other material considerations that outweigh this finding. Accordingly, for the reasons given the appeal should be dismissed.

K Stephens
INSPECTOR