



Appeal Decision

Site visit made on 19 September 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

Appeal Ref: APP/D4635/W/22/3308211

48 Woodthorne Road, Wolverhampton WV6 8TT

- 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 John Kynnersley (Thorne Architecture Ltd) against the decision of Wolverhampton City Council.
 - The application Ref 22/00358/FUL, dated 24 March 2022, was refused by notice dated 25 July 2022.
 - The development proposed is demolition of garage to make access to rear development and creation of 2 No. bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended and additional plans were submitted with the appeal (drawing numbers 007,008 and 009). Drawings 008 and 009 provide additional information which has been submitted to overcome the Council's reasons for refusal. These drawings do not make any changes to the proposal. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to these drawings in determining this appeal.
3. However, drawing 007 (alternative site plan) makes some substantial changes to the proposal, and I cannot be certain that all interested parties have had the opportunity to consider them. In these circumstances, I do not consider it appropriate to accept this plan as it could deprive those who were entitled to be consulted on the application of the opportunity to make any representations that, given the nature and extent of the changes proposed in the aforementioned plan, they may have wanted to make. I have, therefore, determined the appeal on the basis of the site plan considered by Wolverhampton City Council (drawing 001).

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the occupiers of: 48 Woodthorne Road with particular regard to noise disturbance, 46 Woodthorne Road with particular regard to noise disturbance, privacy and outlook, and numbers 112 and 112a Wrottesley Road West with particular regard to privacy and outlook;
 - the effect of the proposal on trees;

- the effect of the proposal on highway safety; and
- whether the proposed development would provide acceptable arrangements for the collection of domestic refuse.

Reasons

Character and appearance

5. The appeal site comprises 48 Woodthorne Road, a large, detached dwelling which is situated in a substantial plot. There is a development which includes modern high-density housing to the east at Henry Fowler Drive, however, the dwellings on Woodthorne Road and the adjoining streets differ in character and appearance from these properties and comprise large individually-designed 2-storey dwellings set within substantial plots which are set back from the road. This, along with planting within the street and within front gardens contributes to a spacious and verdant character.
6. 48 Woodthorne Road has a larger rear garden than other properties in the immediate surrounding area¹. Nonetheless, and notwithstanding the appellant's difficulties in maintaining it, it is clearly discernible as a garden. 48 Woodthorne Road is a similar width to other dwellings in the surrounding area and is set back within the plot in line with other dwellings in the road. This, along with planting in the front garden, makes a positive contribution to the established character of the area.
7. The proposal would result in the erection of 2 detached dormer bungalows within the rear garden. The dwellings would be accessed via a driveway which would run to the side of 48 Woodthorne Road following the demolition of an existing garage. The proposed dwellings would be constructed using materials consistent with dwellings found in the surrounding area.
8. The proposal would sub-divide the original plot for 48 Woodthorne Road and introduce sizeable, gravelled areas for car parking, turning and access. The proposed dwellings, in combination with additional boundary treatments, would have the effect of compartmentalising the garden into areas each of which would be notably smaller than those found within the immediate surrounding area. Additionally, the proposed dwellings would not have a street frontage or have any direct access off Woodthorne Road and would be located close to the site boundaries. Given this, they would appear cramped and overly constrained within the plot. These factors would conspire to disrupt the prevailing pattern and grain of development such that the proposal would be unrelated to the layout of dwellings in the area and the general sense of spaciousness that currently exists.
9. For the foregoing reasons the proposed development would adversely affect the character and appearance of the area. Thus, it would conflict with those aims of Policies H6, D4 and D6 of the Wolverhampton Unitary Development Plan 2001-2011 (2006) (UDP) and Policy ENV3 of the Black Country Core Strategy (2011) (BCCS). Collectively these policies seek to ensure that development is of a high standard of design which is informed by the townscape of the wider locality including plot sizes, spatial character and building lines, and that the spaciousness and character of established residential gardens is respected and enhanced.

¹ As shown on drawing number 000

Living conditions

10. The appeal site is bordered by residential development. At my early afternoon site visit I observed that the sides and rear of numbers 46 and 48 Woodthorne Road were tranquil spaces which were relatively free from the noise of passing vehicles. Whilst this is a snapshot in time, nonetheless there is nothing in the evidence before me which indicates that these observations are atypical of the area.
11. The proposed access would pass between Nos 46 and 48 Woodthorne Road. The proximity of the access to habitable rooms in these properties and their rear gardens would create a sensitive relationship. Although the vehicular movements arising from 2 dwellings would typically be low and vehicles would likely be moving at slow speeds, nonetheless noise associated with comings and goings of vehicles, when a quieter living environment could reasonably be expected, would result in unacceptable disturbance for occupiers of these properties, which would harm their living conditions.
12. Turning to matters of privacy and outlook, the proposed dwellings would be close to the northern and southern site boundaries and dormer windows in the side elevations of the dwellings would face the rear gardens of numbers 112 and 112a Wrottesley Road West and 46 Woodthorne Road. Whilst the windows would serve a staircase and, given the amount of separation, would not result in direct overlooking of windows to these neighbouring properties, nonetheless they would permit clear views at close range of areas of the rear gardens closest to the site boundary of these properties. Though not all areas of the garden would be affected, nonetheless, the proposal would result in overlooking of these spaces where currently there is none, and this would harm the privacy of the occupiers of these properties when using these spaces.
13. Additionally, by virtue of the scale of the proposed dwellings and their limited separation from the site boundaries, the proposal would present a dominant and overbearing feature when seen from the rear gardens of Numbers 112 and 112a Wrottesley Road West and 46 Woodthorne Road. Whilst the effect on windows to the rear of these dwellings would be more limited given the separation between the development and these dwellings, the overbearing effect would adversely affect outlook for occupiers of these dwellings when using parts of their rear gardens, making these spaces less pleasant to use.
14. In light of the above I find that the proposal would harm the living conditions of the occupants of number 48 Woodthorne Road through noise disturbance, the occupants of 46 Woodthorne Road through noise disturbance, loss of privacy and outlook and the occupants of numbers 112 and 112a Wrottesley Road West through loss of privacy and outlook. The proposal therefore conflicts with those aims of UDP Policies D4 and H6 which require, amongst other matters, that proposals should protect the amenity of neighbouring residents and not lead to obtrusiveness in relation to adjoining properties.
15. Whilst referenced by the Council in their reasons for refusal, I find no conflict with those aims of UDP Policies D5, D6, D7, D8 or BCCS Policy ENV3 in relation to this main issue. These policies relate to design quality, public realm, townscape and landscape character.

Trees

16. The appeal site contains an oak tree which is protected by a Tree Preservation Order (TPO)². It is proposed that the access to the dwellings would run immediately to the north of this tree. The Council state that this access would cut across the Root Protection Area of the tree. Based on my observations on site I see no reason to take a different view.
17. The proposal is not supported by an Arboricultural Assessment and there are no details of the effect of the proposal on the health of the tree. Based upon the plans upon which the Council made its decision, there are no details of any protection measures for the tree during construction. Whilst the appellant's submission references a proposed geo-grid system and no grid construction, the full details of this, and whether they would be successful in safeguarding the tree, are not before me. Therefore, due to the lack of information submitted in support of the proposal relating to the protection of this tree, I cannot be certain at this stage that the proposal could be successfully implemented without significant harm to this tree, or that this could be adequately addressed by a condition.
18. Therefore, the proposal would have a harmful effect on a protected tree. This would fail to comply with UDP Policies D12 and N7 which require, amongst other matters, that proposals demonstrate a consideration of trees and ensure that trees are properly managed and maintained.

Highway safety

19. The 2 dwellings would be accessed off Woodthorne Road. Woodthorne Road is the subject of a 30mph speed limit and is lined by a footpath and grass verges. There are no parking restrictions on Woodthorne Road close to the appeal site. At the time of my early-afternoon site visit there was a light flow of vehicles using the road and a light flow of pedestrians using the footpath in both directions. Whilst this is a snapshot in time, nonetheless there is nothing in the evidence before me which indicates that these findings are atypical of the area.
20. The proposed dwellings would be provided with adequate car parking. The proposed dwellings would be accessed by a gravelled driveway approximately 70 metres in length which would run to the side of 48 Woodthorne Road. The width of the driveway is constrained by an oak tree. Nonetheless, based upon the plans on which the Council made its decision, it has not been adequately demonstrated that it would be of sufficient width to accommodate passing vehicles. Therefore, whilst the overall vehicular movements associated with the development would likely be low, it would result in vehicles reversing the length of the access drive when meeting oncoming traffic. These encounters may result in vehicles reversing onto Woodthorne Road, in particular given the distances involved and the difficulties and inconvenience of reversing around a bend to the proposed parking and turning area.
21. Reversing from the proposed dwellings along the access drive onto Woodthorne Road would result in a situation where the driver's visibility would be limited. Vehicles reversing onto the junction with Woodthorne Road would be particularly hazardous to other road users using Woodthorne Road and pedestrians using the footpath during such manoeuvres. These conditions

² 21/00014/TPO

would increase the risk of accidents with vehicles and other road users travelling along Woodthorne Road. Therefore, the proposal would introduce an increase in potential for conflict between road users and pedestrians which constitutes an unacceptable impact upon highway safety.

22. Therefore, I conclude that proposal would have a harmful effect on highway safety. Thus, the proposal conflicts with those aims of UDP Policies H6, AM12 and AM15 which require that proposals make appropriate access and contribute towards improving road safety.

Refuse collection

23. Based upon the plans upon which the Council made its decision, I have no clear indication of the position of proposed waste storage. It has not been demonstrated that there would be adequate space for refuse collection vehicles to manoeuvre within the site to collect waste. Even if it was proposed for waste to be collected from the kerbside at Woodthorne Road, this would require occupiers of the proposed dwellings to transport waste a distance of approximately 70 metres in advance of the day of collection. This would be an excessive distance to transport bins.
24. Therefore, the proposal would not provide acceptable arrangements for the collection of domestic refuse. Thus, the proposal conflicts with those aims of UDP Policy H6, which, amongst other matters, require that proposals create satisfactory living accommodation.

Other Matters

25. I note the appellant's concern regarding the Council's decision-making process including comments that 2 of the refusal reasons could have been addressed through the submission of additional information. However, I am tasked with determining the appeal before me and that is not a matter for my consideration in the context of this appeal decision.
26. Whilst the appellant has suggested that the site is brownfield (previously developed) land, the National Planning Policy Framework (The Framework) states that previously-developed land excludes land in built-up areas such as residential gardens. Thus, I do not consider that this site is previously-developed land. Therefore, this is not a matter which weighs in favour of the appeal.
27. I acknowledge that the construction of 2 dwellings would make a small contribution towards the City's housing supply in an area with reasonable access to local services, amenities and public transport. Nonetheless, 2 new homes would make only a small contribution in this respect.
28. The proposed dwellings would make provision for a wet room with a flexible internal layout which may appeal to the elderly or those with limited mobility. Whilst I give some weight to this, nonetheless this benefit does not outweigh the harm I have identified in relation to the main issues.

Conclusion

29. The proposal would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I

should take a different decision other than in accordance with this. Therefore, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR