



Appeal Decision

Site visit made on 21 November 2023

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/D4635/W/23/3321295

20a Woodhouse Road, Wolverhampton WV6 8JH

- 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 Craig Bissell against the decision of Wolverhampton City Council.
 - The application Ref 23/00162/FUL, dated 18 February 2023, was refused by notice dated 24 April 2023.
 - The development proposed is to replace the grass front garden with porous resin drive and remove unsafe brick wall.
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Decision

1. The appeal is allowed and planning permission is granted to replace the grass front garden with porous resin drive and remove unsafe brick wall at 20a Woodhouse Road, Wolverhampton WV6 8JH in accordance with the terms of the application, Ref 23/00162/FUL, dated 18 February 2023, subject to the following conditions:
 1. The development hereby permitted shall commence no later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plan: Ful - Location Plan 23 00162.
 3. Prior to the commencement of development, details of all materials to be used externally shall be submitted to and approved in writing by the local planning authority. The development shall be built in the materials approved and retained in the materials approved thereafter.
 4. Notwithstanding the plan referred to by Condition 2, prior to the commencement of development, a plan to show the reduction of the driveway width to accommodate a single vehicle shall be submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall be carried out in accordance with that approved plan. The driveway shall thereafter be kept available for the parking of vehicles in connection with the site at all times.

Main Issues

2. The main issues are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) if any harm is caused in respect of issue a), whether such harm is outweighed by the personal circumstances relating to the occupiers of the appeal property.

Reasons

Character and appearance

3. The appeal property is located within a small row of flats, in a residential area which comprises a mix of house types, including flats and semi-detached properties. The row of flats are set back from the street behind grassed front gardens, enclosed by low brick walls. To the front of the walls lie grass verges which front the pavement.
4. The appeal property forms part of a uniform and harmonious residential street scene, with the garden making a positive contribution to the setting of the flats and the wider area, softening the existing built form. The row of flats which includes the appeal property have front gardens grassed and intact, which gives the area a green, pleasant quality and which contributes positively to the character of Woodhouse Road.
5. The removal of the grassed area would detract from the visual qualities of the flats and the surrounding locality. With the front garden mostly covered by a new hard surface, along with the removal of the wall and grass verge, the proposal would represent a change in the appearance of the appeal site, contrasting unfavourably with the open lawned gardens of the neighbouring flats. Consequently, the proposed development would be incongruous, and not in keeping with the pattern of development. It would therefore not be sympathetic to the character and appearance of Woodhouse Road.
6. The appellant has drawn my attention to other properties in the neighbourhood that have removed their front boundary walls and replaced their gardens with hardstanding. Indeed, I saw on my site visit that there were examples of such instances in the surrounding rows of properties and neighbouring streets. However, in the immediate vicinity of the appeal property this was not a common characteristic. Furthermore, in my judgement the introduction of hardstanding at a number of the properties that I saw detracted from the verdant surroundings which are an important characteristic of the area.
7. Overall the proposal would harm the character and appearance of the area. The proposed development would be contrary to Policies D4, D5, D6 and D9 of the Wolverhampton Unitary Development Plan 2006 (UDP) which together seek to ensure that proposals respond positively to the established pattern of streets and buildings, respect the quality of the surrounding environment, respect and enhance the spaciousness and character of established residential gardens, and that frontages are not dominated by parking. The proposal would also conflict with Policy ENV3 of the Black Country Core Strategy 2011 (CS) which seeks to ensure that design proposals are of a high quality.

Personal circumstances and the planning balance

8. Reference has been made by the appellant, and interested parties, to the benefit that the appeal proposal would secure in terms of improving parking provision in Woodhouse Road. The Council have pointed out that the Highway Authority has not raised any specific concern with parking and highway safety issues in this location. However, the property lies close to a busy bus stop, and I noted on my site visit that there was evidence that vehicles had parked and manoeuvred on the verges, damaging the grassed surface. From the evidence

before me I consider it likely that residents would, on occasion, struggle to park close to their properties.

9. One of the residents of the appeal property suffers from a disability and struggles to safely access their vehicle when it is parked on the street. Additionally the appellant has highlighted that in the future it is likely that an electric car would be necessary for the disabled resident, and that an electric charging point at the property would be essential. The resident would benefit from having off- street parking which would enable them to safely access and exit their vehicle.
10. In exercising my function on behalf of a public authority, I have therefore had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which include disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act.
11. In weighing the personal circumstances in this balance, this has to be considered against the harm that I have found that the proposal would have on the character and appearance of the area, in conflict with Policies D4, D5, D6 and D9 of the UDP and Policy ENV3 of the CS. This carries significant weight against a grant of planning permission.
12. In favour of the appeal, the proposal would allow for the resident with a disability at the property to safely access and exit their vehicle, and would be able to charge an electric vehicle should the need arise. I also attach significant, but slightly greater, weight to these considerations.
13. On balance, I am satisfied that the harm that would be caused by the development is outweighed by the personal circumstances in this case.
14. Although dismissing the appeal would benefit the public interest by furthering the legitimate aim of preserving the character and appearance of the area, in my view granting planning permission is proportionate and necessary in order to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
15. The Council has raised concerns that allowing the appeal proposal would create a precedent for similar developments. However, because of the personal circumstances relating to the appellant and his family and the weight that I have given to this, my decision would not justify unwarranted harm to the character and appearance of the area.

Conditions

16. I have had regard to the conditions suggested by the Council, as well as to national Planning Practice Guidance on conditions and paragraph 56 of the National Planning Policy Guidance. I have included standard conditions which limit the lifetime of the planning permission, and which relate to the location of the site in the interest of certainty. Additionally, I have included two prior commencement conditions, relating to the materials and the width of the proposed drive, to which the appellant has agreed. These are necessary in order to ensure that the appearance of the development would be satisfactory, and in the interests of highway safety and convenient access.

Conclusion

17. On balance, for the reasons given above, I conclude that the appeal should be allowed.

L C Hughes

INSPECTOR