



Appeal Decision

Site visit made on 31 October 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal Ref: APP/E3715/W/23/3321572

52 Heather Road, Binley Woods, Warwickshire CV3 2DD

- 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 May-Russell against the decision of Rugby Borough Council.
 - The application Ref R22/1225, dated 11 November 2022, was refused by notice dated 14 March 2023.
 - The development proposed is Demolition of existing bungalow to develop a detached two storey dwelling with garage and new access. Existing trees and access to remain.
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Decision

1. The appeal is dismissed.

Preliminary Matters

The National Planning Policy Framework

2. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 5 September 2023 and replaces the previous version published in July 2021. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party.

Amended plans

3. The appellant has asked me to consider a number of amended plans, which the Council had not seen when it made its decision.
4. Drawing TAA123-035 Rev C corrects a labelling error. The side elevation facing Birchwood Road is now correctly labelled as the 'west elevation'.
5. Drawing TAA123-037 Rev C is the 'missing' east elevation that the Council refers to in its delegated report. It now shows the designs of the windows whose locations, widths and rooms they serve were already known from the submitted floor plans.
6. Drawing TAA123-036 Rev A shows a revised rear elevation that annotates which windows would be obscure glazed. I shall deal with this matter in more detail in the second main issue.
7. The Planning Inspectorate's appeal guidance¹ indicates that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector is essentially what was considered by the local

¹ Procedural Guide: Planning Appeals – England updated June 2023

planning authority and on which the views of interested persons were sought. However, in this instance, I am satisfied that the plans do not fundamentally change the proposal and do not prejudice any party. The Council has raised no comments about the plans. I have therefore decided to accept them.

Main Issues

8. The main issues in this appeal are:

- The effect of the proposal on the character and appearance of the area, and
- The effect of the proposal on the living conditions of existing occupiers of 7 Birchwood Road (No.7) with particular regard to privacy.

Reasons

Character and appearance

9. The appeal site comprises a detached bungalow occupying a prominent location on the corner of Heather Road and Birchwood Road in a residential area. Dwellings are mainly traditional detached and semi-detached two storey dwellings and bungalows, most of which are set back from the road in good sized plots. Whilst there is some variety of design and detailing there is an overall conformity with most properties dating from the latter part of the 20th century. There are two highly visible oak trees in the garden, one on each road boundary, which are protected by Tree Preservation Orders for their amenity value. The existing centrally sited bungalow, together with the degree of set back from both roads and the protected trees, means the site positively contributes to the open and spacious character and appearance of the area.
10. The proposal would see the bungalow replaced with a 5-bedroom two storey contemporary designed dwelling. Its footprint would be almost double that of the existing dwelling and built form would extend in much closer proximity to the boundaries with 54 Heather Road (No.54) and No.7. There would be two front-facing gables: one in line with the front of No.54 and the other about 5 metres forward of it and hence closer to Heather Road, with full height glazing to the apex. This would create a staggyard principal elevation. A new vehicular access would be created off Heather Road, where there is currently only a pedestrian gate and path. The existing access off Birchwood Road would be retained.
11. The effect of the two, wide, staggered pitched-roof gables would be to create the appearance of two dwellings sitting very close together side by side, with one closer to the road than the other. The small difference in ridge height between the two gables makes no material difference to this visual continuation and dominance. As a result, the bulk and massing of the proposed property, together with its proximity to the site's boundaries and a large expanse of full height glazing would appear out of scale with the size of the plot, and at odds with the prevailing character and appearance of the street scene.
12. The proposal would also involve the erection of a detached, pitched-roof, double-garage building with ancillary accommodation in the roof with a large, glazed window in the apex above the garage door and rooflights in both roof slopes. It would be about 3.3 metres high to eaves and 5.1 metres high to the ridge, similar in height to the eaves of the proposed dwelling.

13. The Council's Design Guide² advises that garages and ancillary outbuildings should be sympathetically related to the main dwelling and may not be acceptable in prominent locations such as corner properties, and that careful consideration should be given to height and design.
14. Whilst the garage building would be approximately in line with the front elevation of No.7 and properties fronting this side of Birchwood Road, it would nonetheless sit forward of the side elevation of the proposed dwelling and project substantially towards the road. Together with its substantial height and blank elevation facing Birchwood Road, the building would loom large in the street scene and present an overbearing form of development that would not be subservient to the proposed dwelling.
15. The size and design of the large, high-level glazed apex window would give the building a more domestic appearance as a separate dwelling, rather than as an ancillary garage. Furthermore, the vertical emphasis of the high-level window into the apex, the high level eaves and overall height of the building is at odds with the horizontal emphasis of the wide garage door. This would result in a visually uncomfortable and unbalanced form of development.
16. As a result of its height, position and detailing the garage building would be an unduly prominent and incongruous feature in the street scene that would reduce the area's open and spacious character. The existing boundary hedge would do little to provide effective screening, although the existing oak tree along Birchwood Road would provide some additional seasonally filtered views when approaching from the north or west.
17. As directed, on my visit I saw a number of modern-looking dwellings, which had either been replaced or re-modelled. However, none had the same dominant staggered double-gable frontage and appearance of two dwellings. The property referred to as 82A Heather Road occupied a corner plot and had contemporary additions. However its elevations, even though pronounced in the street scene, did not include an expansive and deep staggered frontage and hence its relationship to the street and plot is not directly comparable to the appeal proposal.
18. Furthermore, its detached garage was single storey and did not project beyond the side elevation of the dwelling such that it was subservient to the host dwelling and hence sat more comfortably in the street scene. I also saw a number of other detached garage buildings of various designs and sizes, some of which were positioned forward of the host dwelling, but were still set back from the road. However, none were as tall as the appeal garage and none occupied same the same relationship on a corner plot.
19. Whilst the existing design variety in the area, including the mix of two-storey and single-storey properties, lends scope for individuality and difference without harming the character and appearance of the area, it does not follow that any design of dwelling is acceptable. Whilst there may be some contemporary similarities with other examples, none were for the same design nor did they share the same corner plot site characteristics. Nor does their presence set a precedent or necessarily indicate examples to be replicated. Hence each case needs to be considered on its own merits.

² Climate Change & Sustainable Design and Construction Supplementary Planning Document – February 2023

20. Drawing all the above points together, the proposed dwelling and detached garage building would detract from the street scene and harm the character and appearance of the area. Accordingly, the proposal would be contrary to Policy SDC1 of the Rugby Borough Council Local Plan (the Local Plan), which seeks, amongst other things, to ensure development responds to the character of the area in which it is situated, including consideration of factors such as massing, scale and layout. It would also be contrary to the Council's Design Guide.

Living conditions

21. The proposed dwelling would be two storeys and would be sited much closer to the garden boundary with No.7 than the existing single storey dwelling. The submitted plans show a number of first floor windows would be tall full-height glazed windows that would look towards the garden of No.7 and cause overlooking and affect the privacy of occupiers of No.7 and harm their living conditions.
22. In order to address the Council's reason for refusal, the appellant has submitted a revised rear elevation plan (TAA123-036-Rev C) that shows some of these windows annotated to be obscure glazed, as well as the window in the gable apex of the single storey 'hobby room'. I am satisfied that this would overcome privacy and overlooking concerns, something the Council alluded to in its comments of the previous scheme. I would also impose a condition requiring the obscure glazing to be retained thereafter to ensure the long-term preservation of privacy, which the plans on their own would not do.
23. Therefore, the submitted amended rear elevation plan would overcome privacy concerns and ensure there would be no harm to the living conditions of occupiers of No.7. Accordingly, the proposal would not conflict with Local Plan Policy SDC1, which seeks, amongst other things, to safeguard the living conditions of existing and future occupiers. The proposal would also accord with the Council's Design Guide.

Other Matters

24. I have no reason to doubt the dwelling would not be built to a high quality specification. I am aware there has been a previous refusal for a dwelling on the site. However, I am not charged with comparing the schemes, but to consider the appeal proposal before me.

Conclusion

25. Whilst I have found that the proposal would not harm the living conditions of occupiers of neighbouring properties, it would cause unacceptable harm to the character and appearance of the area.
26. For this reason, the proposed development would not accord with the development plan as a whole and there are no material considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

K Stephens
INSPECTOR