



Appeal Decision

Site visit made on 5 December 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/C4615/W/23/3324022

20 Ross Drive, Kingswinford, West Midlands DY6 9EJ

- 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 Mrs S Broadbridge against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P23/0046, dated 11 January 2023, was refused by notice dated 21 April 2023.
 - The development proposed is erection of detached bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the Framework). Both main parties have had the opportunity to comment on the relevant implications for the appeal. I have had regard to the revised Framework, and the comments made by the parties in respect of the revisions, in reaching my decision.
3. Since the date of decision, the Council has published a Residential Design Guide Supplementary Planning Document (Design SPD), May 2023, which replaces the New Housing Development Supplementary Planning Document, referenced in the reasons for refusal of the Decision Notice. The Council refer to the Design SPD in their statement, which the appellant has had an opportunity to comment on.

Main Issues

4. The main issues are:
 - i. the effect of the proposed development on the character and appearance of the area; and
 - ii. whether the living conditions of future occupiers would be acceptable, with regard to outlook from habitable windows.

Reasons

Character and appearance

5. The appeal site forms the side garden of 20 Ross Drive, a detached bungalow, which occupies a corner plot position at the junction with Buckingham Grove, in a suburban residential area. The area is characterised by a mix of detached bungalows and 2-storey properties, set within generous plot sizes.

6. The street scene adjacent to the appeal site has an open and spacious appearance due to the large grassed informal open space opposite and the front and side gardens of the properties in the locality.
7. The appeal site slopes down from the side wall of the host property towards Buckingham Grove and is highly visible within the street scene due to its prominent location. The proposed detached bungalow would be built on this visually prominent side garden. The bungalow would have a simple design that would reflect the appearance, stepped height, and front building line of the existing row of bungalows on Ross Drive.
8. However, despite its modest footprint, the proposal would introduce a new building onto an otherwise undeveloped side garden. This would result in the loss of the open appearance of the site, which is highly prominent from various vantage points along Buckingham Grove.
9. The limited plot size, scale and form of the proposal, and the proximity of the side elevation next to the road, would result in the proposed dwelling having an abrupt and cramped appearance which would sit uncomfortably on Buckingham Grove. Therefore, it would appear incongruous in this highly prominent position within the street scene and would be harmful to the spacious pattern of development in this part of Buckingham Grove.
10. My attention has been drawn to an existing development adjacent to 1 Meadfoot Drive, which comprises a detached bungalow at the end of a row of similar bungalows in a suburban residential area. The scale of that development appears to be marginally larger than the existing bungalows in the row but nonetheless it integrates seamlessly into the street scene. In contrast, for the reasons given, the appeal proposal would not, and the effect on the character and appearance of this area would result in unacceptable harm. Given this, the example does not add weight in favour of the development. Accordingly, as I am required to do, I have determined the case before me on its own merits.
11. The Council highlight that the Design SPD outlines that "Garden land" is not classed as previously developed land (PDL) and only in exceptional circumstances will new housing on garden land be supported, where certain criteria are satisfied. Such criteria include, amongst other things, matters related to the impact of a proposal on the character and appearance of the area. Therefore, even if I were to accept that the land is PDL, I have found that the appeal scheme would result in unacceptable harm to the character and appearance of the area.
12. The appellant has provided copies of two appeal decisions for development proposals on garden land elsewhere in the country. While there may appear to be some similarities with the appeal scheme before me, the full details of these cases have not been provided and a proper comparison has therefore not been possible. Inevitably, it is the detail and specific context of any development which determines whether it is acceptable in practice. Having considered the design and layout of this proposal, and its effect on the character and appearance of this area, for the reasons given, I consider that there would be unacceptable harm.
13. For the collective reasons outlined above, the proposed development would be unacceptably harmful to the character and appearance of the area. Therefore,

the proposal would fail to accord with Policies ENV2, ENV3, HOU1, HOU2 and CSP4 of the Black Country Core Strategy (2011) (BCCS), and Policies L1, S1, S6 and S8 of the Dudley Borough Development Strategy (2017) (DS), which together, amongst other things, seek to ensure that development applies principles of good urban design which protects local distinctiveness and the character and appearance of the area.

14. The proposed development would also be contrary to the principles set out in the Design SPD, which sets out, amongst other things, that new housing development should be appropriate and sympathetic to its surroundings.

Living conditions

15. The size and position of the proposed footprint, as well as the limited plot size would result in the rear elevation being located close to the shared boundary with 34 Buckingham Grove (No 34). The proposal would have two windows on its rear elevation that would have an outlook towards the rear boundary and the side elevation of No 34. The windows would serve a kitchen and the only bedroom to the proposed dwelling.
16. The minimal rear garden length, lower ground level and juxtaposition of the bedroom window with the rear boundary and the built form of No 34, as well as its proximity to the side wall of the host dwelling, would result in an unsatisfactory and oppressive outlook from this main bedroom window.
17. The outlook from the proposed kitchen window would be less oppressive due to its position within the plot and its juxtaposition with neighbouring buildings and boundary fences.
18. I acknowledge that the host property also has a partial outlook towards the side elevation of No 34 and the garden length is less than 11 metres. However, the orientation of the rear elevation of the host property results in an outlook away from the side elevation of No 34. The higher ground level also minimises the effect of the outlook from windows in its rear elevation. Other existing bungalows on Ross Drive also do not appear to have a minimum rear garden length of 11 metres but those rear gardens are more spacious and do not have an outlook towards the side wall of a neighbouring building. Therefore, whilst there may appear to be some similarities, this has not eased my concern that harm would arise in this case.
19. For the reasons outlined above and on the evidence before me, I conclude on this main issue that the proposed development would unacceptably harm the living conditions of future occupiers, with regard to outlook from habitable windows. Therefore, the proposal would fail to accord with Policy L1 of the DS and the principles of the Design SPD, which together and amongst other things, seeks to ensure that development achieves an acceptable level of amenity for future occupiers. The Council's reason for refusal on this issue refers to policies ENV2, ENV3 and CSP4 of the BCCS. Those policies though do not clearly relate to this main issue concerning living conditions and so are not directly relevant.

Other Matters

20. The Council have submitted evidence to address concerns raised by the appellant who has suggested that they do not have an up to date Local Plan or an up to date strategic housing land availability assessment and thus it cannot

demonstrate a 5-year housing land supply. The Council have confirmed that they have an adopted Local Plan. They have also provided evidence, following the publication of the revised Framework, which includes reference to the updated Council's Strategic Housing Land Availability Assessment, and which concludes that the Council currently has a housing land supply of 6.14 years and thus can demonstrate a 5-year supply of deliverable housing. Therefore, on the substantive evidence before me I am satisfied that the development plan policies most relevant in this appeal are not out of date.

21. The Council also addresses the latest Housing Delivery Test (HDT) results, which has seen the Council's housing delivery change from 128% of its requirement over the previous three years in 2021 to 93% in the recently published figures for 2022. In these circumstances, the Framework sets out that where delivery falls below 95% of the requirement over the previous three years, the Council will need to prepare an action plan to assess the causes of the under-delivery and to identify actions to increase delivery in future years.
22. The Council highlight that the latest HDT results take into account an unusually high number of demolitions due to housing stock demolitions that year. As a result, the Council identify that they are now preparing an Action Plan, as required by the Framework.

Planning Balance and Conclusion

23. The creation of an additional dwelling in a sustainable urban area by virtue of its proximity and accessibility to local services on foot, along with access to public transport opportunities, would contribute to boosting the supply of new housing, as referenced in the Framework. I also acknowledge that the proposal would add a smaller 1-bedroom property to the mix of dwelling types in the area and that this could be delivered relatively quickly to assist future housing delivery in the area. There would also be social and economic benefits to local services during the construction and occupancy phases without conflict with neighbouring land uses. However, these benefits would be limited by virtue of the proposal only adding one additional dwelling to the housing supply in the area.
24. Taking the above matters into consideration, the benefits would not outweigh the identified harm that I have found would be caused in relation to the character and appearance of the area, as well as to the living conditions of future occupiers.
25. Consequently, I conclude that the proposed development would conflict with policies contained within the development plan as a whole. I have found no other material circumstances that would outweigh that conflict. As such, the appeal is dismissed.

N Bromley

INSPECTOR