



Appeal Decision

Site visit made on 30 January 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/C4615/W/23/3328445

51A High Street, Quarry Bank, Dudley DY5 2AA

- 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 A Gatenby, Gatenby Properties Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P23/0550, dated 24 April 2023, was refused by notice dated 8 June 2023.
 - The development proposed is erection of single dwelling unit and provision of associated amenity area and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework) later updated on 20 December 2023, together with a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. The Council, in their appeal statement, stated that they considered that the revised Framework has no effect on the decision made. I invited submissions from the appellant regarding the revisions, and they agreed that the revised Framework does not bear any consequence to their case. I have familiarised myself with the content of the revised Framework and the accompanying WMS and I agree that none of the revisions to the Framework would appear to be material to this appeal.
3. I have slightly amended the description of development shown on the application form for precision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the living conditions of future occupiers with regard to internal living space and external amenity space; and
 - b) the living conditions of residents of neighbouring properties with regard to outlook and privacy; and
 - c) the character and appearance of the area.

Reasons

Living conditions of future occupiers

5. The Department for Communities and Local Government Technical Housing Standards – Nationally Described Space Standard (NDSS) provides guidance in assessing the requirements for the gross internal floor area of new dwellings, along with floor areas for key parts of the home. The NDSS states that these apply where referred to by Local Plan policy, and on this basis can only be considered as guidance. Nevertheless, Policy L1 of the Dudley Borough Development Strategy (2017) (DS) requires an appropriate level of amenity for future occupiers. The level of internal space and outdoor amenity space provided by a development is an important factor in whether it would achieve this.
6. There is some dispute between the Council and the appellant regarding the internal floor space of the proposed dwelling. The appellant states that the internal floor area measures approximately 82m², whereas the Council has concluded that it would have an internal floor area of 67m². This discrepancy is important as the Council's measurement of 67m² would mean that the proposal would fall short of the NDSS minimum requirement of 79m² internal floor space for a two-bedroom, four-person two-storey dwelling, and 70m² internal floor space for a two-bedroom three-person two-storey dwelling.
7. I acknowledge that the appellant has stated that the internal floor area measures 82m², which would meet the NDSS requirement. However, the plans that were submitted with the appeal do not give detailed measurements of the proposed room sizes or overall internal size of the proposed dwelling. Without such information I cannot be confident that this figure is accurate, or that the NDSS requirements would be met, as the discrepancy between the figures given by the appellant and the Council is so significant.
8. Furthermore, the NDSS highlight that dwellings which have more than one bedroom should have one double bedroom with an area of 11.5m², and that single bedrooms should have a minimum floor area of 7.5m². The Council consider that the proposed dwelling's two bedrooms would measure approximately 8.63 m² and 10.59m², both of which would fall short of the recommended standard for a double room.
9. Although the larger of the proposed bedrooms would include an ensuite, the NDSS does not indicate that ensuites can be included in the internal floor space measurements of the proposed bedroom. As such the proposed ensuite would not contribute towards the proposed bedroom meeting the suggested requirements. Whilst I acknowledge that a family bathroom and ensuite would be provided, in my view this would not compensate for a lack of adequate bedroom space.
10. The Council's New Housing Development Supplementary Planning Document 2013 (SPD) recommends that two-bedroom detached dwellings should have rear gardens which are a minimum length of 11m and should be a minimum of 65m². The proposed dwelling's rear garden would be approximately 6.8m in length, and approximately 56.3m².
11. However, I acknowledge that there would be further outdoor amenity space to the eastern elevation of the proposed property, and to the southern elevation

at the rear of the proposed car parking spaces. Moreover, the further outdoor amenity space that would be provided would be private and usable. Taken as a whole, I consider that adequate outdoor amenity space would be provided for future occupiers of the proposed dwelling.

12. Whilst I conclude that the proposed development would provide adequate living conditions for future occupiers with regard to outdoor amenity space, there is insufficient evidence for me to be certain that there would be adequate internal floor space for future occupiers. As such, the proposal would conflict with Policy HOU2 of the Black Country Core Strategy (2011) (CS) which seeks to ensure that new housing is of a high quality design and minimises amenity impacts. It would also be contrary to Policy L1 of the DS which states that development shall provide an appropriate level of amenity for future occupiers. It would conflict with guidance contained within the SPD which seeks to ensure that accommodation will function successfully. It would also not accord with the Framework, which seeks to ensure that developments provide a high standard of amenity for future and existing users.

Living conditions of neighbouring occupiers

13. The position of the proposed dwelling is measured as approximately 12.6m from the flats at No 93 to 96 Victoria Road and approximately 13.7m from the two-storey rear wall of No 52 High Street (No 52).
14. The northern elevation of the proposed dwelling would face the side elevation of the flats at No 93-96 Victoria Road. However, the windows of the flats are located toward the rear of this elevation, and as such there would be no direct overlooking of the flat from the windows of the proposed dwelling. Moreover, the nearest upstairs bedroom window would have opaque glazed glass, which would minimise any angled overlooking. I therefore consider that there would be minimal loss of privacy to the residents of the flats.
15. The south facing first floor windows of the proposed dwelling would be obscure glazed and top hung in order to reduce intervisibility between the first-floor flat at No 51 High Street and the first-floor habitable rooms at No 52, again limiting loss of privacy to neighbouring residents.
16. There are a number of outbuildings/extensions within the garden of No 52. Although the eastern elevation of the proposal which would face the rear garden of No 52 would not have windows, and the proposed dwelling would be slightly inset from the boundary with No 52, the two-storey dwelling would nonetheless rise substantially above the shared boundary fence. Due to its height, mass and proximity, the two-storey blank elevation would have a dominating and overbearing impact and diminish the outlook from the rear garden of No 52, to an unacceptable level. The proposed development would therefore not provide adequate living conditions for the occupiers of No 52 in relation to outlook.
17. I conclude that the proposal would not harm the living conditions of neighbouring occupiers in relation to privacy, but would harm the living conditions of the occupiers of No 52 with regard to outlook. As such, the proposal would be contrary to Policy HOU2 of the CS which seeks to ensure that developments minimise amenity impacts. It would also conflict with Policy L1 of the DS which highlights that developments must not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings. It would

conflict with guidance contained within the SPD which seeks to ensure that developments should not impact amenity. It would also not accord with the Framework, which seeks to ensure that developments provide a high standard of amenity for future and existing users.

Character and appearance

18. The appeal site is located within Quarry Bank Local Centre, behind a retail unit which has a protected frontage, and within an Area of Historic Townscape Value. Although the appeal site would be located to the rear of No 51a and No 51b High Street, the proposed dwelling would front on to Victoria Road which is predominantly residential, and comprises a mix of flats, terraces and semi-detached properties. Whilst there would be fleeting glimpses of the proposal from the junction with the High Street, it is from the more predominantly residential Victoria Road that the proposed dwelling would largely be viewed.
19. The proposed dwelling would have a wide plot frontage which differs from the narrower semi-detached dwellings and terraces. However, there is no one strong pattern of development along the street, and the proposal would not look out of place in the context of the nearby flats which also have a wider frontage than the traditional semi-detached dwellings and terraced properties.
20. The side of Victoria Road where the development would be located has no regular building line, with properties being set back at varying distances from the pavement, and some fronting the pavement directly. Furthermore, Victoria Road is formed of differing dwelling types and sizes, with a number of more modern dwellings and three-storey flats in the immediate locality.
21. I do not consider that the proposal would disrupt a regular rhythm of development, nor look incongruous in the street scene. Furthermore, the overall design of the dwelling is considered to be acceptable and would provide a characterful and attractive addition to Victoria Road.
22. Consequently, I find that the proposal would not harm the character and appearance of the area. In their reason for refusal regarding this issue, the Council cite Policy HOU1 of the CS. However, it seems to me that this policy does not relate to character and appearance. Accordingly, I do not consider that this policy is relevant to this main issue. However, the proposal would accord with Policies CSP4, HOU2, ENV2 and ENV3 of the CS, and Policies L1, S1, S6 and S8 of the DS, which, amongst other matters, generally seek to ensure that developments deliver high quality design that enhances local character. It would also accord with the Framework which seeks to ensure developments are sympathetic to local character. Similarly, the proposal would be consistent with the aims of the SPD which is designed to ensure new residential development respects local character.

Other Matters

23. The Council had no concerns regarding parking or highway safety, and the site is not at risk from flooding and does not lie in an area where recorded mining has occurred. The proposed dwelling would be located in a sustainable location and would be a good use of land. It would also provide a much needed smaller dwelling and would be built to ensure that carbon dioxide emissions are kept to a minimum. However, these benefits do not outweigh or alter my overall conclusion on the main issues.

24. I have noted the concerns raised by interested parties. However, as I have found the proposal to be unacceptable on two of the main issues, it is not necessary for me to explore these matters further.

Conclusion

25. I have found that the proposal would not cause harm to the character and appearance of the area. However, I conclude that the proposal would not provide adequate living conditions for future occupiers or for the occupiers of No 52. These harms are the overriding considerations in this case. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, including the Framework, which would indicate a decision other than in accordance with the development plan.

26. For the reasons given above the appeal is dismissed.

L C Hughes

INSPECTOR

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