



Appeal Decision

Site visit made on 6 February 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/C4615/W/23/3330318

1 Wigorn Lane, STOURBRIDGE, DY9 0TB

- 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 P Tulk against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P23/0771, dated 9 June 2023, was refused by notice dated 28 July 2023.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The government issued a revised version of the National Planning Policy Framework (the Framework) on the 19th December 2023. I have considered the changes in relation to the main issues in this appeal but find that the changes are minor and not material to the decision. The parties were therefore not invited to make submissions on the application of the amended Framework.

Main Issues

3. The main issues are:
 - The effect on the character and appearance of the area, including the effect on trees subject to a Tree Preservation Order (TPO); and
 - The effect on the living conditions of the occupier(s) of the dwelling proposed together with those of occupiers of houses close to the site.

Reasons

Background

4. The appeal site forms part of the side garden of the existing dwelling which is a large house which lies at the south-western end of a short cul-de-sac. The surrounding area is residential in character comprising mainly large houses and bungalows in large gardens. There is a public right of way footpath which runs along-side the southern edge of the site from the head of the cul-de-sac and there are a number of mature trees on and around the site which are subject to a TPO.

Effect on character and appearance

5. In considering the effect on the trees I have taken account of the appellant's Tree Survey and Arboricultural Impact Assessment¹. This concludes that the works involved in the erection of the house would be unlikely to result in the loss of any trees, subject to tree protection measures, although the assessment advises that it would be prudent to consider pruning the canopies of trees T1, T2 and T3.
6. The existing house is sited in the northern part of its plot and at the time of my visit a fence had been erected to subdivide the appeal site from the rest of the garden. This may reflect its separate history as explained by the appellant.
7. On the face of it there is sufficient land available for a separate dwelling but the awkward nature of the plot, where the main space is shaped like a segment of cheese, together with the presence of protected trees (annotated as T1, T2 and T3) result in the proposed two storey house having to be sited close to the side elevation of the existing house and the rear boundary of the site. Even if the present screening around the front boundary of the site could be retained this would give the proposed development a cramped appearance in the street scene. Visually and physically it and would harm the character of the area given the spacious form of development around Wigorn Lane and Redlake Drive.
8. I have taken account of the appellant's agent's submissions about the scale of other development in the wider area but most of the sites highlighted appear to be in different character areas not all associated or comparable with the setting of the appeal site.
9. In relation to the Council's Residential Design Guide SPD (May 2023) new housing on garden land should only be permitted where specified criteria are met. In this case I find that the proposal would not meet criterion (A) as it would not be in keeping with the character of the area by reflecting the existing settlement pattern in the area.
10. I note that in order to ensure efficient use of land Policy HOU2 indicates that all development will aim to achieve a minimum density of 35 dwellings per hectare, which the appellants says that the appeal scheme meets. However, the policy goes on to state the exception where such density would prejudice local distinctiveness. I am satisfied that the appeal site falls within an area where part (e) of Policy ENV2 applies as the appeal site lies in an area of extensive lower density suburban development.
11. In terms of the development plan I find that the proposal does not meet the provisions of Core Strategy Policies ENV2 and CSP4 and Development Strategy Policies S1, S6, S8 and L1 generally regarding new development preserving local character and distinctiveness and placemaking.

Effect on living conditions

12. This issue concerns both the living conditions of the future occupiers of the dwelling proposed and on those of the occupiers of neighbouring property.
13. In terms of the proposed house, the spread of trees around the property would overshadow it for much of the day and there would be little space outside of the

¹ As produced by Westside Forestry Ltd in June 2023.

canopies of the trees or where the land forms access and manoeuvring space for the garage. Even if the TPO trees on the appeal site has their canopies pruned there is likely to be pressure from the occupier(s) of the property to have the trees further reduced to let more light into the house and private area of garden. Overall on this issue I find that the siting of the house would not result in reasonable living conditions for the occupiers because of overshadowing by trees and a lack of daylight.

14. The immediate neighbouring property is The Sheilings and although this fronts Worcester Lane it has a long rear garden the end of which abuts the appeal site. The proposed house would be sited close to this party boundary, however, it would be at an angle. There would be no windows on the flank wall of the house at upper floor level but two bedroom windows on the rear elevation together with a window to stairs and an ensuite which could be obscure glazed. Views from these bedroom windows would be at an oblique angle rather than face down the garden where the main house is some distance away and is generally screened by existing landscaping. In the context of a suburban housing environment I am satisfied that this arrangement of fenestration would not result in material overlooking and a loss of privacy for the occupiers of The Sheiling.
15. I conclude on this issue that the proposed house would not provide reasonable living conditions for the occupiers due to overshadowing and a lack of daylight.

Planning balance

16. On the main issues I have found that the house proposed would appear cramped and squeezed in between the rear boundary of the site and the existing dwelling and this would be harmful to the character of the area and the local street scene. The house would also be likely to be affected by the close presence of protected trees which would overshadow the house and much of its garden and not give rise to reasonable living conditions for the occupier(s). The proposal therefore conflicts with the relevant parts of the development plan as identified above.
17. This conflict and the adverse effects have to be balanced with other considerations. I understand that the appellant and owner of the existing house seeks to downsize with smaller accommodation and the new house would enable him to continue to live in the area. However, this personal benefit does not outweigh the harm to local character and the appearance of the street scene.
18. The proposal would also help make more efficient use of land which is encouraged in local guidance and the Framework, but this would result in significant environmental harm contrary to the development plan and the Framework when these policy documents are read as a whole.
19. Overall, I find that the conflict with the development plan is not outweighed by other considerations and this indicates that the appeal should not be allowed.

Conclusion

20. For the reasons give above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR