



Appeal Decision

Site visit made on 26 February 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2024

Appeal Ref: APP/Z3445/W/23/3326058

96 Greenheart, Amington, Tamworth, Staffordshire B77 4NQ

- 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 Keith Dodd against the decision of Tamworth Borough Council.
 - The application Ref 0324/2022, dated 20 July 2022, was refused by notice dated 15 February 2023.
 - The development proposed is the erection of a 2-bedroom detached dwelling.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a 2-bedroom detached dwelling at 96 Greenheart, Tamworth B77 4NQ, in accordance with the terms of the application, Ref 0324/2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans were submitted during the Council's consideration of the application to alter the proposed dwelling from a three-bedroom to a two-bedroom property. This was subject to re-consultation. On this basis, and as the alteration does not alter the substance of the proposal, I have taken the amended plans into account and adjusted the description of development accordingly.

Main Issue

3. The main issue is the effect of the proposed dwelling on the character and appearance of the site and surrounding area.

Reasons

4. Greenheart is a residential street within a modern housing estate. Houses consist of a mixture of detached and semi-detached properties. Most frontages are open plan, accommodating driveways and grassed front gardens, with occasional frontage trees and hedge planting. Most corner plots have relatively large side gardens that retain and reinforce the sense of openness formed by the open plan frontages. The appeal site consists of two rear gardens of a corner plot, this provides a visual gap between the rear of 96 Greenheart and the side elevation of 97 Greenheart (No 97).
5. The proposed dwelling would be alongside No 97. It would share a similar depth, with shared front and rear building lines and have a similar pitched roof. It would be similar in form and style to neighbouring dwellings and would

replicate the close-knit formation of existing buildings along the street. It would therefore complement the established pattern of development.

6. The gap between No's 96 and 97 would inevitably diminish through the addition of the proposal. Nonetheless, most of the gap would remain, retaining the existing sense of spaciousness. The reduced gap would be similar to separation distances found locally between the rear of corner dwellings and neighbouring side elevations. The existing gap also seems more generous than other rear garden lengths of corner plots, evident locally, partially due to the curvature of the road and as 96/95 is stepped forward in comparison to adjacent housing. As such, the existing gap to the rear of No 96 is not of particular special value and its reduction would have no discernible impact on the open character of the estate.
7. Moreover, the proposed dwelling would have a rear garden that would meet the Council's garden size requirements and would have an area of space to its rear and side that would ensure it would sit comfortably on the plot and without appearing cramped or constrained.
8. As a result, the proposal would complement the character and appearance of the site and surrounding area. Accordingly, the proposal would comply with policy EN5(c) of the Tamworth Local Plan [2016](LP) and the National Planning Policy Framework (the Framework). These seek, among other matters, for development to be of a scale, layout and form which conserves the setting of a development and to be sympathetic to local character.

Other Matters

9. Interested parties have raised concerns that the proposal would exacerbate existing parking problems in the estate. The proposed scheme includes the provision of two parking spaces and replacement parking for the existing corner dwelling. This provision would satisfy the Council's parking requirements. I note that the estate is opposite an academy that has been reported to create overspill parking during drop off and collection times, although this is some distance from the site. Local roads have unrestricted on-street parking provision. Most dwellings include on plot parking for at least two vehicles, these factors would place only modest pressure on demand for existing roadside parking at peak times. Therefore, whilst on-street parking may be in high demand during busy periods, the proposal would have no material impact on such demand.
10. The parking area provided for the existing occupiers of No 96, would be set away from the corner, having a negligible effect on visibility for motorists turning the corner from the end of the cul-de-sac. As a result, the proposal would not have an adverse effect on highway safety.
11. The estate is covered by a Tree Preservation Order, which protects Oak and Thorn trees. As such, the trees on site, being Hornbeam and Silver Birch are not protected by the Order. The Council has raised no objection to the loss of these trees, which I also find to be of no particular special quality. Accordingly, their removal is acceptable without causing a material reduction of green infrastructure along the street.

12. The retained gardens and proposed garden comply with the size requirements of the Council's design guidance SPD [2019] and would therefore provide a reasonable area of outside space for a family.
13. The proposed development would be alongside No 97. This neighbouring property is a semi-detached dwelling with a connected side garage with room behind. Above the garage is a side window that serves a landing. The landing is a small space that provides access to first floor rooms and is a non-habitable room, where access to daylight would be less important to the occupier. The proposed dwelling would be around a metre away from the side boundary. This gap, plus the space over the garage, would ensure that the side window of No 97 would still gain reasonable access to daylight. Furthermore, the rear garden of no 97 is south to southwest facing. As such, sunlight and daylight to this rear garden, and its rear windows, would be unlikely to be adversely affected by the proposal. Other neighbouring properties would experience a negligible loss of sunlight or daylight being some distance from the proposal.
14. In terms of overlooking, the proposed first floor rear elevation would include a bedroom window and bathroom window. The rear gardens of No's 94 and 97 are already overlooked from several neighbouring windows. Consequently, the extent of overlooking capable from the proposed bedroom window would be limited and would not materially erode the privacy currently experienced by neighbouring occupiers. A condition could be imposed to ensure that the landing and bathroom windows would not enable overlooking towards the rear elevations and gardens of neighbours.
15. Interested parties have raised concerns with respect to surface water run-off and drainage. I note that the site is within flood zone 1, and therefore least likely to flood, but it is reported that the site is subject to surface flooding. The site includes a slabbed area that may have previously accommodated a shed or greenhouse. This did not appear to include any drainage provision and would reduce the natural drainage qualities of the site, increasing run-off. Whereas the proposed dwelling would capture rainwater and discharge this into a controlled system that would reduce surface runoff. A condition could be imposed to ensure such a system is in place prior to the use of the dwelling.

Conditions

16. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity.
17. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Conditions are also necessary with respect to materials in the interests of the character and appearance of the area [3]. A condition is necessary to ensure that any contamination is investigated and remediated in the interests of the safety of future occupiers, in compliance with the comments of the Council's Environmental Protection Team and LP policy SU5 [4]. This pre-commencement condition has been agreed by the Appellant.
18. A condition, requiring details of drainage, is also required to manage on site drainage due to reported surface flooding in the area. This was not sought by the Council but has been offered by the Appellant as a potential approach to

this concern [5]. The proposed first-floor landing and bathroom windows are required to be obscurely glazed to protect the living conditions of neighbouring occupiers [6]. A condition is required to ensure that the car parking areas are operational prior to the first use of the dwelling to prevent an increase of on street parking and comply with LP policy SU2 [7]. A condition to restrict hours of construction is necessary to protect the living conditions of neighbouring occupiers [8].

19. The Framework advises that conditions should not be used to restrict permitted development (PD) rights unless there is clear justification to do so. However, based on the size of the plot, PD rights associated with extensions and outbuildings should be removed. Furthermore, rights should be removed to prevent front boundary enclosure to respect the open plan character of the area. A condition is therefore reasonable to remove such rights in the interests of the living conditions of future and existing occupiers and the interests of the character and appearance of the area [9].
20. However, the Council has sought a condition to require provision for a bin storage area. The scheme includes ample provision for bin storage areas and a dedicated area, or enclosure, would be unnecessary.

Conclusion

21. For the above reasons, the appeal is allowed, and planning permission granted subject to the imposed conditions.

Ben Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 003 - Rev Oct 2022 (submitted 25 July 2022), Proposed Elevations - 001 Rev Oct 2022 (submitted 11 January 2023), Proposed Floor Plans (for the avoidance of doubt showing two bedrooms) - 002 Rev Oct 2022 (submitted 11 January 2022) and Site Plan 004 - Rev Oct 2022 (submitted January 2023).
- 3) Prior to any works above ground floor slab level, details of all materials to be used in the construction of the external surfaces of the development shall be submitted to and approved by the Local Planning Authority in writing. The approved details shall be used in the construction of the approved dwelling.
- 4) Prior to the commencement of development a scheme to deal with contamination of land, controlled waters and/or ground gas has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 - (a) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 - (b) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report should include a detailed quantitative human health and environmental risk assessment.
 - (c) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation should be stated, such as site contaminant levels or a risk management action, and how this will be validated. Any ongoing monitoring should also be outlined. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to and approved in writing by the local planning authority.
 - (d) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be

- included, together with the necessary documentation detailing what waste materials have been removed from the site.
- 5) No above ground works shall commence on site until a surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The drainage scheme approved shall then be implemented prior to occupation of the property and retained in perpetuity.
 - 6) The landing window in the side elevation and the bathroom window in the rear elevation of the approved dwelling shall be glazed only in obscure glass of at least Pilkington Scale Level 3 (or equivalent). These windows shall be glazed as such prior to the first occupation of the dwelling and maintained in perpetuity.
 - 7) Prior to the first occupation of the approved dwelling, the car parking spaces shown on the approved plans shall be laid out, constructed, hard surfaced and drained to ensure no surface water runs onto the highway and once occupied shall be maintained as such thereafter.
 - 8) No work completed, no construction site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 8am-6pm Monday to Friday and 8am-1pm Saturday and not at any time on Sundays, Bank or Public Holidays.
 - 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged, extended or altered, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

End of conditions