



Appeal Decision

Site visit made on 18 June 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/B3410/W/24/3336205

61 Rolleston Road, Burton on Trent, Staffordshire DE13 0LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sajjid Karim against the decision of East Staffordshire Borough Council.
 - The application Ref is P/2023/00561.
 - The development proposed is for the demolition of the existing bungalow and construction of a 4 bedroom 2 storey house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended, except for paragraph numbering. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - a protected tree; and
 - the living conditions of the occupiers of No 59 Rolleston Road (No 59) and No 63 Rolleston Road (No 63) with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site comprises of a detached bungalow on the western side of Rolleston Road. It is located within an established residential area characterised by predominantly single and two-storey detached dwellings of various styles in long plots, set back from the highway. Roof forms vary throughout the street, but they are typically well-proportioned in relation to the host property. While property heights vary, there is a general consistency in height between neighbouring two-storey properties.

5. The proposed dwelling would be sited close to the boundary with No 59. However, the single garage to the side of No 59 ensures there would be an adequate gap between the properties, providing a visual break that would be larger than many I observed in the street scene. The dwelling would also be sited forward of No 63, however this would only be a marginal increase over the existing bungalow on the appeal site. Furthermore, it would be consistent with the prevailing building line, and thus in this regard would be more reflective of the wider street scene.
6. However, the proposed roof form, with low eaves across half the front elevation, would create an unbalanced appearance. It would make the property appear top-heavy and disproportionate in appearance, at odds with surrounding properties. The issue would also be exacerbated by the proposed height of the dwelling, as it would be noticeably taller than both the neighbouring properties. The footprint of the proposed dwelling is much deeper than that of the bungalow which it would replace and its main ridge would roughly line up with the main ridge of No 63. Consequently, whilst in massing terms the proposed building would step down at the rear this would not be immediately apparent in the street scene.
7. Given the size and position of the garage at No 59 and the comparative set back of No 63, the new house would be prominent in views along Rolleston Road in both directions. Its roof design and the massing of front element of the building would result in the proposal having an incongruous effect on the street scene, at odds with the consistency of scale which I have identified.
8. The use of materials that match surrounding properties would not sufficiently mitigate the harmful visual impact.
9. The proposal includes a large amount of hard landscaping at the front of the property. Considering this is a common feature that I observed at the front of a number of nearby properties, this element would not adversely affect the character of the area.
10. For the reasons above, I conclude the development would harm the character and appearance of the area. It would therefore conflict with Policies SP1, SP24 and DP1 of the East Staffordshire Borough Council Local Plan 2012-2031 (2015) (LP) which together, amongst other matters, seek to ensure that new development contributes positively to and integrates with the surrounding area. It would also not comply with the overarching design aims of the National Planning Policy Framework (the Framework) and the East Staffordshire Design Guide (2008) (SPD) which requires development to demonstrate a strong and considered response to its context.

Protected tree

11. There is a beech tree of a substantial size within the front garden of No 63 which is protected by a Tree Preservation Order. The tree is an attractive specimen and owing to its height and spread makes a positive contribution to the visual amenity of the street scene. The proposed increase in hard surfacing at the front of No 61 would extend into the root protection area of the tree. The submitted arboricultural survey and method statement recommends a no dig construction method when replacing and extending the hard surfacing, to ensure the tree roots are not compromised.

12. While a no dig construction method could usually be secured via a condition depending on the circumstances, the Council's tree officer has raised concerns that a no dig system could have an effect on threshold levels with both the public highway and the appeal site. Without further information or evidence to demonstrate that a no dig system could be successfully implemented at the site without adversely affecting threshold levels, I cannot be certain that the roots of the tree could be adequately protected when the hard surfacing is laid.
13. Establishing whether the no dig construction could be deliverable without adversely affecting threshold levels goes to the heart of the acceptability of the development. If it is not possible, then the tree roots could be harmed. This is a matter which must therefore be resolved prior to the grant of planning permission and not deferred for later consideration by use of a planning condition. The evidence before me does not fully demonstrate that the protected tree would not be harmed by the proposal. Consequently, it conflicts with Policy DP8 of the LP, which seeks to ensure new development minimises harm to existing trees and would not comply with the overarching aims of paragraph 136 of the Framework.

Living conditions

14. The proposed two-storey dwelling would be built close to the boundary with No 59 and span a considerable length of the shared boundary closest to the rear of the property. Given the orientation of the proposal, it would not result in a material loss of sunlight to No 59. However, the combined depth and height of the proposal, even given the reduced ridgeline of the two-storey rear element, would have a significant and detrimental overbearing effect for the occupiers of No 59 when using the garden space closest to the rear of their property and would also have an adverse impact on outlook from the rear windows.
15. Turning to No 63, as the new building would be set further away from the boundary compared to No 59 and the two-storey element would be inset, it would not be overbearing for the occupiers of No 63 when viewed from the garden, ground and first floor windows of No 63.
16. Whilst No 63 is sited north of the proposal, the lounge at No 63 is dual aspect. Given that a 45 degree line taken from the midpoint of both the front and rear lounge windows would not be breached, it would not result in a material loss of light to the lounge. In coming to this view, I am also mindful that the existing bungalow, although single-storey, is sited closer to the boundary with No 63 and would already create some overshadowing. As the proposed scheme is set further away, any increase in overshadowing would be likely to be limited and not to a degree as to be harmful to the occupiers of No 63.
17. For the reasons set out above I conclude that the development would not have a harmful effect on the living conditions of the occupiers of No. 63 in terms of a loss of outlook. Similarly, it would not harm the living conditions of the occupiers of either No 59 nor No 63 in terms of loss of light. Nevertheless, I conclude that the development results in loss of outlook for the occupiers of No 59 by reason of overbearing effects and that this impact would harm their living conditions.
18. Accordingly, it would conflict with Policy DP3 of the LP which, amongst other matters, seeks to ensure new development does not have an overbearing impact on neighbouring dwellings and SP1 of the LP which states proposals

should protect the amenities of nearby residents through good design. It would also not accord with the Framework and SPD which has similar aims.

Planning Balance and Conclusion

19. Given the proposal would provide off-street parking and utilise existing access arrangements, the development would not prejudice highway safety. There would also be no harm to protected species. However, the absence of harm is a neutral matter in the planning balance.
20. The development would provide some benefits. It would create a family sized home, broadening the house types in an accessible location in flood zone 1, close to services and facilities. There would also be some economic benefits both short term through the construction process and longer term from residents spending in the local community. However, as it is for a single replacement dwelling, albeit larger, such benefits would be limited. Therefore, even in combination, they amount to no more than moderate weight, which would not be sufficient to outweigh the harm identified.
21. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

T Bennett

INSPECTOR