



Appeal Decision

Site visit made on 5 February 2019

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 05 April 2019

Appeal Ref: APP/Q1825/W/18/3207358

44 Oakham Close, Redditch B98 7YG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs P Lane against the decision of Redditch Borough Council.
 - The application Ref 18/00455/OUT, dated 16 April 2018, was refused by notice dated 13 June 2018.
 - The development proposed is described as "Subdivision of the existing garden and the construction of a dormer bungalow. The new dwelling is to be of the same appearance, design and materials of the existing dwelling (44 Oakham Close)."
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Decision

1. The appeal is allowed and outline planning permission with all matters reserved is granted for the erection of a dormer bungalow at 44 Oakham Close, Redditch B98 7YG in accordance with the terms of the application, Ref 18/00455/OUT, dated 16 April 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. The application is in outline with all matters reserved, such that access, appearance, landscaping, layout and scale would be subject to separate reserved matters applications should outline planning permission be granted. The submitted plan 2017.29 01 is illustrative only, even if it has not been explicitly labelled as such but provides a useful guide as to how the site could be developed.
3. With regard to the above I have revised the description of the development provided by the application form to provide certainty of the proposal before me. In that respect the description of the new dwelling being of the "same appearance, design and materials of the existing dwelling (No.44 Oakham Close)" is not required, as appearance is a reserved matter and those details would form part of a subsequent reserved matters application. Therefore, I have necessarily simplified the description of development to remove the final sentence of the appellant's description provided in the application form.

Main Issues

4. The main issues are:-
 - the effect on the character and appearance of the area; and
 - the effect on the living conditions of the occupiers of neighbouring residential properties Nos. 36, 37, 42, 43, 44 and 45 Oakham Close with regard to privacy and outlook.

Reasons

Character and appearance

5. The appeal site is the side garden to a small detached bungalow, 44 Oakham Close, which has a bigger plot than some other dwellings. An existing shed on the site lies adjacent to the site boundary with 43 Oakham Close, which is a two storey detached dwelling. The site lies within an established housing estate the topography of which means that there are significant ground level differences between some dwellings and roads. Ground levels also vary across the site, rising towards 43 Oakham Close. The highway passes in front of 42 and 43 Oakham Close and effectively stops, before it then becomes a shared driveway leading to the parking areas serving the two bungalows, 44 and 45 Oakham Close.
6. The appeal proposal would see the erection of a dormer bungalow in the side garden of 44 Oakham Close, placing built development closer to the garden boundary with the adjacent two storey property, 43 Oakham Close. Access would be off the shared driveway to the bungalows and the indicative plans show two off-road parking spaces within the frontage of the appeal site. As the application is made in outline, details of the access and parking would be determined at reserved matters stage, should outline planning permission be granted.
7. During my site visit, I observed that this part of Oakham Close is characterised by both two storey dwellings and bungalows that sit adjacent to each other. Moreover, 44 and 45 Oakham Close already form part of a row of four bungalows, albeit the other two are accessed by a separate driveway off a different part of Oakham Close at a lower level. Therefore, bungalows are already a feature of the street scene. However, as the side garden of 44 Oakham Close creates a bigger gap between properties, it serves as a transition between house types that is reinforced by the difference in ground levels. This, therefore, provides an opportunity for a different house type.
8. Dormer windows are not a prevailing characteristic of the area. However, as appearance is a reserved matter and the submitted plans are illustrative, the design and placement of dormers can come in many forms and need not necessarily be on the rear. In that respect, I am satisfied that a suitable design of dormer bungalow could be achieved to complement the local surroundings. Furthermore, I consider the appeal site is of an adequate size to accommodate a modest-sized bungalow with enough private rear garden and off-road parking, when compared to some other plot sizes in the immediate surrounding area, and which could be well-integrated and in-keeping with the street scene without causing harm to the character and appearance of the area.
9. I conclude that a suitably designed dormer bungalow would not harm the character and appearance of the area. I find it would therefore be in general accordance with Policy 5 of the Borough of Redditch Local Plan No.4 (BRLP) which seeks to ensure, amongst other things, that proposed garden development lies within an existing settlement and is integrated into the neighbourhood so there would be no detrimental impact on its character and environmental quality. Furthermore, as the scheme is in outline, I am satisfied that a well-designed scheme could be produced that fully complies with the various requirements of Policy 40 of the BRLP, which seeks to ensure high

quality design that complements the local surroundings. As far as it is relevant, the proposal, subject to details of the reserved matters, would also be capable of according with the guidelines in the Supplementary Planning Guidance (SPG) 'Encouraging Good Design'.

Living conditions

10. The illustrative plan 2017.29 01 shows the proposed dwelling sited right on the common boundary and with a utility window shown in the side elevation of the dwelling. As matters of appearance, landscaping and layout are reserved, I am satisfied that a dormer bungalow could be appropriately designed in those respects to ensure a suitable arrangement of windows that would not harmfully overlook or cause a loss of privacy for occupiers of 43 Oakham Close. I also observed during my visit that there was a large tree stump on the boundary line and the timber boundary fence kinked around it. Any dispute regarding the alignment of this boundary is a matter between the Appellant and neighbouring residents.
11. Concerns have been raised about the differing ground levels, resultant height of the proposed dwelling and the necessity for retaining walls. I have no substantive evidence before me to indicate that this relatively common engineering operation is not feasible here. The Council has suggested a condition requiring details of ground levels to be submitted with the reserved matters and I consider this is necessary to inform the design and layout and assess any impacts on neighbouring properties. Even if existing ground levels were to be retained, rather than lowered, I am satisfied that a modest sized dormer bungalow would not cause significant overshadowing to the garden of 43 Oakham Close and its vegetable beds, especially considering the orientation of the site and the path of the sun through the sky. Nor would a dormer bungalow create an unduly overbearing outlook considering that the side of No. 43 is a good distance away from the boundary.
12. Nos. 36 and 37 Oakham Close to the rear of the appeal site are at a significantly lower ground level, but I noted there were examples of other dwellings along the street with a similar relationship. The Council and interested parties have raised concerns with respect to the dormer window shown in the rear elevation of drg.no. 2017.29.01 with respect to matters of overlooking. However, the plan is illustrative. In that respect, when considering that the siting and internal layout of the dwelling and the design and positioning of a dormer window relate to reserved matters, and that ground levels can be secured by condition, I am satisfied that a suitably designed dormer bungalow could be achieved within the site with a satisfactory relationship with surrounding properties in terms of privacy and overlooking.
13. The rear gardens of the existing bungalows 44 and 45 Oakham Close, and the two storey dwelling 42 Oakham Close at the end of the road, would not be harmfully overlooked due to the oblique angles of outlook likely from any windows of the proposed dwelling. I am therefore satisfied that a dormer bungalow could be appropriately designed at reserved matters stage to ensure there are no privacy issues to the occupiers of these properties.
14. I conclude that a dormer bungalow on the site would not give rise to significant adverse effects on the living conditions of occupiers of Nos. 36, 37, 42, 43, 44 and 45 Oakham Close with regard to privacy and outlook, subject to the details

of the reserved matters. I find therefore that the proposal would be in general accordance with Policy 5 of the BRLP which seeks to ensure, amongst other things, there would be no detrimental impact on the current and future amenity and environmental quality of the neighbourhood. As far as it is relevant, the proposal could be designed to ensure it accords with the guidelines in the SPG 'Encouraging Good Design'.

Other matters

15. Whilst I note residents' concern about the nature of Oakham Close, the County Highways Officer has no technical highway objection to the erection of a dwelling and the indicative nature of the proposed access and on-site parking provision for two vehicles. I have no substantive evidence before me to contradict this and from what I observed on site I do not disagree. Nor do I have any substantive evidence before me to suggest that the shared driveway to Nos.44 and 45 would be unable to take the additional two vehicles likely for a modest sized bungalow. I am satisfied that at reserved matters stage appropriate on-site parking provision could be achieved without obstructing access to Nos.44 and 45. If other residents are parking inconsiderately in the area, that itself is not a reason to withhold planning permission. Similarly, the maintenance of the shared driveway is a private matter between the Appellant and those who have rights to the land in question. Furthermore, based upon the evidence before me and my observations, I am satisfied that the limited traffic movements associated with an additional dwelling would not unduly increase vehicle activity in the vicinity of the site.
16. Whilst residents may have concerns over drainage, the Council's drainage engineer and Severn Trent have no objection to the appeal proposal. However, local geology and a low infiltration rate would make soakaway (as proposed) unsuitable for surface water disposal and creates uncertainty with respect to the effect on the site and those surrounding. For these reasons and because drainage is not a reserved matter I consider it reasonable and necessary to impose a pre-commencement condition requiring the submission of drainage details to ensure the design of the scheme is resolved prior to its implementation as part of any groundworks.
17. Some residents have raised concerns about noise, disturbance, dust and general disruption during construction. This is a likely and inevitable consequence of most development but is generally short-term and is not a reason to withhold planning permission. Furthermore, other departments of the Council should have the necessary powers to deal with any reported statutory nuisance arising from noise or dust. Following construction, based upon the evidence before me and my observations, I am satisfied that the limited traffic movements and activity associated with an additional dwelling would not unduly increase noise levels experienced by residents in the vicinity of the site. In addition, there is no substantive evidence before me that the development of the site, subject to the approval of subsequent reserved matters, could not be constructed in a manner that would preserve the stability and structural integrity of surrounding land and buildings and avoid damage to them. Ownership and legal rights of access are a private matter between the relevant parties and not within my jurisdiction. Property values and views are not planning matters and are therefore not determinative in this case.

Conditions

18. The Council has suggested 9 conditions. Where necessary and in the interests of precision and clarity I have amended them to accord with the Planning Practice Guidance. I have also limited pre-commencement clauses to just drainage, which is necessary for the reasons stated above.
19. I have attached conditions relating to the commencement of development, submission of reserved matters and the time limits associated with this to provide certainty of the outline planning permission granted. I have also included a condition specifying the relevant plan as this provides certainty as to the extent of the development site, but have not included the illustrative plan 2017.29.01 as all matters are reserved.
20. Based upon my previous findings, I am satisfied that a suitable access and associated parking would be feasible, subject to details being provided and assessed as part of the subsequent reserved matters. Consequently, I do not impose the Council's suggested conditions in terms of a bound driveway surface and visibility splays as they relate to details to be provided as part of the reserved matters of access and layout. Conditions are imposed to secure the provision for cycle parking and electric charging points as they do not fall within the reserved matters but are necessary to meet the Council's policies and standards relating to sustainable travel and healthy communities.
21. I am satisfied that it is reasonable and necessary to impose the Council's suggested condition relating to ground levels, as they vary across the site and there could be adverse impacts on living conditions of neighbouring properties if ground levels are not fully considered.

Conclusion

22. Having regard to all matters raised, I conclude that the appeal should succeed and that outline planning permission should be granted subject to conditions.

K Stephens

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) This permission relates to the site as denoted by the red line on drawing no. 2017.29.01 Rev B.
- 5) No development shall commence until a scheme for foul and surface water drainage has been submitted to and approved in writing with the local planning authority. The approved drainage details shall be implemented in full before the dwelling is first occupied.
- 6) No development shall commence until a scheme for foul and surface water drainage has been submitted to and approved in writing with the local planning authority. The approved drainage details shall be implemented in full before the dwelling is first occupied.
- 7) The reserved matters application shall include scaled plans, including details of the existing and proposed ground levels on the site and the finished floor and ridge levels of the dwelling (with reference to a fixed datum point) for the approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
- 8) The dwelling shall not be occupied until sheltered and secure cycle parking to comply with the Council's adopted highway design guide (4 spaces) has been provided in accordance with details which shall first be submitted to and approved in writing by the local planning authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 9) The dwelling shall not be occupied until one of the new parking spaces has been equipped with an electric vehicle rapid charging point. Once installed and operational it shall be retained and maintained as such at all times.