



Appeal Decision

Site visit made on 21 October 2009

by **P G Lloyd** BA(Hons) MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
11 January 2010

Appeal Ref: APP/C3430/A/09/2109682

Land Adjacent to 46 Broadmeadow Lane, Great Wyrley, Walsall, West Midlands, WS6 6EH

- 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 Mrs J Carruthers against the decision of South Staffordshire Council.
- The application Ref 09/00305/FUL, dated 23 April 2009, was refused by notice dated 24 June 2009.
- The development proposed is a 2-storey single dwelling.

Decision

1. I allow the appeal, and grant planning permission for a 2-storey single dwelling on land adjacent to 46 Broadmeadow Lane, Great Wyrley, Walsall, West Midlands WS6 6EH in accordance with the terms of the application, Ref 09/00305/FUL, dated 23 April 2009, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping which shall include details of all boundary treatments and external ground surface materials and treatment and indications of all proposed species of plants, their numbers, density and disposition.
 - 4) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
 - 5) The dwelling shall not be occupied until the areas shown on the approved plans have been laid out and surfaced in accordance with details submitted and approved by the local planning authority, and those areas shall not thereafter be used for any purpose other than the parking of vehicles.

Main issues

2. I consider the main issues to be a) the effect of the proposed development on the character and appearance of the area having regard its open nature and; b) the effect on the living conditions of the occupiers of 12 Moat Lane and the occupiers of the proposed dwelling with particular reference to privacy.

Reasons

3. The appeal site comprises the large side garden of 46 Broadmeadow Lane, a semi-detached 2-storey dwelling on the corner of Broadmeadow Lane and Moat Lane. It is a one of number of larger corner plots in the locality which benefit from substantial side garden areas. A number of larger informal open spaces provide a sense of openness to the locality, whilst the larger corner plots - including the appeal site - add to the spacious feel and pattern of development.

Character and Appearance

4. The dwelling created by the proposed development would sit in a similar position within its plot as the group of dwellings of which 46 Broadmeadow Lane currently forms the end property. It would also be of comparable scale, design, height and appearance to those in the locality. Views across the site from Broadmeadow Lane would be generally framed by the three storey parade at the rear of the site.
5. In addition to an enclosed rear garden, the proposed development would retain a substantial front garden. Its side garden would be approximately 8 metres wide to the boundary with Moat Lane. The proposed layout would not unacceptably interrupt the open pattern of development, as it would retain a substantial space within the plot and between the proposed dwelling and No 44 opposite. The proposed development would therefore retain sufficient openness to be sympathetic with the character and appearance of the surrounding area so as to comply with Saved Policies BE26, H16 and H17 of the South Staffordshire Local Plan (LP) in so far as they seek to protect the character and appearance of the locality. On this issue I conclude therefore that no harm to the character and appearance of the locality would occur.
6. I note references to previous applications on the side garden of No 44 which have been refused planning permission, although no details have been provided. Nonetheless it struck me that the land to the side of No 44 is significantly narrower than the appeal site and that the relationship of that site and dwellings on Moat Lane may have raised different considerations to the proposal before me. I do not consider that previous decisions relating to No 44 necessarily bind me to the same conclusion in respect of the appeal proposal. I have, in any event, considered the appeal proposal on its merits.

Living Conditions

7. The first floor gable wall of 12 Moat Lane contains a window and balcony (which has a privacy screen) and whilst it would face the appeal site with the potential for some overlooking of the appeal dwelling, it would do so at an angle. One of the objectives of Saved LP Policy BE26 is to secure satisfactory levels of privacy and the guidance set out in Appendix 1 of the LP derives from this Policy. To achieve this objective, separation of 27.5 metres is normally

sought between facing principal windows where a living room or kitchen above ground floor level (e.g. in flats) overlooks a conventional dwelling. Whilst I acknowledge that the guidance is worded such that it applies to new development, the parties accept its principles could also apply here.

8. The principal windows to bedroom 1 of the proposed dwelling would face rearward and sideward; this pattern is repeated on the ground floor. Whilst I recognise that the separation achieved would fall below the LP Appendix standard (and none of the exceptions set out in the LP Appendix apply), it would nonetheless reflect the separation currently achieved between Nos 46 and 12 and thus reinforce local distinctiveness on this part of the estate. Furthermore, as the proposed dwelling would be positioned at an angle to No 12 and the first floor balcony/window at No 12 is already screened, I consider the potential for overlooking would be reduced and would not result in an unacceptable loss of privacy. Planning Policy Statement 3: "Housing" seeks the efficient use of previously developed land and I consider that the proposed development would achieve those national objectives without harm to the character of the locality.
9. I therefore conclude that although the proposed development fails to comply with the separation distance sought in saved LP policy BE26, the lack of harm to the living conditions of the occupiers of either 12 Moat Lane or the proposed dwelling is a material consideration to which I have given significant weight.
10. I have noted concerns expressed by third parties over parking. I saw that the forecourt of the parade of shops was lightly parked during my visit around lunchtime and on-street parking levels were reasonably low. The appeal scheme would provide 2 off-street parking spaces each for both the existing dwelling and that proposed. I consider this level of provision to be sufficient given national policies which seek to reduce reliance on private car use.
11. I have considered the Council's suggested conditions in the light of Circular 11/95: "The Use of Conditions in Planning Permissions". Conditions are necessary to secure details of external materials and landscaping (including boundary treatments and hard surfacing) and their implementation to protect the character and appearance of the locality. I have imposed a condition requiring on-site parking spaces to be provided, in the interests of highway safety. Circular 11/95 advises that permitted development rights should be removed only in exceptional circumstances. The LP Appendix also states permitted development rights *may* be removed on smaller dwellings with smaller gardens (1 and 2 bed sizes). I consider no exceptional justification to remove permitted rights exists in this case, and have therefore not imposed the condition suggested by the Council.
12. Having considered all matters raised, I conclude that the proposed development would not harm the character or appearance of the locality, nor the living conditions of neighbouring occupiers; and that there are no other material considerations which outweigh my conclusions on these main issues. I therefore allow the appeal.

P G Lloyd

INSPECTOR

