The Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/B3438/W/24/3344763
51a Park Lane, Knypersley, Staffordshire ST8 7AS

- 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 AVA against the decision of Staffordshire Moorlands District Council.
- The application Ref is SMD/2023/0379.
- The development proposed the creation of a new dwelling within the current residential curtilage of number 51a Park Lane. The site boundary for the new dwelling is to encompass the existing outbuildings located on site.

Decision

1. The appeal is allowed and planning permission is granted for the creation of a new dwelling within the current residential curtilage of number 51a Park Lane. The site boundary for the new dwelling is to encompass the existing outbuildings located on site, at 51a Park Lane, Knypersley, ST8 7AS in accordance with the terms of the application, Ref SMD/2023/0379, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the application, the appellant submitted revised plans which showed alternative access arrangements for the proposed dwelling. However, the Council determined the application based on plans indicating the access to the west of No 51a, as originally proposed (230206 PR 001 Revision B). The appellant has stated that they are receptive to any appropriate conditions to consider the alternative access arrangement proposed as per the revised drawings.

3. However, whilst an alternative plan was submitted, I cannot be confident that all parties, including third parties, have had sufficient opportunity to comment on it. Consequently, in the interests of natural justice, I have determined this appeal on the basis of the plans upon which the Council made their decision, and which have been subject to consultation, rather than the suggested amendments.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 51 Park Lane with regard to noise and disturbance.

Reasons

5. The appeal site comprises part of the rear garden of 51a Park Lane (No 51a) and extends to the rear of the property at 51 Park Lane (No 51). The proposal would see the erection of a two-bedroomed bungalow to the rear of No 51. The proposed bungalow would be orientated so that its front elevation would face east, with one of its side elevations directly to the rear of No 51.

6. No 51 is on a corner plot with Woodland Street. There is a bus stop and electricity substation along Woodland Street, located close to the boundary of the rear garden of No 51a. At the time of my site visit there was a fairly steady amount of traffic on the roads. However, I noted that the garden area was secluded and provided a peaceful amenity area, with landscaping limiting traffic noise.

7. Access to the proposed dwelling would be from a new access point off Park Lane, which would run along an existing narrow gap between No 51 and No 51a, leading to a parking and turning area. There is no garage proposed.

8. As a consequence of the proposed layout, whilst there would be no noise from garage doors, there would be noise from movements from vehicles belonging to or visiting the occupiers of the proposed bungalow, and associated noises such as car doors opening and closing, along with glare from headlights. These would be noticeable to the occupiers of No 51.

9. However, the parking would be located towards the rear of the appeal site beyond the proposed bungalow, itself directly to the rear of No 51, which would shield the associated noise to No 51 to some extent. The side elevation of No 51 adjacent to the proposed access drive has only one opening, which is located on the ground floor and is screened behind a hedge. This would limit the amount of disturbance and help mitigate impacts from vehicular headlights and noise. Furthermore, the narrow width of the driveway that would serve the proposed bungalow would dictate that vehicle movements would be at slow speed and as such, the noise generated by passing vehicles would be limited.

10. The number of vehicular movements likely to be caused by one two-bedroomed bungalow would be relatively infrequent and would not result in noise and disturbance significantly over and above what is to be expected in a built-up residential area. Therefore, whilst vehicular movements and associated noise would be apparent from No 51, I do not consider that there would be an unacceptable level of harm.

11. My attention has been drawn to a similar proposal in the borough which was dismissed on appeal.[1] I am mindful that consistency in the planning process is important and like cases should be decided in a like manner. Whilst it is inevitable for comparisons to be made, each will have its own site-specific circumstances and merits upon which it is considered, and a specific relationship with surrounding properties. I note that in the appeal decision referenced, it was proposed that the indicative parking and turning area would be located directly to the rear of the neighbouring property, with no built development in between. This differs from the scheme before me, whereby the proposed parking and turning areas would be located further from No 51, with

[1] Appeal reference: APP/B3438/W/23/3323092

the side elevation of the proposed bungalow rather than the parking area lying adjacent to No 51's rear boundary. As such, the dismissed appeal would have had a greater effect on the living conditions of the neighbouring occupiers with regard to noise and disturbance than the scheme before me, and I do not find it to be directly comparable.

12. I conclude that the proposed development would not unacceptably harm the living conditions of the occupiers of No 51 with regard to noise and disturbance. As such, the proposal would comply with Policy DC1 of the Staffordshire Moorlands Local Plan (2020) which seeks to ensure that development protects residential amenity. It would also accord with the National Planning Policy Framework (the Framework) which seeks to ensure that developments provide a high standard of amenity for existing and future users and aims to protect the living conditions and quality of life of residents from forms of pollution caused by development.

Conditions

13. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. I have amended a number of the conditions in the interest of clarity, precision and enforceability.

14. In addition to the standard timeframe condition, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans in the interest of certainty (conditions 1 and 2).

15. I have included conditions requiring details of landscaping, the protection of trees and planting, the submission of samples of external materials, and details of boundary treatments, as these are necessary to protect the character and appearance of the area (conditions 3,4,5 and 6).

16. Conditions 7 and 8 are included to minimise noise and pollution during the construction of the approved dwelling and protect the amenity of neighbouring occupiers.

17. To protect the health of occupants of the scheme and on-site workers, and to ensure that any potential effects of ground contamination are mitigated, conditions 9 and 10 are required.

18. Conditions regarding the construction of the site access, internal access road, visibility splay and parking and turning areas are necessary in the interests of highway safety and to ensure that noise disturbance is limited (conditions 11, 12, 13 and 14).

19. I have not imposed a condition restricting artificial lighting at the appeal site as I consider it would be unreasonable and unnecessary given the private residential use of the site.

20. The Council has suggested conditions which restrict various permitted development (PD) rights for the proposed dwelling. The Framework is clear however that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. No persuasive evidence has been provided to support the removal of the PD rights as suggested by the Council. I have not therefore imposed such conditions.

Conclusion

21. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

22. As a result, the appeal should be allowed.

L C Hughes

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 drawing Nos – 230206 PR 001 Revision B; 230206 PR 002 Revision A; 230206 PR 003 Revision A, 230206 PR 004 Revision A; and 230206 PR 005.

3) No development shall take place above ground level until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include planting plans and details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

4) Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

5) No development above ground level shall take place until samples of all facing materials, roofing and hard-surface finishing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.

6) Prior to the occupation of the development hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as in accordance with the approved details before the building is occupied.

7) Demolition and construction works, including landscaping which generates noise that is audible at the site boundary, shall take place only between the hours of 08:00 – 18:00 on Monday to Friday; 08:00 – 13:00 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.

8) The development shall be carried out in accordance with the following measures:

   i. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. All waste transfer records should be retained for inspection by officers of the local planning authority.

   ii. No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely affect adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the local planning authority.

9) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

10) No top soil or fill material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development, a suitable methodology for testing this material should be submitted to and agreed by the local planning authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing by the local planning authority.

11) The development hereby permitted shall not be occupied until the means of access for vehicles has been constructed in accordance with the approved plans. The access shall be retained thereafter and shall not be gated.

12) The development hereby permitted shall not be occupied until details of the low noise emitting surface material to be used for the internal access drive in accordance with approved drawing 230206 PR001 Revision B have been submitted to and approved in writing by the local planning authority. The approved surface materials shall be implemented prior to the occupation of the dwelling and retained thereafter.

13) The development hereby permitted shall not be occupied until the visibility splay shown on 230206 PR 005 has been provided. The visibility splay shall be free of any obstruction exceeding 600mm in height and shall be retained as such thereafter.

14) The development hereby permitted shall not be occupied until the vehicle parking spaces and turning area have been provided in accordance with drawing no 230206 PR001 Revision B. Thereafter those spaces shall be retained for the parking of vehicles only.

*****END OF SCHEDULE*****