

2. PLANNING AND OTHER APPEALS

(references beginning with a 9 is planning appeal and
references beginning with an E is an enforcement appeal)

| Reference | Place | Ward | Result | Cttee/delegated |
|------------------|--------------|-------------|---------------|------------------------|
| 9/2006/0669 | Swadlincote | Swadlincote | Allowed | Committee |



Appeal Decision

Site visit made on 20 August 2007

by Anthony Thickett BA(Hons) BTP
MRTPI Dip RSA

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

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Date: 17 September
2007

Appeal Ref: APP/F1040/A/07/2042367

Garage adjacent to 2a Weston Street, Swadlincote, Derbyshire, DE11 9AT

- 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 K Middleton against the decision of South Derbyshire District Council.
- The application Ref 9/2006/0669/F, dated 23 May 2006, was refused by notice dated 16 January 2007.
- The development proposed is the demolition of the existing garage and the erection of a detached dwelling.

Decision

1. I allow the appeal, and grant planning permission for the demolition of the existing garage and the erection of a detached dwelling at garage adjacent to 2a Weston Street, Swadlincote, Derbyshire, DE11 0AJ in accordance with the terms of the application, Ref 9/2006/0669/F, dated 23 May 2006, and a 1:1250 ordnance survey plan date stamped 10 August 2006 and plan no. 2520/06/4295 (amended 24 October 2006) subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of 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) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows/dormer windows [other than those expressly authorised by this permission] shall be constructed in the rear or north western elevations of the dwelling hereby permitted.

Main Issues

2. The main issues are
 - the impact of the proposal on highway safety
 - whether the proposal would provide satisfactory living conditions for prospective residents

Reasons

Highway safety

3. Transport Policy 6 of the South Derbyshire Local Plan 1998 requires new development to, amongst other things, incorporate adequate provision for parking. Planning Policy Guidance Note 13, Transport (PPG13) tells us that developers should not be required to provide more spaces than they wish other than in exceptional circumstances. Such circumstances include where there are significant implications for road safety.
4. Weston Street is narrow and lined by terraced houses on both sides. Few properties have off street parking. The Council argue that the street is heavily parked but, on the two occasions I inspected the street on the day of the site visit, space was available. I appreciate that circumstances are likely to be different at the end of the working day but it is the Highway Authority's view that the proposal *'is unlikely to materially alter existing highway conditions to an extent where refusal of planning permission could realistically be justified'*.
5. In the absence of any technical evidence to the contrary and in light of my own observations, I conclude that the proposal would not have an adverse impact on highway safety and that it complies with Transport Policy 6 of the Local Plan.

Living conditions

6. The proposed dwelling would replace a detached garage. The building would occupy the whole of the width of the site. There would be a very small forecourt and about 1m between the back wall of the kitchen and the rear boundary. The proposal conflicts with Housing Policy 11(iv) of the Local Plan which requires new housing developments to provide private amenity space. However, the Council's 'Housing Design and Layout' was revised to take into account later government guidance. This supplementary planning guidance sets no minimum level for private amenity space stating that provision should reflect the need, or otherwise for gardens. This guidance was adopted following public consultation and I afford it significant weight.
7. Planning Policy Statement 3, Housing (PPS3) advises that, where family housing is proposed, it will be important to take into account the needs of children and, amongst other things, ensure the provision of private gardens. The proposed dwelling would be a small, 1 bed unit and is unlikely to be attractive to families. Not everyone wants the responsibility of, or feels the need for, a private garden. The site is a short walk from Swadlincote town centre. In my experience, some people are prepared to forgo a garden for the benefits of living close to or within a town centre. I conclude that the proposal would provide satisfactory living conditions for prospective residents and that this outweighs the conflict with Housing Policy 11(iv) of the Local Plan.

Conditions

8. I have considered the Council's suggested conditions in light of the advice in Circular 11/95. It is necessary, in the interests of the visual amenity of the area, to impose a condition regarding materials. The proposal was amended following its submission to the Council. For the sake of clarity I have listed the

plans in the decision and it is unnecessary to duplicate this by way of a condition. In the absence of anything from the relevant statutory undertaker to indicate a lack of capacity, I see no reason why drainage cannot be dealt with under the Building Regulations. Nothing is submitted to suggest that the garage has been used for anything other than domestic purposes and I do not consider a condition requiring a site investigation to be necessary.

9. Permitted development rights should only be removed in exceptional circumstances. Nothing is submitted to show that such circumstances exist here and a blanket restriction is not justified. I consider that it is necessary, in order to safeguard the privacy of neighbouring residents, to prohibit the insertion of windows in the rear and north western elevations. Any windows inserted in the south eastern elevation would face the gable of No. 2a and I do not consider it necessary to prohibit the insertion of windows in this elevation.

Anthony Thickett

Inspector

