
Appeal Decision

Site visit made on 5 January 2017

by G Powys Jones MSc FRTPI

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

Decision date: 23rd January 2017

Appeal Ref: APP/J1860/D/16/3161618

31 Cowleigh Bank, Malvern, Worcestershire, WR14 1QP

- 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 Kevin Gwilliam against the decision of Malvern Hills District Council.
 - The application Ref 16/00985/HOU, dated 21 June 2016, was refused by notice dated 22 August 2016.
 - The development is described as a proposal for a double garage that is slightly larger, and in a slightly different location than was approved in planning approval 15/00778/HOU, plus a retaining wall to the front garden.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. In September 2015 the Council granted planning permission for alterations and extensions to the host property together with a new detached garage (*Ref 15/00778/HOU*). Works proceeded, but the works to the garage were not in accordance with the approved plans. The application leading to this appeal sought to regularise matters. In effect, the appellant sought permission to retain that built, and to complete the garage in accordance with revised plans.
3. The garage, like the approved garage, is built to the front of the house. Although but partly complete, the garage's form and mass is clearly apparent since the roof timbers are in place. The retaining wall to the rear is also in place.
4. I was asked to assess the development from within the curtilages of the neighbouring properties at 29 & 33 Cowleigh Bank, which I did.

Main Issues

5. These are the effect of the development:
 - (a) on the character and appearance of its surroundings, and in particular on the setting of St James Church, a listed building (*Grade II*), and
 - (b) on the living conditions of the neighbouring residents at 29 & 33 Cowleigh Bank with particular reference to visual impact.

Reasons

Character and appearance

6. The appeal site stands on a steep hill in a pleasant residential area. Opposite the site is St James Church, a grade II listed building, built in 1865. GE Street, the renowned church architect, was responsible for the building. Although the attractive listed church and its churchyard is set within distinguishable physical boundaries, its visual influence extends well beyond these boundaries, to include the appeal site.
7. The garage, as built, given its close relationship with the road, is particularly prominent when approached up the hill from the south; from this direction it is plainly seen and highly noticeable against the background of the Malvern Hills, and its roof breaches the skyline from certain viewing points.
8. I acknowledge the appellant's point as to the variety of building types on display locally and that there is no common building line. However, there is no dispute that the garage as built is longer, wider and higher than that granted permission, and it is also built closer to the road.
9. Given the site's prominence close to the road, and sensitivity of the location, within the listed building's setting, if the erection of a garage is to be contemplated in this position, then its size should in my opinion be minimised – the smaller the better. This is particularly so given the utilitarian nature of the structure.
10. The appellant's decision to depart from the approved plans has had regrettable consequences, since the larger and resited building has proved to be visually intrusive and has thus caused visual offence detracting from the street scene and harming the setting of the listed building. To my mind, the harm is significant, and the garage has not resulted in any public benefit.
11. I conclude that the garage, as built, and if completed as proposed, detracts from the character and appearance of its surroundings and harms the setting of the nearby listed building. A clear conflict accordingly arises with those provisions of policies SWDP21 & SWDP6 of the South Worcestershire Development Plan (SWDP) designed to ensure that development complements the character of an area and to protect the setting of heritage assets from harmful development.

Living conditions

12. Because their house is sited downhill of the garage, the residents of No 33 are more affected than those of No 29. From No 33's front garden the garage is plainly seen at a higher level at close quarters and it appears intrusive, dominating and overbearing. Whilst I appreciate that the principle of erecting a garage in the appeal property's front garden has been established, the garage as built, is longer, wider and higher than that approved, and this exacerbates the harm.
13. I conclude that the development has harmed the living conditions of neighbours at 33 Cowleigh Bank by reason of adverse visual impact. A conflict therefore arises with that provision of SWDP policy SWDP21 directed to protect

neighbouring amenity, in particular that development should not be unduly overbearing.

Other matters

14. I have considered all other matters raised in the representations, including the comments made by the Council's conservation officer and several local residents. I have already dealt with most of the planning-related points raised. No other matter raised is of such significance as to outweigh the considerations that led me to my overall conclusions.

G Powys Jones

INSPECTOR