
Appeal Decision

Site visit made on 9 May 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 31 May 2017

Appeal Ref: APP/H1840/W/17/3166830

Tall Trees, Church Lane, Tibberton, Droitwich WR9 7NW

- 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 Mark Hicks against the decision of Wychavon District Council.
 - The application Ref W/15/01879/PN, dated 20 July 2015, was refused by notice dated 28 September 2016.
 - The development proposed is demolition of substandard dwelling and erection of replacement dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in July 2015 before the adoption of the current South Worcestershire Development Plan (SWDP) in February 2016. However, it is clear that the application process, including the submission of revised proposals and a further consultation period, allowed for it to be considered and determined on the basis of the SWDP. The appeal decision is also on the basis of the current development plan.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the occupiers of the neighbouring property at Willowcroft, with particular regard to outlook.

Reasons

Character and appearance

4. The appeal site is located in the rural village of Tibberton and comprises an existing dwelling known as Tall Trees on a rectangular plot. It shares an access off Church Lane with an adjacent residential property, Willowcroft, to the west. To the east is another dwelling, Greenacres.
 5. Tall Trees is a detached 1960s chalet-style dormer bungalow which, according to the Council, was part of a group of eight such bungalows along this part of Church Lane and Plough Road. They were characterised by their distinctive A-frame design with low eaves and high ridges atop steeply pitched roof
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expanses with box dormers. Some have been demolished and replaced but a number remain, including the neighbouring, Willowcroft, which is of the same distinctive design. The main body of Willowcroft is positioned further forward than the dwelling at Tall Trees and oriented with its south eastern gable end facing towards the road. Tall Trees is at a right angle to it with its main body running from south west to north east.

6. The proposal is to replace the bungalow at Tall Trees, which is currently unoccupied and in a poor state of repair, with a modern two storey dwelling, which would be similar in design, height and massing to Greenacres, to the east.
7. Although, the flat roof elements of the existing dwelling at Tall Trees, which include its garage, extend to the boundary with Greenacres, the properties are demarcated to the front by a high wall and hedge. Tall Trees shares its access with Willowcroft, rather than Greenacres, and the driveway, land and parking spaces to the front of Tall Trees and Willowcroft are largely open areas.
8. The south west elevation of the existing building at Tall Trees is close to the boundary, formed by the garage and other flat roofed parts of Willowcroft. Although they are differently oriented, their common design features and shared access mean that they present as a pair of similar and complementary properties. Therefore, although it is also close to Greenacres, I consider that Tall Trees has a much more direct and intimate visual relationship with Willowcroft.
9. Whilst those two buildings are set back on their plots and there is mature vegetation along the sides of Church Lane, they are in an elevated position and there are clear public views of them from the wide entrance to their shared access, with its gently sloping verges on either side.
10. The existing Tall Trees bungalow appears relatively modest in size, with its low eaves height and pitched roof sloping back and away from the open shared driveway, whereas the two-storey double gable design of the replacement dwelling with its higher eaves would appear considerably more substantial in scale and bulk. Its markedly different design would sit uncomfortably next to Willowcroft.
11. It is acknowledged that the existing building could be demolished without planning permission and that consent was given, albeit some time ago, to replace a similar bungalow at Greenacres, which I will discuss further below. Whilst opinions inevitably differ on the architectural merit of particular design styles, in addition to its listed buildings and Conservation Area, Tibberton has a range of dwelling types bestowed during different eras. In that context, I do not view the 1960s chalet bungalows as 'alien' features, but rather as another page in the narrative history of development in the village.
12. The planning consent in relation to the replacement property at Greenacres was, according to the Council, given in 2003, which has not been specifically disputed. The appellant also refers to an extension at a nearby property at Highfield although it is not clear when permission for that was given, assuming that it was. The Council has commented that no detriment was found to neighbouring amenity in the Greenacres' application.

13. I do not have full details of the circumstances that led to those proposals being approved. However, I do note that the Greenacres scheme would have been considered under a previous development plan. The particular reasons for other planning approvals in the area are ultimately a matter for the Council. Whilst the appellant refers to the proposal's design similarities with the building at Greenacres, I have already found that the appeal site has a clearer and stronger visual connection with Willowcroft. In any event, I have considered the appeal on its own merits.
14. The proposed dwelling would be 1.7 metres away from the boundary with Greenacres, whereas the existing building abuts it. I do not agree, however, with the appellant's suggestion that the change would have a positive effect on the street scene, given that the gap would be small and that the single storey elements which abut the boundary would be replaced by a much larger two storey gable wing.
15. Given the particular context and relationship of Tall Trees and Willowcroft, which I have described, the introduction of the proposed substantial replacement property would, because to its scale, bulk and massing, create an unacceptable juxtaposition.
16. The above factors lead me to conclude that the proposed development would harm the character and appearance of the area. Consequently, it would be contrary to policy SWDP 21 of the SWDP, which amongst other things, states that development will need to integrate effectively with its surroundings and that its scale height and massing must be appropriate to the setting of the site.

Living Conditions

17. There is a four pane dormer window, serving a bedroom, on the roof slope of Willowcroft facing the appeal site. The appellant submits that the window is about 9.5 metres from the shared boundary, that it overlooks the front garden area of Tall Trees and would continue to do so, in the event that the proposed replacement dwelling was erected. However, it is a long horizontal window and although it does not face directly towards the existing building at Tall Trees, elements of that building would be in view.
18. According to the appellant's figures, the replacement dwelling would be only 1.02 metres from the boundary with Willowcroft and 0.5 metres closer than the existing building. Moreover, the proposed two-storey western gable and central section of the new dwelling would project further forward by 2.6 metres. Although the larger eastern projecting gable would be on the same frontal alignment as the existing flat roofed garage, because it would be wider than the garage, its south western elevation would be closer to Willowcroft, by 3 metres or so.
19. The combined effect of those changes would mean that the outlook from the dormer window would be of a new two-storey building, closer and further forward than the existing building. The eastern wing would also have advanced in the direction of Willowcroft. Although the roof elements would be sloping away, the view would be of two offset roofs rather than one, and the much higher eaves would expose the taller vertical side elevations, as illustrated in Drawing No 1824 3000 Rev B. The scale, bulk and massing of the new building would dominate the outlook from the dormer window to an extent that would be significantly overbearing.

20. Therefore, I conclude that the proposed development would harm the living conditions of the occupiers of Willowcroft, with particular regard to outlook. It follows that it would conflict with policy SWDP 21 of the SWDP, which states that development should not be unduly overbearing.

Other Matters

21. Although the appellant submits that the Council have not identified any design issues in conflict with a Residential Design Guide Supplementary Document (SPD) dating from 2010, the Council advises that the SPD became defunct on the adoption of the SWDP, as it referred to policies in a previous local plan. Therefore, I give it no weight.
22. The appellant advises that there are a number of listed buildings to the south of Church Lane and a Conservation Area (CA) to the north. The Council has confirmed that the proposal would not affect the setting of a listed building and that the site is not adjacent to a CA. Therefore, given also that the site is largely enclosed by vegetation and mature trees, I am satisfied that the proposal would not adversely affect the setting of a listed building or a CA.

Conclusion

23. The appellant refers to and asserts compliance with paragraphs 6, 56, 58 and 64 of the National Planning Policy Framework (the Framework), which is a significant material consideration in planning decisions. They deal with sustainable development and various aspects of good design. However, the Framework confirms in paragraph 11 that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, paragraph 12 advises that the Framework does not change the statutory status of the development plan as the starting point for decision making.
24. The SWDP would have gone through an independent public examination prior to its relatively recent adoption, which would have included consideration of its consistency with the Framework. Policy SWDP 1 of the SWDP specifically refers to the Framework. Therefore, it is the development plan which is the primary vehicle for the delivery of sustainable development, which has been found to be consistent with the Framework. The harms that I have identified conflict with policy SWDP 21 of the SWDP and with the relevant paragraphs of the Framework.
25. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR