
Appeal Decision

Site visit made on 31 July 2017

by Rachel Walmsley BSc MSc MA MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/J1860/W/17/3172245

**Land to rear of No.18 Cross Street, Tenbury Wells, Worcestershire
WR15 8EE**

- 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 Short, P&S Short Property Partnership against the decision of Malvern Hills District Council.
 - The application Ref 16/00920/FUL, dated 10 June 2016, was refused by notice dated 27 September 2016.
 - The development proposed is construction of 4 detached single storey bungalows with integral garages and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - (i) the effect of the proposal on the character and appearance of the Conservation Area, the local area and on nearby listed buildings;
 - (ii) the effect of the proposal on the living conditions of existing and future occupiers, with particular regards to privacy, outlook and outdoor space; and,
 - (iii) the effect of the proposal on highway safety, with particular regards to turning space.

Reasons

Character and appearance

3. The appeal site is within the Tenbury Wells Conservation Area (CA) and within proximity of listed buildings. On this basis I am required to have special regard to the desirability of preserving or enhancing the character or appearance of the conservation area and preserving the listed building or its setting in accordance with the statutory duty under section 72(1) and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 respectively.

4. It is documented¹ that the CA is renowned for its united and cohesive townscape, formed of medieval street patterns and continuous building frontages which create a dense urban character. This form of development, together with buildings being mostly two storeys, is prevalent throughout much of the CA. South of the site, the form of development is less dense, adopting a more spacious arrangement.
5. The appeal site occupies a notable position within the CA and therefore is of significance to the character and appearance of the CA overall. Paragraph 132 of the National Planning Policy Framework (the Framework), together with policy SWDP24 of the Development Plan² require a proposed development to be assessed against the significance of the CA and in relation to an assessment of harm.
6. The site is within the part of the CA that is characterised by a dense urban character. Being behind a row of properties that front Cross Street, the development would not interfere with the continuous frontages of terraced buildings and the medieval street patterns which this area of the CA is renowned for. Nevertheless, the single storey and detached form of the dwellings proposed would be out of keeping with the prevalent height of existing buildings in the CA and the more dense form of development that gives this part of the CA its character.
7. The Appraisal and Management Strategy³ explains the boundaries of the CA. The more modern infill development within St Mary's Close is excluded from the CA because of its architectural style, layout and building mass which is different to the development within. Given that the four bungalows proposed would emulate the form and layout of the development in St Mary's Close, it would be an equally inappropriate form of development within the CA. Combined with the notable position of the site, the development would detract from the character of the CA overall, neither preserving nor enhancing it.
8. The appeal site is within a concealed position, behind the properties on Cross Street and St Mary's Close. Views of the site are therefore limited; most visible from the latter. From this position the form and scale of the dwellings would complement the scale and form of the existing bungalows within the close and would be subservient to the two storey buildings that front Cross Street.
9. The plots to the dwellings proposed would have space front and back, reflecting the layout of the properties in St Mary's Close. Although less spacious than existing plots, there would be sufficient space around the dwellings to set them apart from each other and from their boundaries to not appear overly cramped. Overall therefore, the development would integrate effectively into its surroundings.
10. Within the CA there are a number of listed buildings. My attention is drawn to properties No's 24 – 30 and No 32 Berrington Road and No's 22 - 26 Cross Street which are noted for their architectural detailing. The development would be some distance from these listed buildings. Together with the low height of the dwellings proposed, the development would not interfere with the setting of

¹ Within the Tenbury Wells Conservation Area, Appraisal and Management Strategy (Malvern Hills District Council) (April 2008)

² South Worcestershire Development Plan (Adopted February 2016)

³ Malvern Hills District Council, Tenbury Wells Conservation Area, Appraisal and Management Strategy (April 2008)

the listed buildings or impact on their architectural merits to be considered harmful in this regard.

11. Given the concealed position of the site and the limited views of it, the adverse effects of the development are confined to the character of the CA. The harm to the significance of the CA as a heritage asset would therefore be less than substantial. Paragraph 134 of the Framework states that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset (such as a conservation area), this harm should be weighed against the public benefits of the proposal.
12. The development would make use of a vacant site, within a defined settlement boundary and would contribute to local housing need. However, the contribution four dwellings would make to housing need is limited, particularly when the Council can demonstrate a five year supply of housing. The dwellings, designed to reduce visual impact, incorporate energy efficiency measures and meet inclusive design requirements is noted. However, there is nothing to suggest that these measures would extend beyond what could be reasonably expected of a well-designed development. These public benefits are therefore limited and of limited benefit to the CA overall. As such the benefits would not be sufficient to outweigh the less than substantial harm found.
13. The Framework advises that great weight should be given to the conservation of designated heritage assets. In this instance, the development would neither preserve nor enhance the character or appearance of the CA. As such it would conflict with policies SWDP6, SWDP21 and SWDP24 of the Development Plan which seek development that conserves and enhances heritage assets and their settings and paragraphs 132 and 134 of the Framework.

Living conditions

14. The dwellings proposed on plots 3 and 4 would be within close proximity to Westfield Terrace; a two storey building that is close to the shared boundary with the appeal site and with windows at first floor level that would overlook the proposed development.
15. The elevated position of the windows at Westfield Terrace would result in existing occupiers overlooking the gardens of the development which would be harmful to the privacy of future occupiers when outside. Existing occupiers would also overlook the rear living spaces of the bungalows. However, the oblique angle of these views to the living areas of the bungalow on plot 3 would limit any harm by way of overlooking. Furthermore, the fence on the shared boundary with the dwelling on plot 4 and the limited time spent in a bedroom would limit the harm to the occupier's privacy of this dwelling. Nonetheless, the imperceptible effect on the privacy of the internal living spaces would not compensate for the harm found to the privacy of the gardens.
16. The outlook from the bedroom on plot 4 would be restricted by the proximity of Westfield Terrace. However, residents are likely to dwell for shorter periods of time in the bedroom than they are within the more active living spaces proposed. Of the time spent in the bedroom, a large proportion of it can be reasonably expected to be spent sleeping. Any limitations to outlook, therefore, would have little impact on the living conditions of future occupiers. Occupiers within the living room of the dwelling on plot 3 would also overlook

Westfield Terrace but the obscure angle of these views would limit any sense of enclosure. The Council suggests that the development would create a sense of enclosure for existing occupiers of Westfield Terrace but given the single storey nature of the bungalows, the development would not impact on the living spaces at first floor level. In all, therefore, the development would not be harmful to the living conditions of existing or future occupiers with regard to outlook.

17. The Council suggests that the lack of amenity space proposed would be contrary to policy. There is nothing within the evidence before me, nor within policy SWDP21 of the Development Plan, that specifies the amount of amenity space required for each dwelling. Nevertheless, paragraph 17 of the Framework seeks high quality development that provides a good standard of amenity for all existing and future occupants of land and buildings. Each dwelling would have an area of outdoor space, sufficient in size to sit out in, dry washing and carry out other activities characteristic of a garden. Although not a prerequisite of the planning application, the appellant suggests that elderly residents would occupy the bungalows. With the outdoor needs of elderly residents often being less, overall, the gardens would provide future residents with an acceptable level of amenity.
18. In all, therefore, despite finding that the development would not have a harmful effect on the living conditions of existing and future occupiers with regards to outlook and outdoor space, the harm found to the privacy of future occupiers would be contrary to policy SWDP21 of the Development Plan and paragraph 17 of the Framework which seek development that provides a good standard of amenity for all.

Highway safety

19. Submitted as part of the appeal is a revised drawing that shows an amended car parking layout which includes a turning area. Comments on this revised drawing from the Highways Authority are not before me despite the appropriate consultation. In the absence of any evidence to suggest that the turning area proposed would be defective, I find that the turning area would provide sufficient space for a vehicle to enter and leave the site in a forward gear and safely, without causing conflict between vehicles and vehicles and pedestrians. As such the development would not have a harmful effect on highway safety, with particular regards to the turning space and therefore would be compliant with policies SWDP4 and SWDP21 of the Development Plan which seek development that addresses road safety.

Conclusion

20. My conclusions on highway safety and living conditions with regards to outlook and outdoor space do not outweigh the harm that I have identified in respect of the effect of the development on the character and appearance of the CA and on the living conditions of future occupiers with regards to privacy. For the reasons given above, I conclude that the development would be contrary to the development plan and the Framework and therefore the appeal is dismissed.

R Walmsley

INSPECTOR