



Appeal Decision

Site visit made on 19 September 2017

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

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

Decision date: 13 October 2017

Appeal Ref: APP/J1860/W/17/3178916

232 West Malvern Road, Malvern, Worcestershire WR14 4BD

- 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 Ms Deborah Griffiths against the decision of Malvern Hills District Council.
 - The application Ref 16/01641/FUL, dated 7 November 2016, was refused by notice dated 5 May 2017.
 - The development proposed is alterations and extensions to existing garage and store to form new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The spelling of the appellant's surname differs between the planning application form and the appeal form. I have used the spelling in the planning application form and decision notice.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including the Malvern Hills Area of Outstanding Natural Beauty (AONB); and,
 - the living conditions of the occupiers of a neighbouring property, Grosvenor House, with particular regard privacy.

Reasons

Character and appearance

4. The appeal site is a roughly rectangular piece of land adjacent to the highway with parking proposed in a separate area on the other side of the road. The main plot comprises a detached single storey garage and store building with a garden occupying the northern part, both associated with the sizeable existing dwelling at 232 West Malvern Road. The plot is a level terrace cut into the side of the Malvern Hills and is at a lower level than the adjoining road. There are a range of houses of different types, designs and ages located on the steep slopes within this part of the Malvern Hills AONB. The dwellings in the immediate vicinity of the appeal site are generally on spacious plots.

5. It is proposed to extend and alter the existing garage to create a two bedroom detached dwelling over two floors. Part of an existing extension at No 232 would be reduced in size to accommodate the dwelling and new boundary division.
6. The topography of the site and the proposed design would result in the eastern elevation of the new dwelling appearing as a single storey building, when viewed directly from the road. As there is no pavement on that side, the front elevation would be set back only a few metres from the road making the frontage prominent. The façade would consist of two projecting gable ends linked by a lead clad wall and obscured glazed window, whilst the pitched roof slope of the rear element of the building would also be visible and protrude noticeably beyond the apex of the northern front gable. Although the gable ends walls would feature some timber cladding and a doorway, the southernmost gable would consist of an expanse of blank rendered wall. Overall, I consider that the composition of the front elevation and its roof elements would appear awkward, contrived and lacking in architectural appeal. Therefore, it would have an adverse effect on the street scene.
7. There would also be public views of the north and south elevations, including the two storey element of the building, from various points along West Malvern Road. The existing modest, simple, detached garage appears subordinate to the main dwelling at No 232. Although the height would remain the same, the proposed built form would extend significantly to the south and west. It would, therefore, appear as a much more substantial building in close proximity to No. 232, notwithstanding the reduction in the side extension of that property. Its overly complicated roof design with gables, pitched, flat and hipped roof elements would, combined with its overall expanse, draw the eye and appear discordant. Whilst vegetation in the garden may filter some views, that would vary depending on the time of year and there would be no guarantee that such planting would be retained in its current form. Therefore, the proposal would not be subservient to No 232 and its design, size and proximity would have a detrimental effect in relation to that existing dwelling and on the visual appearance of the area.
8. There has been debate within the submissions about the allegedly 'cramped' appearance of the development in connection with parking arrangements and a restrictive covenant affecting the garden land. That dispute is not directly pertinent to my findings, detailed above, about the effect of the proposal on the character and appearance of the area. Furthermore, the suggestion that other existing properties may not be particularly architecturally distinguished would, even if that were the case, not justify further harm caused by poor design.
9. It is also significant that the appeal site is located within the AONB. Paragraph 115 of the National Planning Policy Framework (the Framework)¹ says that: *'Great weight should be given to conserving the landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.'* Policy SWDP 23 of the South Worcestershire Development Plan (SWDP)² states that development that would have a detrimental impact on the natural beauty of an AONB will not be permitted. Given those national and

¹ Published 2012

² Adopted February 2016

local policy imperatives, any negative effect on the AONB must be carefully considered. As I have found an adverse visual impact on the area, it follows, that, even though the scheme relates to just one dwelling, there would be some limited harm to the AONB, which also weighs against the proposal.

10. The above factors lead me to conclude that the proposed development would harm the character and appearance of the area and thereby the AONB. Consequently, it would be contrary to policies SWDP 21, SWDP 23 and SWDP 25 of the SWDP, which, amongst other things, require that development is of high design quality, integrates effectively with its surroundings and landscape setting and does not have an adverse effect on an AONB. It would also conflict with similar requirements expressed in paragraphs 17, 56, 57 and 115 of the Framework.

Living conditions

11. The proposed dwelling would extend westward beyond the building line of the existing garage and towards the boundary with Grosvenor House, which lies at a lower level. Grosvenor House is a substantial property comprising a number of elements at different levels, built into the hillside. A consequence of the topography is that many of its east facing windows are Velux roof windows but they still sizeable and serve habitable rooms. There are also French doors to a master bedroom.
12. There would be a large window at first floor level in the west elevation of the new dwelling. It would serve the main living area of the property and appears to extend from floor level to eaves height. That sizeable window would face directly towards the windows of habitable rooms, including bedrooms, in Grosvenor House. The proximity of the respective properties would lead to overlooking which would compromise the privacy of the occupants of Grosvenor House.
13. A large window and door, with glass Juliette balustrade, would be sited in the north elevation, also serving the living area. The plans indicate that two existing fruit trees which currently provide some screening between the properties would be removed. Whilst views towards Grosvenor House from the northern elevation would be at an angle, there would still, in my opinion, be some overlooking and the elevated position of the windows would create a perception of being overlooked. The appellant's Statement of Case appears to accept overlooking as a problem, in relation to at least one of the windows, and refers to suggested changes made to the Council. Nevertheless, I must consider the appeal proposal as it stands.
14. There is already some overlooking of Grosvenor House from the rear window of the existing garage and from the garden area. I also appreciate the design constraints imposed by the topography of the locale. However, the proposal would introduce overlooking from a new main residential dwelling, the use of which would, by definition, be more intensive than a garage or garden area. Therefore, whilst it is acknowledged that some consideration has been given to the design and positioning of the fenestration, it is not, in my view, sufficient to prevent significantly worsening of the current situation with regard to overlooking. I note that both the Council and the occupiers of Grosvenor House share that assessment.

15. It would not be possible to sufficiently mitigate the adverse effects by condition as, for example, further use of obscured glazing would be likely to create a negative effect for future occupiers of the new dwelling. It would not be appropriate to significantly alter the proposal by condition as it is the original scheme which was publicly consulted on and the appeal process is not a vehicle for evolving a design.
16. In light of the above, I conclude that the proposal would harm the living conditions of the occupiers of Grosvenor House, with particular regard to privacy. It would, therefore, fail to accord with policy SWDP 21 of the SWDP and paragraph 17 of the Framework, insofar as they both seek to ensure that development does not adversely affect the living conditions of occupiers of neighbouring land.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR