
Appeal Decision

Site visit made on 9 October 2018

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2018

Appeal Ref: APP/J1860/W/18/3204397

Land corner of Hawthorn Close and B4204, Martley, Worcestershire

- 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 Kendrick Homes Ltd against the decision of Malvern Hills District Council.
 - The application Ref 17/01933/FUL, dated 1 December 2017, was refused by notice dated 26 March 2018.
 - The development proposed is single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the refusal of the application the revised National Planning Policy Framework (Framework) has been published.¹ Parties have had the opportunity to submit comments in relation to the revised Framework and where responses were received these have been taken into account in my reasoning.
3. I have taken the address of the site from the application form. While a different one was used in the decision notice and on the appeal form, no details have been provided to indicate any change was agreed. I have also removed elements which do not relate to development from the description in the banner heading above.
4. The appellant has included a Landscape Proposal plan (341-01-40) as part of their appeal. While not before the Council at the time of their decision, it was submitted at the outset of the appeal and therefore parties have had the opportunity to comment. Later in the appeal an amended Floor Plans, Elevation and Site Plan (341-01-03C) was submitted. This only sought to rectify a minor inaccuracy in relation to windows for the master bedroom. The overall design and position of the scheme has not altered from that originally submitted and upon which consultation took place. Against this backdrop, no injustice would be caused to any appeal party or third party if I were to take these plans into account. I have considered the appeal on that basis.

Main Issues

5. The main issues are the effect of the proposal on:

¹ 24 July 2018

- the character and appearance of the area, and
- the living conditions of future occupiers of the proposed property with particular regard to privacy and outlook.

Reasons

Character and Appearance

6. The appeal site formed part of a larger area of land subject to outline planning permission along with reserved matters approval for 14 properties which have been constructed. This included a substation, car parking and landscaping at the appeal site. Planning permission has previously been refused for a property at the appeal site. Subsequently an application was made to amend the car parking layout to exclude the area which now forms part of the appeal site.
7. The village of Martley comprises several pockets or clusters of development which have their own individual character and appearance. The appeal site is located at the eastern edge of the village where it meets the countryside on a relatively straight section of road. There is mature vegetation to the roadside boundaries of the surrounding fields which continues into the built form of the village. The buildings along this section of road are set back behind, and screened by, the roadside landscaping. This gives an open and pleasant feel to this part of the village.
8. The appeal site is a vacant area of land which fronts on to the B4204 sloping towards a recently developed housing estate to the rear. Views of the site from the main road are, at present, over the timber fencing which surrounds the site. The recently constructed properties to the rear are visible in the street scene. However, as they are set back a considerable distance from the road and at a lower land level they do not dominate the street scene. They are viewed in the background and the openness of this section of the road is retained. The adjacent school car park is a low level feature and any buildings are located behind it retaining the open nature of the area.
9. Given the shape and location of the site the proposed dwelling would fill much of the depth of the plot with the main outdoor space being to the side. This would result in the dwelling being in close proximity to the road. Even with changes to the design and scale of the dwelling from the previously refused application at the site, the property would still be significantly closer to the highway than any other building along this section of the road. This is against the pattern of development in this part of the village where properties are set back and do not form a prominent part of the street scene. Therefore, it would appear discordant.
10. The size of the outdoor space is comparable to some in the estate adjacent and the site would be of a similar density. However, those properties are not prominent in views from the main road. The dwelling would be an imposing feature and the dominant built form in the street scene, detracting from the existing openness on the approach to the village. The proposal would introduce an immediate and abrupt built form at the edge of the village. This goes against the current gradual flow from countryside to village which this section of road at present achieves as a result of the set back of buildings and landscaping along the road.

11. Details of potential landscaping are provided and the use of a condition is suggested by the appellant. While I acknowledge that landscaping conditions can be appropriate in certain instances, they should not be used to try to hide development which is inherently unacceptable. Landscaping would introduce a softer roadside boundary and may replicate the landscaping previously approved at the site. However, given the scale of the property, I consider that landscaping would not be able address the harm arising from the dwelling's close proximity to the road, at odds with the grain of development in this part of the village.
12. There are several examples of properties elsewhere in the village located in close proximity to, and opening on to the road or pavement, while others are set behind small front garden areas similar to the appeal proposal. The appellant makes reference to properties on the northern approach to the village. However, there the properties are on both sides of the road and are viewed together on a sweeping bend in the road. This is in contrast to the appeal proposal which would be an individual property appearing at odds with the prevailing form along a straight section of road. The example along the southern approach to the village is viewed with an adjacent building with an open frontage. As a result, the context is different from the appeal site.
13. Therefore, while it may be a characteristic of some properties in the village to be positioned close to the road with little front garden area, this is not the case in the immediate vicinity of the appeal site. Properties are peripheral features in the street scene in this part of the village, where development is less compact, and are set back from the road with landscaping in front. Consequently the proposed dwelling would be seen as a single property, in isolation, rather than as part of a block of development, which would increase its prominence.
14. The appellant has sought to overcome the Council's concerns from a previous planning application by reducing the scale of the property and altering its design. However, this does not necessarily mean that all previous concerns have been addressed. The scale and massing of the property, along with the appearance and materials, reflect features at the adjacent estate and some traditional buildings in the village. Nevertheless, although the scale of the dwelling would be similar to those on the adjacent estate, it would appear more prominent because of its roadside position.
15. Therefore, the above factors lead me to conclude that the proposed development would have a significantly detrimental effect on the character and appearance of the area. It follows that it would be contrary to policies SWDP21 and SWDP25 of the South Worcestershire Development Plan (the Plan)², the Design Guide SPD³ and policies MKD3 and MKD4 of the Martley, Knightwick and Doddenham Neighbourhood Development Plan 2016-2030 which seek to ensure that proposals complement the character and grain of the area, reinforce local distinctiveness and integrate with the landscape setting.

Living Conditions

16. As part of their appeal the appellant has provided a Landscape Proposal plan. The hedge between the main outdoor space at the side of the property and the

² Adopted February 2016

³ Adopted March 2018

road would take some time to establish and reach a height to prevent overlooking from the road and footway. However, a fence behind the hedge is proposed that would provide an instant barrier, preventing overlooking. In relation to privacy within the main outdoor space the fence would be sufficient to address overlooking concerns. Even if the fence were set back to some degree to create a more space for the hedge, the main outdoor space would still be of sufficient size and be private.

17. The outlook from the ground floor windows facing the roads would be over and through the low level dwarf walls with railings above. Indicative tree planting is either low level or not directly in front of habitable room windows. In other cases, occupants would have an alternative outlook from other windows or the planting would not feature prominently. The fence and hedgerow to the main outdoor space boundary would not have a significant impact on outlook from the dining room window as they would not be directly in front of it. The openings facing on to the main outdoor amenity space are set further back in to the plot and therefore the outlook is on to the garden area, rather than towards the roadside boundary.
18. The footway and road would be in close proximity to the property. Nonetheless, this is not uncommon or unexpected with properties fronting a road. There would be a small setback from the pavement and I feel that the impacts on privacy from passing pedestrians or vehicles at the distances proposed would not be significant.
19. As a result I find that, if the appeal were allowed, subject to planning conditions regarding boundary treatments, the proposal would provide adequate living conditions for the occupiers of the proposed property with particular regard to privacy and outlook. Therefore it would comply with policy SWDP21 of the Plan which amongst other things, aims to ensure development provides adequate levels of privacy and outlook.

Other Matters

20. The site is part of the land allocated in the Plan for housing development and it is accepted that part of the Council's 5 year housing land supply will include windfall sites. I have considered the appeal in the context that the government seeks to significantly boost the supply of housing and the Framework puts forward a presumption in favour of sustainable development. However, I have found that there is harm to the character and appearance of the area. The proposal would therefore conflict with the policies that I have referred to.
21. I note the Council have not included a reason for refusal relating to highway safety, considering this and other matters could be addressed with planning conditions were permission granted. While there have been concerns from other parties in relation to these matters I have no compelling evidence before me to indicate the Council are incorrect in their view.
22. The appellant has questioned the Councils assessment of the proposal and whether certain documents were taken in to account. I have had assessed the proposal on its own merits and in light of all the details submitted as part of this appeal. The appellant indicates that the site is unsuitable for Public Open Space and if not developed may become unsightly. Nevertheless, I have identified harm which would be permanent and substantial from this proposal.

23. The Council's officer report refers to a legal agreement being required to secure contributions. However, the absence of such an agreement has not been included in the refusal reasons or their appeal statement. The appellant has provided a copy of correspondence where the Council indicate that any contributions would be covered by a Community Infrastructure Levy contribution. This has not been challenged by the Council and there is no evidence to the contrary.

Conclusion

24. Although I found that there would not be harm to living conditions or future occupiers, the significant adverse effect on the character and appearance of the area is decisive.

25. Therefore, for the reasons given above and having regard to all other matters, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR