



Appeal Decision

Site visit made on 7 October 2019 by S Watson BA(Hons) MSc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/D1835/W/19/3234549

Land adjacent to Rosa Villa, Nunnery Lane, Worcester WR5 1RG

- 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 Jabran Khalid against the decision of Worcester City Council.
 - The application Ref P18G0387, dated 3 September 2019, was refused by notice dated 23 May 2019.
 - The development proposed is new 4 bed dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new 4 bed dwelling at Land adjacent to Rosa Villa, Nunnery Lane, Worcester WR5 1RG in accordance with the terms of the application P18G0387, dated 3 September 2019 and subject to the conditions in the attached Schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The original planning application form and submitted document describe the address as "Rosa Villa" while the Council's subsequent decision notice and appellant's appeal form refer to it as "Rose Villa". It is clear from the plans where the appeal site is and given that the original documents refer to the property as "Rosa Villa", I will continue to do so.

Main Issue

4. The main issue in this case is the effect of the proposal on the character and appearance of the area, including its effect on designated Green Space.

Reason for the Recommendation

5. The appeal site is located within an established residential area characterised by a mix of detached and semi-detached dwellings of different architectural designs, set back from the road and away from each other, providing a pleasant spacious environment. It comprises part of a large private garden to the side of Rosa Villa and is designated as Green Space within the South Worcestershire Development Plan (SWDP) along with nearby land forming the rear half of gardens along Nunnery Lane and Spetchley Road which link to Worcester Woods and Nunnery School playing fields.

6. SWDP Policy SWDP 38 identifies that Green Space includes a range of private and public open spaces and associated community facilities. The purpose of the policy is to protect Green Space from development unless exceptional circumstances are demonstrated. In this case, the development of the appeal site with a single dwelling would not fall within any category of the closed list of exceptions set out under paragraph B of this policy. The proposal therefore conflicts with SWDP Policy SWDP 38.
7. The appellant has drawn my attention to a certificate of lawfulness¹ for a large detached garage/annexe on the site, centrally located upon it. It appears that the hard surfacing works have already been undertaken in respect of this development, and on this basis it is likely that this development would occur in the event that the appeal is dismissed. Although SWDP Policy SWDP 38 does not prevent a householder from exercising their permitted rights, this fallback position is clearly a matter which I need to consider in this case, particularly with regard to its effect upon the purpose of the Green Space designation.
8. The supporting text to Policy SWDP 38 explains that Green Spaces contribute to biodiversity, the character of the area and provide a sense of openness and space.
9. I observed that the appeal site contributes to the open and spacious qualities of the area. However, the development of the site with the permitted garage would change the appearance of the appeal site and would reduce the sense of openness and space in this part of Nunnery Lane. The new dwelling would have a similar footprint to the approved garage, and although taller than the garage, its impact on the openness and spaciousness of the area would not be significantly greater than the permitted scheme. I attach significant weight to this fallback position.
10. The new dwelling would sit in a spacious plot, be of an attractive design and its relationship to the highway and nearby dwellings would respect the spacious and attractive qualities of the area. Although the proposal would reduce the amount of open Green Space in this location, that reduction would not be significantly greater to that which would result if the garage/annexe building were constructed upon the site. Accordingly, the proposal would not significantly change the essential character and appearance of the area over and above the permitted scheme on the site. Open, undeveloped space around the building would be retained and views across the appeal site to the wider area of Green Space beyond would be apparent from Nunnery Lane.
11. In terms of the biodiversity value of the appeal site, I acknowledge that an undeveloped site would be likely to have more biodiversity value than a developed site, however I have been provided with little evidence to demonstrate the value of the appeal site to biodiversity in the area. The appeal proposal includes landscaping that would occur on the site including new trees and hedgerows. Such features would be likely to provide habitats and support a number of species, and on the basis of the evidence before I consider that the proposal would result in an enhancement to biodiversity.
12. Given my findings, I conclude that whilst the proposal conflicts with SWDP Policy SWDP 38, it would not have a significantly greater impact on the Green Space designation than the permitted scheme on the site. Moreover, the

¹ Ref P18G0023, granted on 9 May 2018

proposal would add to the overall quality of the area, be visually attractive and would contribute to and enhance the natural and local environment, in accordance with the National Planning Policy Framework (Framework). Accordingly, I conclude that despite the conflict with the development plan that these matters are material considerations which indicate that the development should be permitted in this case.

13. In reaching this conclusion, I have had regard to a number of applications for new dwellings which the Council has referred me to for development to the rear of Spetchley Road. I have not been provided with detailed drawings of these schemes so am unable to ascertain whether they are directly comparable to that before me. Whilst reference was made to a conjoined appeal, no details of this have been provided so I have been unable to take this into account in my consideration of this case.
14. It has also been brought to my attention that when permission was granted for Rosa Villa that a planning condition requiring an orchard to be planted on the appeal site was imposed. Whilst this may have been the case, it is open to the Council to pursue this matter separately from the appeal scheme. I have assessed the proposal on the merits of the case and the evidence before me.

Other Matters

15. The proposal includes a number of parking spaces upon the site which would be likely to reduce the need for parking within Nunnery Lane. Vehicles would be able to turn within the site and leave in a forward gear and the proposed splayed entrance would allow users of the site and the highway to see each other such that highway safety concerns would be unlikely to arise.
16. Concerns have been raised that the proposal would harm the health and living conditions of neighbouring occupiers. However, given its siting and the position of first floor windows there would be no unacceptable loss of outlook, light or privacy to nearby properties or their gardens as a result of the development. Moreover, any noise associated with the development would be residential in nature and so would not be unacceptable in this residential area. I find that the proposal would not adversely affect the health of nearby occupiers or result in harm to their living conditions.
17. I acknowledge the concerns about drainage and surface water flooding as a result of the new dwelling and hardstanding. However, subject to suitably worded conditions, as suggested by the Council's Drainage Partnership, it is likely that the site could be suitably drained such that flooding elsewhere would be unlikely to occur. The removal of any septic tanks on the site would be covered by other legislation and is not a determining factor in this case.

Conditions

18. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance. I have amended some of the suggested wording to reflect this advice.
19. A condition is necessary requiring that the development is carried out in accordance with the approved plans for clarity. Given the limited details regarding the external materials, and in the interest of the character and

appearance of the street scene, a condition is necessary controlling the external materials of the development.

20. In the interests of character and appearance, as well as biodiversity, conditions are necessary for landscaping, tree retention and planting to be carried out. However, given the scale of the development and the limited amount of existing planting on site, conditions requiring detailed long-term management objectives and restricting fires and waste on the site are unnecessary to make the development acceptable.
21. As the development would increase the amount of hardsurfacing upon the site a condition is necessary relating to surface water drainage of the site.
22. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance given the Green Space designation, and the importance of space around the building a condition controlling extensions to the property and outbuildings is necessary. It is not however necessary to control extensions to the roof, as suggested by the Council as this would be unlikely to impact on this designation. Furthermore, I find that the justification for restricting new boundary treatments is not sufficient to necessitate attaching restrictive conditions.
23. No evidence has been provided to indicate that the appeal site is of archaeological value, and I note that no comments were received at application stage from the Council's archaeologist. Accordingly, a condition requiring a watching brief to be carried out is not reasonable and I have not attached such a condition. Given the scale and nature of the proposal a condition restricting the hours of construction work being carried out is not reasonable either.

Conclusion and Recommendation

24. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be allowed with the suggested conditions.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

25. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed with the conditions set out in the attached Schedule.

RC Kirby

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos 1801-P-01, 1801-P-01a, 1801-P-01c.
- 3) The dwelling hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - include a timetable for its implementation; and,
 - provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 4) Prior to their implementation as part of the development hereby approved, samples of external facing, roofing and surfacing materials shall be submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the agreed materials.
- 5) Prior to the first occupation of the new dwelling the soft landscaping works shall be carried out in accordance with the details that have first been submitted to and agreed in writing by the local planning authority. The submitted details shall include planting plans, trees to be retained, written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities.
- 6) Any trees or plants detailed in the approved landscaping scheme which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be erected other than those expressly authorised by this permission.