



Appeal Decision

Site visit made on 21 January 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2020

Appeal Ref: APP/J1860/W/19/3239816

Land at Willow Grove, Link Top, Malvern WR14 2SE

- 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 Denis Schwarz (Sherlock Homes Developments Limited) against the decision of Malvern Hills District Council.
 - The application Ref 19/00145/FUL, dated 28 January 2019, was refused by notice dated 23 April 2019.
 - The development proposed is erection of bungalow.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. The Council's decision notice referred to the emerging policies MD1, MD2 and MH2 of the Malvern Town Neighbourhood Plan (NP). The Council have confirmed the NP is now made and was adopted on 25 June 2019. Thus, this now forms part of the development plan and its policies are attributed full weight. This has informed my decision on this appeal.
3. I have used the Council's description of development in the banner above which adequately and succinctly describes the proposal. However, I have had regard to the appellant's more detailed description on the application and appeal form in my consideration of this appeal.

Main Issues

4. The main issues are:
 - (i) the effect of the proposed development on the character and appearance of the area;
 - (ii) whether the proposed development would provide acceptable living conditions for future occupiers with regard to outlook; and
 - (iii) the effect of the proposed development on the living conditions of future occupiers of permitted dwelling (17/01891/FUL) in respect of outlook, daylight and sunlight.

Reasons

Character and Appearance

5. The appeal site is a sloping area of open space situated in Willow Grove, with the surrounding bungalows arranged so that they overlook it. Given this arrangement, it appears as a planned area of open space and acts as a pleasant visual break from the built form in the cul de sac. There is a mix of property types along Willow Grove, and the large plots and generous front and rear gardens together with the open space contribute to the spacious character of this residential estate.
6. The South Worcestershire Design Guide Supplementary Planning Document (2018) (SPD), states that new development must relate well, functionally and visually to the site and its surroundings. The proposed plot depth of the site would be substantially smaller than general plot depths in Willow Grove. This would be uncharacteristic of the surrounding character of properties on the estate.
7. The bungalow would be sited very close to the hedgerow to the north east in order to accommodate parking to the south west. Given the limited space to the boundary, the bungalow would appear crammed into the plot. This would be contrary to the general character of the surrounding bungalows with spacious gaps to their boundaries. This would lead to a cramped appearance in the street scene when viewed from the front of the property.
8. I acknowledge that the bungalow would be set back from the pavement to provide a frontage. Whilst the building line would be similar to the permitted dwelling, the depth of the front garden would be smaller than the prevailing character of the bungalows surrounding the site, further departing from the established character. Finally, the proposed rear garden would be of approximately 5m depth to the boundary which would appear very small and out of character compared to surrounding properties.
9. Given the sites position overlooked by neighbouring properties, the limited depth would be prominently apparent and would accentuate the cramped appearance of the bungalow in this plot. Whilst I acknowledge that the bungalow would be sited at a lower level than the existing bungalows, which would still allow views over the estate from the existing bungalows, nevertheless the spacious character of Willow Grove would be disrupted. The loss of this green open space and replacement with this cramped form of built development, would appear intrusive and would unacceptably diminish the area's characteristic spaciousness. Consequently, the proposal would fail to integrate successfully into the street scene and thus would be out of character with the local area.
10. For the reasons above, I conclude that the proposal would result in harm to the character and appearance of the area. Thus, the proposal would conflict with Policy SWDP 21 of the South Worcestershire Development Plan (2016) (SWDP) and Policies MD1 and MD2 of the NP. Amongst other things, these policies seek that development will integrate effectively with its surroundings and complement the character of the area. The proposal would also be contrary to the National Planning Policy Framework (the Framework) which seeks to ensure

that developments are sympathetic to local character, including the surrounding built environment and landscape setting. The proposal would also be in conflict with the SPD.

Living Conditions of future occupiers

11. The proposed dwelling would be sited approximately 12m from the existing dwelling (No 21) with its rear garden abutting the front garden of No 21. Given this relationship, the existing dwelling would appear prominent. However, I acknowledge there would be no direct overlooking from the ground floor windows, and also the first floor window that would overlook the rear garden is obscured. Nevertheless, the proximity of the existing dwelling would be uncomfortably close to the proposed dwelling and would appear imposing and overbearing, which would harm outlook for future occupiers.
12. For the above reasons, the proposal would not provide acceptable living conditions for future occupiers in respect of outlook. Thus, the proposal would be in conflict with Policy SWDP 21 of the SWDP which seeks that development will not result in harm to the living conditions of future occupiers. The proposal would also be in conflict with the SPD. In addition, the proposal would be contrary to Paragraph 127 of the Framework which seeks to create places with a high standard of amenity for future users.

Living conditions of future occupiers of approved dwelling

13. The proposed bungalow would be sited in close proximity to an unimplemented planning permission for a 3-bedroom bungalow, within the garden of 23 Willow Grove. On the basis of the evidence before me, this is extant and therefore is a relevant factor in the determination of this appeal.
14. The appeal proposal would sit at a higher level than that of the proposed 3-bedroom dwelling. The plans for the approved dwelling show patio doors and habitable room windows on the south west elevation leading to a garden area. Considering the level change, and the limited distance of approximately 9-10m that would exist between the dwellings, I consider the side elevation of the proposed bungalow would appear as a dominant and imposing feature for future occupiers of the permitted dwelling. This would harm outlook for future occupiers from the dwelling and garden area.
15. Given the above, considering Paragraph 8.3.24 of the SPD, the close proximity and the level change that would exist between the dwellings, leads me to conclude the proposal would restrict the amount of daylight and sunlight to the permitted dwelling. This is likely to lead to overshadowing of the south west elevation and the garden area of the permitted dwelling. I recognise that the restriction of sunlight to the dwelling would be likely only during the late afternoon and early evening hours, but nevertheless would still lead to overshadowing which would be of detriment to the living conditions of future occupiers.
16. For the reasons above, the proposal would lead to unacceptable living conditions for future occupiers of the permitted dwelling. Therefore, the proposal would conflict with Policy SWDP 21 of the SWDP and Policies MD1 and MH2 of the NP. Amongst other matters, these policies seek to ensure development provides adequate levels of daylight and sunlight and should not harm the amenity of adjacent residents and occupiers. The proposal would also

be contrary to the SPD and also Paragraph 127 of the Framework which seeks to create places with a high standard of amenity for future users.

Other Matters

17. The appellant refers in their statement of case to a planning permission¹ in the nearby area. However, based on the site plan submitted by the Council this would appear to form an infill plot between a single dwelling and a terrace of properties. Consequently, this example is not reflective of the character of Willow Grove and accordingly I attach limited weight to this.
18. I have taken into account the appellant's comments regarding the decision-making process by the Council, however I have determined the appeal on its own planning merits.

Conclusion

19. For the above reasons, the appeal is dismissed.

S Thomas

INSPECTOR

¹ 18/00284/FUL