
Appeal Decision

Site visit made on 7 August 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 26 August 2020

Appeal Ref: APP/H1840/W/20/3246661

Land adjacent to Two Jays, Station Road, Broadway WR12 7DE

- 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 Habitas (Worcester) Ltd against the decision of Wychavon District Council.
 - The application Ref 19/02354/FUL, dated 17 October 2019, was refused by notice dated 19 December 2019.
 - The development proposed is construction of one detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area, and on the living conditions of the neighbouring property known as 'Lansdowne' in respect of outlook and privacy.

Reasons

Character and appearance

3. The appeal site is on the edge of the village of Broadway, set behind dwellings on Station Road, which comprise detached and semi-detached houses of varying design and plot size. The site is accessed via a track which currently serves two bungalows and a recently completed development of four 1.5 storey dwellings. The appeal site and other areas of grass between the dwellings, along with mature trees and front gardens, give the area a green, spacious character.
4. Ground levels slope down from the existing bungalows towards Station Road, and consequently the roofs of the existing dwellings step down with the slope. The proposed dwelling would be 1.5 storeys tall and share some design features with its neighbours, however it would be significantly lower in height, with its ridge at approximately the same level as the ridge of the garage of Boxgrove. This drop in roof height would be significantly greater than that between the existing dwellings.
5. Furthermore, while the roof pitch of the proposed dwelling would be similar to that of its neighbours, the relatively high eaves and low ridge proposed would mean that the roof would be significantly smaller in proportion to the rest of the dwelling. The dormer windows would also be noticeably smaller than those of neighbouring dwellings and would only just break through the eaves. As a result, the dwelling would appear poorly proportioned and out of scale with neighbouring properties, and the design would appear contrived.

6. The appeal site is slightly narrower and shallower in depth than the plots of Boxgrove and The Larches and incorporates a passing bay which further reduces its depth. While the L-shaped footprint of the proposed dwelling would provide some articulation and avoid the dwelling filling the whole width of the site, there would be very little space available for soft landscaping in front of the dwelling. The proposed 2m high wall behind the parking area would screen the rear of the plot from view, therefore any new or retained planting in that area would have little impact in the street scene. Consequently, from the access track the appeal site would be dominated by hard-surfacing, and the proposed development would appear cramped within the plot. As such, the proposal would contrast harmfully with the green, spacious character of the area.
7. The proposed rear garden would be slightly smaller than that of Boxgrove and although it would be relatively wide, it would be limited in depth, particularly if, as the appellant suggests, the existing rear boundary vegetation is to be retained. The useable area would therefore be long and narrow and of very modest size, particularly for a family dwelling where outside spaces are of considerable importance. Furthermore, it would significantly restrict the ability to extend the proposed dwelling in future, and as such would not be a flexible and adaptable design as required by Policy SWDP 21 of the South Worcestershire Development Plan 2016 (SWDP). Although the garden size may not be evident from outside the plot, it nevertheless further indicates the cramped nature of the proposed development.
8. Consequently, overall, the proposal would appear cramped and contrived, and an overdevelopment of the plot. Given the topography and surrounding built form, the proposal would have a limited impact on the wider landscape, however it would be prominent in views from the track and would also be seen from Station Road via the track. As such, it would have a significant and harmful impact on the character and appearance of the immediate area.
9. Accordingly, the proposal would conflict with Policy SWDP 21 of the development plan insofar as it requires all development to be of high design quality, to integrate effectively with its surroundings, provide high quality hard and soft landscaping, complement the character of the area and incorporate flexible designs enabling adaption for future needs and uses. It would also conflict with the requirement of the National Planning Policy Framework (the Framework) to add to the overall quality of the area and be sympathetic to local character, including the surrounding built environment and landscape setting.

Living conditions

10. The neighbouring property, Lansdowne, has a large rear garden with a garage and parking area directly behind the appeal site. The first-floor rear windows of the proposed dwelling would provide views across the parking area to that part of the garden of Lansdowne which is located directly behind the house. Given its position, that area is likely to be a well-used and relatively private space, and it appears to include a patio area. As such, even with the separation distance proposed, the proposal would result in slight, but nevertheless harmful, overlooking of that area, to the detriment of the privacy of the occupiers of Lansdowne.
11. The parking area itself is already overlooked by other dwellings and much of Lansdowne's large garden would be screened from view by the existing garage. Given the relative angles, there would also be no overlooking of any windows in the existing dwelling. However, the Council advises that planning permission has been granted for an extension to the garage to provide annex accommodation and I saw at my site visit that building work was underway, with the extension being

constructed close to the boundary with the appeal site. I do not have the full details of that scheme, however given the proximity of the proposed first floor windows to the boundary, it is likely that the proposed dwelling would result in some degree of overlooking of that annex, resulting in additional harm.

12. The overlooking identified could not be overcome by use of obscure glazing without severely compromising the outlook from bedroom 1 of the proposed dwelling, to the detriment of the living conditions of future occupiers. Given the limited depth of the rear garden, it is unlikely that new or retained planting would be able to reach the height required to screen the proposed windows, without significantly impacting on the already very modest outside space. As such, it has not been demonstrated that the overlooking could be mitigated by other measures, and therefore, the proposal would adversely affect the privacy of the occupiers of Lansdowne.
13. Given its scale and proximity to the boundary, the proposed dwelling would be clearly visible from parts of the garden of Lansdowne, however the existing garage would provide some screening. The garden is already largely enclosed on two sides by existing dwellings, which are taller than the proposed dwelling and which restrict the outlook in these directions. On the other two sides the garden is more open with neighbouring gardens and a paddock adjacent, and views in this direction would be unaffected by the proposal. Consequently, in this context the proposed dwelling would not appear unduly overbearing, nor would it materially adversely affect the outlook from the garden of Lansdowne.
14. Accordingly, while the proposal would not harm the living conditions of the occupiers of Lansdowne in respect of outlook, it would result in harm in respect of privacy. As such, it would conflict with development plan Policy SWDP 21 insofar as it requires development to provide an adequate level of privacy to neighbours, and with the requirement of Framework paragraph 127f) that development provide a high standard of amenity for existing and future users.
15. Although the main parties have referred to the Council's design guidance¹ which sets out separation distances between proposed extensions and boundaries, I have not been provided with a copy. As I therefore cannot be sure of the relevance of the guidance to new dwellings, it carries minimal weight. However, I have nevertheless identified that the position of the proposed rear windows would result in harmful overlooking.

Planning Balance

16. The proposal would boost housing supply in an accessible location within the settlement boundary of a Category 1 village, where the SWDP seeks to direct development. It would make efficient use of a small, windfall site in an existing settlement, and increase densities, all of which the Framework supports. However, neither main party has indicated that the Council cannot demonstrate a Framework compliant supply of housing land. As such, the benefits of one additional dwelling would be limited, and therefore carry limited weight.
17. The proposal would result in economic benefits through construction and occupation, however there is no mechanism before me to ensure that local contractors would be used, as the appellant suggests. There would be additional benefits from further council tax income and a new homes bonus, however, no schemes upon which the bonus would be spent have been identified. In accordance with the Planning Practice Guidance, it would not be appropriate to make a decision

¹ South Worcestershire Design Guide Supplementary Planning Document (March 2018)

based on the potential for the development to raise money for the Council in the absence of evidence to demonstrate how that money would be used to make this particular development acceptable in planning terms. Moreover, the economic benefits of the proposal would be generic and would arise with any housing development. Consequently, I can afford them only limited weight.

18. My attention has been drawn to a previous appeal for two dwellings², including one on the appeal site, where design and impact on living conditions were not main issues. I have no elevations of those proposed dwellings or details of the height or position of windows. However, it appears from the site plan provided that the dwelling proposed on the appeal site was set further forward into the plot than the appeal scheme, with landscaping around the boundaries and a lower section projecting to the rear. As such, the relationship of that proposal to neighbouring dwellings was materially different to the scheme before me, which I have considered on its own merits. Therefore, I give the lack of any previous objection on design and living conditions very little weight.
19. Concerns have been raised by local residents regarding the use of the access track by additional traffic, having regard to the highway authority's guidance on the number of dwellings that could use such an access. However, I saw on site that the track had a good quality tarmac surface, passing places were available, and there was good visibility at the junction with Station Road. Vehicles using the track are likely to be travelling at low speeds given its short length, and the layout of parking for the existing dwellings would already result in vehicles reversing onto the track. As such, there is no compelling evidence before me that vehicles from one additional dwelling would significant adversely affect highway safety.
20. There is potential for the proposal to achieve biodiversity enhancements, however without a landscaping scheme to demonstrate how this would be achieved, this carries very limited weight in favour of the scheme. The potential for the proposal to adversely affect heritage assets of archaeological interest and the provision of parking and drainage could all be addressed by planning conditions, and the proposal would incorporate renewable energy as required by the SWDP. These are however required to mitigate the effects of the proposal, and as such are of neutral consequence in the planning balance.
21. The proposal would significantly harm the character and appearance of the area and harm the living conditions of the occupiers of Lansdowne in respect of privacy. It would not therefore achieve the high quality design required by the SWDP and the Framework. Given the importance afforded to design in these documents, I afford the conflict with these policies very substantial weight. Consequently, the limited benefits of the appeal proposal would be comfortably outweighed by the significant harm and associated development plan conflict identified above.

Conclusion

22. For the reasons given above, the appeal is therefore dismissed.

L McKay

INSPECTOR

² APP/H1840/W/18/3213004