



Appeal Decision

Site visit made on 2 June 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2021

Appeal Ref: APP/J1860/W/20/3265980

Land adjacent to Shalom, Bromyard Road, Tenbury Wells WR15 8DJ

- 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 Mrs Heather Phelps against the decision of Malvern Hills District Council.
 - The application Ref 19/01873/FUL, dated 15 December 2019, was refused by notice dated 14 July 2020.
 - The development proposed is demolition of existing building - erection of one single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building - erection of one single storey dwelling, at land adjacent to Shalom, Bromyard Road, Tenbury Wells WR15 8DJ in accordance with the terms of the application Ref 19/01873/FUL, dated 15 December 2019, and subject to the Schedule of Conditions to this decision.

Application for costs

2. An application for costs was made by Mrs Heather Phelps against Malvern Hills District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the appeal, the parties have completed a Section 106 Agreement. The obligation in this agreement relates to a financial contribution towards off-site affordable housing. I shall return to this agreement later.
4. Since the appeal was lodged, a revised version of the National Planning Policy Framework, 2021 ('the Framework, 2021') has been released. The main parties have been consulted on this and I have taken this into account where relevant to my Decision.

Main Issues

5. The main issues are: i) the effect of the proposal on the character of the area; ii) whether the proposed dwelling would be of an acceptable standard with regard to the quality of its outdoor amenity space; iii) the effect of the proposal on the living conditions of neighbours; and, iv) whether the proposal makes provision for affordable housing.

Reasons

Character of the area

6. The appeal site comprises land with an independent access off Bromyard Road, which lies between dwellings along The Crescent and an access to Tenbury High School.
7. This site accommodates a sizeable garage which appears little used and requires maintenance. This, and the generally overgrown nature of the site give it an unkempt appearance. It is proposed to demolish the garage and erect a single storey, one-bedroom dwelling on the site, utilising the existing access and driveway.
8. The area surrounding the appeal site comprises predominantly residential development in a range of styles with older semi-detached properties running along the Bromyard Road and more modern development on the estate to the south west of the site. In general, dwellings near the site face the highway with direct frontage access and have front and rear gardens which vary in sizes. Against this context, the appeal site is uncharacteristic of the area.
9. Designed for the site's linear footprint, the proposed dwelling has an inverted 'L' floor plan which would align with the site's southern and western boundaries. As a consequence of this arrangement, most of the windows to the proposed dwelling and its living area would be arranged and orientated away from neighbouring gardens and towards its outdoor amenity space.
10. Due to the bespoke nature of the proposed dwelling, its arrangement relative to its plot and the highway do not reflect the prevailing pattern of development. However, given that the site is already unrepresentative of the area and because the extent of the proposed development is modest and largely screened from public vantage points, it would not have any appreciable unacceptable effect on the character of the area. Furthermore, with some space about it, the approved dwelling would not appear unduly cramped within its plot.
11. As such the proposal accords with Policy SWDP 21 of the South Worcestershire Development Plan ('SWDP') which amongst other things requires that the siting and layout of the development complements the site and responds positively to its surroundings.

Quality of its outdoor amenity space

12. Although the proposed amenity space would be north facing, this is located close to and would be easily accessible from the living area of the new dwelling. Subject to boundary treatments, which could be secured by a condition if the appeal were to succeed, this space would be made secure and private. Most of this space would also be regular in shape, which would make it useable. Also, the overall extent of this space accords with the Council's suggested quantum of 20 sqm of amenity space per bedroom and would be capable of facilitating different activities, such as seating and drying out areas with some space for storage commensurate with a one-bed dwelling.
13. The proposed amenity space would be adjacent to the existing access to the school which at present is used by pedestrians. Nonetheless, even if it were to be used by vehicular traffic in the future, this would largely be limited to peak

activity at certain times of the day. In any event, subject to details of proposed boundary treatments, the amenity space would be screened from this access. Therefore, the location of the amenity space adjacent to the access is unlikely to unacceptably detract from its use.

14. Consequently, the quantum and quality of the proposed amenity space would be acceptable and accords with Policy SWDP 21 of the SWDP which along with other matters requires that the siting and layout of a development should reflect the given characteristics of the site in terms of its appearance and function.

Living conditions of neighbours

15. The new dwelling would be located close to the gardens of neighbouring properties. Nevertheless, because of its single storey design, incorporating a combination of a mono pitched and flat roofs it would be of a modest scale. This along with the lowering of ground levels to accommodate it, means that the southern and western elevations of this building would not be too dissimilar in height to the existing boundary treatments which enclose neighbouring gardens. As such, while the proposed dwelling would alter the outlook from the rear of adjoining properties and gardens, it would not be unacceptably dominant or overbearing.
16. Because of the limited extent of the gap shown between the neighbouring gardens and the proposed dwelling, I am not persuaded that the use of this for maintenance or otherwise would result in any actual or perceived overlooking.
17. The addition of a new dwelling on the appeal site would generate some activity including vehicle movements and noise associated with this. Nevertheless, given the modest scale of this dwelling (one bedroom) the activity associated with this is unlikely to be significant in the context of an established residential area.
18. For the above reasons, the proposal would not unacceptably harm the living conditions of neighbours. I therefore find no conflict with Policy SWDP 21 of the SWDP, which along with other things states that development should provide an adequate level of privacy, outlook, sunlight, and daylight, and should not be unduly overbearing.

Affordable housing

19. In order to support appropriate provision of affordable housing in the District, criterion B. v. of Policy SWDP15 of the SWDP requires that, on sites of fewer than five units, a financial contribution towards affordable housing will be sought.
20. I have also been referred to a Formal Position Statement dated June 2019 which explains the Council's current approach towards the provision of affordable housing. This states that: Within the Designated Rural Areas or for sites of 0.5ha or more: On sites of less than 5 dwellings a financial contribution towards local affordable housing provision should be made, based on the cost of providing the equivalent in value to 20% of the units as affordable housing on site. I note also that Paragraph 64 of the Framework, 2021 enables authorities to seek affordable housing contributions in designated rural areas.

21. The appeal site is located within Tenbury Wells which falls within a designated rural area and the submitted S106 Agreement provides an obligation for the provision of a financial contribution towards affordable housing, in accordance with the above requirements.
22. Therefore, the submitted obligation accords with Policy SWDP 15 of the SWDP. On the basis of the above reasons, the obligation is also directly related to the development, fairly and reasonably related in scale and kind to the development and therefore complies with the tests set out in the Framework, 2021, the advice in the Planning Practice Guidance ('PPG') and with Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended).

Conditions

23. I have considered the conditions put forward by the Council in light of the requirements of the PPG and the Framework, 2021. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans as this provides certainty.
24. Although drawing 06 rev A provides some information on levels, to safeguard the amenity of neighbours and the appearance of the area, I have imposed a condition requiring details of the finished floor levels and details of boundary treatments, including any retaining structures.
25. A condition relating to foul and surface water drainage, including details of sustainable urban drainage systems for surface water drainage is necessary in the interests of securing satisfactory drainage of the site and managing flood risk.
26. Conditions requiring the provision of vehicle parking and turning areas and cycle storage facilities for the dwelling and a Construction Environmental Management Plan are necessary to ensure accessibility and safety of highway users.
27. In accordance with Policy SWDP 27 of the SWDP it is reasonable to require a proportion of energy sources to be renewable and for water efficiency measures to be provided within the development. Therefore, a condition requiring details of renewable and sustainable measures (including household water management measures) is imposed. To ensure the proposal incorporates satisfactory telecommunication facilities in line with policy SWDP 26 of the SWDP, I have specified a condition requiring the provision of superfast broadband facilities or alternative solutions to serve the dwelling.
28. A condition to minimise the disruption caused neighbours which specifies the days and hours for demolition, construction, and deliveries in association with the development is both necessary and reasonable to safeguard the living conditions of neighbours.
29. Conditions 3, 4 and 5 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Other Matters

30. In addition to some of the above matters, I have had regard to a number of issues raised by third parties, including the need for sufficient parking and space for a vehicle to turn within the site, ensuring that the site is properly drained, along with concerns over the loss of wildlife habitats. These issues were addressed by the Council in its delegated decision report, and I have also considered these, and I have not been provided with any strong reasons to take a contrary view.

Conclusion

31. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location Plan, and Drawings: 02 rev a, 03 rev a, 04 rev a, 05 rev a, and 06 rev a.
3. The development hereby approved shall not commence until details of finished floor levels for the approved dwelling and site, relative to any adjoining land and a plan indicating the positions, design, materials, and type of boundary treatments, including any retaining structures to be installed at the site, have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be constructed in accordance with the approved details. The boundary treatments shall be completed before the first occupation of the development hereby permitted and maintained for the life of the development.
4. The development hereby approved shall not commence until a scheme of foul and surface water drainage, which shall include proposals for sustainable drainage, has been submitted to and approved in writing by the local planning authority. Thereafter, the approved scheme shall be completed before the development is first occupied.
5. The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. This shall include the following:- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway; Details of site operative parking areas, material storage areas and the location of site operative's facilities (offices, toilets etc); The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring deliveries. Thereafter, the approved development shall be undertaken in accordance with the approved measures set out in the approved Construction Environmental Management Plan.
6. No development shall take place above slab level until details of renewable and/or low carbon energy generation measures have been submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development. The details to be submitted shall include:- the overall predicted energy requirements of the approved development; the predicted energy generation from the proposed renewable/low carbon energy measures; and an implementation timetable for the proposed measures. Thereafter the development shall be carried out in accordance with the approved details.
7. No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

8. The dwelling hereby approved shall not be occupied until an area has been laid out within the development site for the parking of 2 cars and a turning area to enable cars to enter and leave the site in a forward gear. These areas shall thereafter be retained and kept available for those purposes at all times.
9. The dwelling hereby approved shall not be occupied until sheltered and secure cycle parking to comply with the Council's adopted highway design guide has been provided in accordance with details which shall first be submitted to and approved in writing by the local planning authority. Thereafter, the approved cycle parking shall be kept available for the parking of bicycles only.
10. The dwelling hereby approved shall not be occupied until, details of superfast broadband facilities or alternative solutions to serve the dwelling have been submitted to and approved in writing by the local planning authority. The submitted details shall include an implementation programme. The approved facilities shall be provided in accordance with the approved details.
11. Demolition, clearance or construction work and deliveries to and from the site in connection with the development hereby permitted shall only take place between the hours of 08.00 and 18.00hrs Monday to Friday and 08.00 and 13.00hrs on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays or on Bank or Public Holidays.