



Appeal Decision

Site visit made on 1 February 2022

by Oliver Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2022.

Appeal Ref: APP/J1860/W/21/3284719

Land at Willow Grove, Malvern, 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 Mr & Mrs Schwarz against the decision of Malvern Hills District Council.
 - The application Ref 21/00897/FUL, dated 10 May 2021, was refused by notice dated 28 July 2021.
 - The development proposed is erection of detached bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted revised plans during the course of the appeal. The changes were substantive in nature as they proposed alterations to the roof. I am mindful of the guidance in the Planning Inspectorate's Procedural Guide: planning appeals - England which states that "the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought."
3. Accordingly, although I sought comments from the Local Planning Authority on the amended plans, interested people will not have been able to comment on them. I will therefore make my determination on the plans submitted during the application process.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of Willow Grove
 - The effect on the living conditions of the future occupiers of the appeal dwelling and the approved dwelling at 23 Willow Grove, and on the occupiers of 21 Willow Grove.

Reasons

Character and Appearance of Willow Grove

5. Willow Grove is a residential area consisting of bungalows and two-storey dwellings that are generally set back from the road behind open front gardens,

- giving the locality a planned, spacious feel. The road includes bungalows set around and facing the end of a cul-de-sac, at the top of land that rises steeply.
6. The appeal site consists of a sloping grassed open area. I recognise that the area could become unkempt if not managed, and that it is currently bounded by low fencing. However, the absence of built form on the site means that it contributes positively to the area's sense of spaciousness.
 7. It is proposed to erect a bungalow on the land. I understand that the proposal is a revised layout with a larger rear garden, intended to overcome concerns raised by a previous Inspector¹. Nevertheless, I have reached my own assessment of the proposal before me.
 8. The position of the dwelling and associated car parking spaces would be close to the edges of the site and the road. The appellant states that the amount of amenity space exceeds that required. Even so, the site's small size and the extent of development within the plot means that the proposal, though modest, would have a cramped feel, contrasting with the spaciousness of the site and the character of the area generally.
 9. I recognise that the proposal would have good access to services and facilities and would contribute to the local economy. It would use appropriate materials and the bungalow's design would reflect others. It is also the case that higher densities are often acceptable in urban areas and that sites such as this may be identified as potential windfall sites. However, in the low-density suburban context of the appeal site, the proposed dwelling would appear out of place, causing significant harm.
 10. Part of the garden to number 23 has planning consent² for the erection of a dwelling ('the approved dwelling'). I saw that work has reached slab level and it is not disputed that this consent is extant. The case is made that this also consisted of green open space and is comparable to the appeal site. Details of the consent have been provided to me, and I note that the approved dwelling would be set back from the adjacent roads, thus maintaining a sense of openness. I therefore consider that this approval does not justify the appeal scheme, which I have considered on its own merits.
 11. I therefore conclude that the proposal would harm the character and appearance of Willow Grove, contrary to Policy SWDP21 of the South Worcestershire Development Plan, the South Worcestershire Design Guide Supplementary Planning Document March 2018 ('the Design SPD') and policies MD1 and MD2 of the Malvern Town Neighbourhood Plan ('NP'), as well as the National Planning Policy Framework ('the Framework'), all of which emphasise that development must reflect and complement the character of the area.

Living conditions

12. Number 21 Willow Grove is immediately behind the appeal site. The Council's concern relates primarily to any potential effect on the living conditions of future occupiers of the appeal dwelling because of its proximity to the dwelling at number 21. However, I also note concerns from local residents of the effect on the proposal upon number 21 itself, and that the appellant also comments on such effects.

¹ Reference APP/J1860/W/19/3239816

² Reference 17/01891/FUL

13. I understand that the proposed dwelling is further away from number 21 than the previous scheme. Nevertheless, their relationship would remain close. Viewed from the proposal's bedroom, living room and garden, number 21's facing elevation would have an overbearing effect on occupiers of the proposed dwelling. I note that landscaping is suggested to further mitigate its effects, but any landscaping sufficient to screen the property would reduce the garden area left for occupiers of the appeal site, to the detriment of their living conditions.
14. In respect of number 21 itself, this property has windows facing the appeal site. The proposed dwelling's position, and the impact of necessary landscaping on the boundary, means number 21's occupiers would feel 'hemmed in', having a harmful impact on their light and outlook.
15. The approved dwelling at number 23 Willow Grove would be lower than the proposal. Its rear windows would face the appeal site and serve a dining room and bedroom. The proposed bungalow would be set partially into the ground and have a low height. Nevertheless, its higher position means it would have a dominating impact on the outlook of the approved property and its garden.
16. In terms of light to the approved dwelling, notwithstanding the Design SPD's 25-degree code, the orientation of the buildings in relation to the sun's diurnal pattern means that the appeal dwelling would significantly reduce the sunlight available to the approved dwelling and garden in the late afternoon and early evening.
17. I saw on my visit that there is tall vegetation on this boundary, which may well limit light to the approved dwelling and would to some extent screen the impact of the proposed dwelling. There is no guarantee however that this will remain at its current height, or at all, in the long-term.
18. I conclude that the proposal would harm the living conditions of the future occupiers of the appeal dwelling and the approved dwelling at 23 Willow Grove. I am also of the view that the proposal would harm the living conditions of the occupiers of 21 Willow Grove.
19. It would therefore be contrary to Policy SWDP21 of the South Worcestershire Development Plan and policies MH2 and MD1 of the NP, as well as the Design SPD and the Framework, which all require development to provide adequate sunlight and daylight and to not be unduly overbearing, including to future occupiers.

Conclusion

20. The appellant notes that the Council was unable to demonstrate a five-year supply of housing land following an appeal decision at Land South of Bransford Road, Rushwick³. As a result, it is argued that paragraph 11(d) of the Framework is engaged. The Council disagrees with this view.
21. However, even if the Council is unable to demonstrate a five-year housing land supply, and by consequence the most important policies for determining the proposal were considered out-of-date, the harm to the character and appearance of the area and to living conditions identified above would be

³ APP/J1860/W/19/3242098

significant. Furthermore, the social and economic benefits of a single additional dwelling to the housing supply would be relatively minor.

22. When assessed against the policies in the Framework taken as a whole, I therefore conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Therefore, the conflict with the development plan is not outweighed by other considerations, including the Framework.
23. For the reasons given above, having regard to the development plan and all other material considerations, I conclude that the appeal should be dismissed.

Oliver Marigold

INSPECTOR