



Appeal Decision

Site visit made on 26 September 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal Ref: APP/J1860/W/23/3321013

7-9 Malvern Road, Powick, Worcestershire WR2 4SF

- 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 Ahmed against the decision of Malvern Hills District Council.
 - The application Ref M/22/01036/FUL, dated 8 July 2022, was refused by notice dated 26 October 2022.
 - The development proposed is the demolition of two existing dwellings, with ancillary outbuildings, with two new detached dwellings and new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be a suitable form of development having regard to development plan policy in respect of replacement buildings;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the living conditions of future occupants would be acceptable, with regard to the provision of outdoor amenity space.

Reasons

Whether the proposal would be a suitable form of development

3. The appeal site comprises two semi-detached dwellings with ancillary outbuildings. The original dwellings are two-storey and of a traditional cottage style with features including chimneys, brick header details and a porch. The buildings are set back on a raised bank adjacent to a dual carriageway section of the Malvern Road. To the south of the dwellings is countryside. The site is overgrown with mature planting and has a rural appearance.
4. The site is located within the open countryside, outside of any development boundary as defined under Policy 2 of the South Worcestershire Development Plan (SWDP) (2016). Policy SWDP 2 criterion C sets out that development in the open countryside will be strictly controlled and will be limited to certain exceptions. Of relevance to the proposal is the exception cited within Policy SWDP2 criterion C relating to replacement dwellings (Policy SWDP 18).
5. Policy SWDP 18 sets out that the replacement of an existing dwelling in the open countryside with another single dwelling will be permitted subject to a

number of criteria. Of relevance to the Council's concern is (iii) the replacement is not disproportionately larger than the existing dwelling and will not exceed the size of the original footprint by more than 30%. There is no definition of 'disproportionately larger' in the SWDP. An assessment of whether the proposal would be disproportionate to the original buildings is therefore a matter of planning judgement.

6. The proposal would replace the existing semi-detached dwellings with two large, detached dwellings. Whilst the footprint of the proposed dwellings would not increase more than 30% of the footprint of the original buildings, the height of the proposed ridge line and eaves would be notably taller. The proposal's increased height, combined with the pitched roof and large gable projections, would significantly add to the overall bulk of the buildings. Consequently, due to the notable increase in height and volume of the buildings, the proposed dwellings would be disproportionately larger than the original buildings.
7. For the reasons given, the proposal would not be a suitable form of development having regard to development plan policy in respect of replacement dwellings. Consequently, the proposal would fail to accord with Policies SWDP 2 and 18, the requirements of which are set out above.

Character and Appearance

8. The increased height and massing of the proposed two-storey dwellings would result in a considerably bulkier appearance than the original buildings. It would also appear unsympathetic and disproportionate to the existing dwellings within the immediate locality, which are of a more modest scale and of traditional design.
9. While the external materials would consist of facing brick and tiles, the proposal would also introduce timber cladding to the front gables. Furthermore, the proposal's front elevation would include a complex window layout with several openings and with panes containing a number of glazing bars. The timber cladded front gables and the extensive glazing would appear as dominant features.
10. The resulting buildings would therefore include modern features that would have little resemblance to the original traditional style buildings. In addition, the proposal's increased bulk and massing would make it more visible on the site compared to the existing buildings. This would result in an incongruous development that would interfere with the natural appearance of the appeal site and would be visually inappropriate and harmful to the countryside setting.
11. Although the existing mature planting on and around the site does provide some degree of screening and additional landscaping could be secured by condition, the proposal would nevertheless be partially visible from the surrounding area. This is due to the site's elevated position on the steep bank and its proximity to the highway, and when trees and vegetation are not in leaf during winter months. Such planting could not be guaranteed to survive or be maintained in the longer term.
12. My attention has been drawn to previous planning permissions¹ for a development of 49 dwellings located to the southeast of the appeal site. Whilst

¹ 19/01547/FUL and 20/01680/FUL

some of the proposal's architectural features would complement that found on this new development, it is spatially separated from the appeal site by trees and vegetation and fronts onto a different road. It is therefore not within the immediate context of the appeal site. Furthermore, I do not know the full circumstances and site-specific details of these other schemes. In any event, I have determined the appeal on its own merits based on the information before me and my own observations of the area.

13. The proposal would provide for two net zero homes and would include the provision of renewable energy sources. However, there is nothing persuasive to demonstrate that these benefits would distinguish the design as being truly outstanding or over and above what could be achieved through a smaller scheme.
14. For the reasons given above, the proposal would represent a marked contrast to the existing buildings. As such, it is not considered that the proposal would represent a high quality design that would integrate effectively with its rural surroundings.
15. Consequently, the proposal would have a harmful effect on the character and appearance of the area. As such, the proposal would fail to accord with Policies 21 and 25 of the SWDP. Collectively, these policies amongst other things, seek to ensure development is of high design quality and integrates effectively with its surroundings and the character of the landscape setting, and reinforces local distinctiveness. It would also fail to accord with the design objectives of the National Planning Policy Framework (Framework).

Living Conditions of future occupiers

16. The Council's South Worcestershire Design Guide Supplementary Planning Document (2018) (SPD) states that all new build dwellings must have access to at least one area of usable private amenity space; this can include front or back gardens, roof gardens, decks or balconies. These should not be overshadowed, directly overlooked, steeply sloping or awkwardly spaced. The SPD also states that all outdoor private spaces need to be safe and secure and that family homes require a private garden that is sufficiently sized to allow for seating and play.
17. The submitted plans indicate a notable lack of private outdoor amenity space for plot 1 of the proposed development. Plot 1 would include an awkwardly shaped strip of land to the front and side of the dwelling and would be of limited size, restricting its usability. Although future occupants would have access to land to the east of the dwelling, this would be close to the site's access and segregated from the dwelling by a driveway that would be shared with the occupants of plot 2. Therefore, the occupiers of plot 1 would be unable to access this area of outdoor amenity space immediately from their property, resulting in a lack of seamless connection between their indoor and outdoor spaces.
18. This fragmented arrangement would pose difficulties for future occupiers in carrying out daily activities such as clothes drying or enjoying garden activities and relaxation with outdoor seating. Furthermore, the disjointed setup would not provide a practical or secure environment for children to play freely without constant supervision, especially given the site's proximity to the busy highway.

19. The appellant suggests that there are existing developments where properties are separated from their gardens by a residential street or walkway. However, the SPD is clear that new dwellings must have access to an area of usable private amenity space that is not awkwardly spaced and is safe and secure.
20. Consequently, the proposal would result in outdoor amenity that is awkwardly spaced and disconnected from the proposed development. Such a configuration would prove neither convenient nor practical for future occupiers. This would result in a poor standard of outdoor amenity space being provided by the proposal.
21. I acknowledge that the garden plots of the existing dwellings are close to the dual carriageway. Nevertheless, I have considered this appeal on the basis of the evidence before me and the development plan context as it currently exists.
22. For the reasons given, the proposal would not provide adequate living conditions for the future occupants of the proposed development having regard to outdoor amenity space. As such, the proposal would conflict with Policy 21 of the SWDP and guidance in the Council's Design Guide SPD, which amongst other things, seeks to ensure development is of high design quality, which requires outdoor spaces to be private and of a functional shape. It would also fail to accord with the Framework (paragraph 130), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.
23. The decision notice refers to Policy 25 of the SWDP. However, this policy refers to landscape character. As such, I do not consider this policy to be relevant to this main issue.

Other Matters

24. The appellant refers to a potential fallback option in the shape of development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, there is limited information within the evidence regarding the detail of such permitted development. Whether it would be likely and indeed whether it would be more or less harmful than the appeal scheme. I therefore give limited weight to the potential permitted development fallback.
25. The proposal would make a small windfall contribution to the delivery of housing for the area on a brownfield site that is accessible to local services and facilities. However, these benefits would not be sufficient to outweigh the harm I have identified.

Planning Balance

26. Although there would be some benefits to the proposal, as set out above, these benefits would attract only limited weight and would not outweigh the harm identified.
27. The appellant claims that the Council does not have a five-year housing land supply (5YHLS) and has referred me to a previous case² where it was found that there was not a 5YHLS. Nevertheless, even if I were to conclude there is a

² APP/J1860/W/22/3306186

shortfall in the 5YHLS as suggested by the appellant, the harm I have found arising from this proposal is so significant that the adverse impacts of granting permission relating to the two main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

28. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR