



Appeal Decisions

Site visit made on 21 November 2023

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 14 December 2023

Appeal A: APP/J1860/W/23/3319737

52 Windmill Lane, Kempsey, Worcester WR5 3RL

- 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 Marilyn Unwin against the decision of Malvern Hills District Council.
 - The application Ref M/23/00076/HP, dated 10 January 2023, was refused by notice dated 28 February 2023.
 - The development proposed is a detached garden room.
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Appeal B: APP/J1860/C/23/3322249

52 Windmill Lane, Kempsey, Worcester WR5 3RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Marilyn Unwin against an enforcement notice issued by Malvern Hills District Council.
 - The notice, numbered M/ENF/23/0048, was issued on 13 April 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a building.
 - The requirements of the notice are to: Permanently remove the building approximately hatched blue on the attached plan from the land edged in red on the attached plan.
 - The period for compliance with the requirements is: 4 (four) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and the enforcement notice is upheld.

Appeal A

Main Issues

3. The main issues are the effect of the development on the character and appearance of the street and its impact on the living conditions of the occupants of the neighbouring properties in terms of outlook.

Reasons

Character and appearance

4. The appeal relates to a flat roofed timber outbuilding, 2.5m in height with a modest floor area of some 10.5sqm. It is sited on the lawn to the front of the dwelling and is surrounded on three sides by a hedge. The frontage faces the host property and displays a domestic style uPVC door and window. Its purpose is said to be for storage of 'gardening and other materials' and at my visit I noted a child's bike, an electric lawnmower and a few other domestic items.
5. The property is in a residential area in a quiet road on the northern edge of the village. The character of this section of the street is largely defined by two distinct styles of housing. The south side on which the appeal property is situated is characterised by three short blocks of two-storey terraced properties consisting of 3 or 4 dwellings. The three terraced blocks are sited at staggered angles to the road and are set back from the roadway with front gardens of different lengths. The appeal property is an end terrace and due to the alignment of the houses, it sits behind the rear of its neighbour in the adjacent terraced block to the east. The frontages to the rows of terraced properties display a mix of hardstanding for parking, lawns and soft landscaping.
6. To the north side of the street, larger two-storey semi-detached dwellings are set back further from the road and while most have large gardens to the front, some have replaced lawned areas with hardstanding for parking. Boundaries to these properties on either side of the street are defined by a variety of low-level fences and hedges and thus there are open views across the frontages and towards the houses. The openness of the frontages with the properties set back from the road is a feature that strongly defines the character of the street.
7. The outbuilding, which is the subject of the notice, is sited close to the boundary with the road. Being surrounded on three sides by a mature hedge and with just the top section of its sides and its flat roof visible, it is largely hidden from view. Notwithstanding this, while it is mostly screened, and there appears to be no intention to remove the hedge, landscape planting is transient when viewed in the context of a building that could remain for years and it may therefore only offer short-term mitigation. Were the hedge to die or be cut down, the outbuilding would be plainly visible along the immediate length of the lane.
8. I appreciate that there is no external access to the rear of the house, but this is not uncommon with terraced properties. However, there is a direct route through the property and while it may be useful and practical for some items to be stored at the front, there are various storage options to the rear of the property.
9. Overall, the appeal development, is an anomaly in the street scene. Due to its rudimentary design and prominent siting within the front garden, it fails to respond to the character and appearance of its surroundings where the areas to the front of properties are, on the whole, free of any form of buildings. Its siting is considered to be visually harmful, and this has a negative effect on the character and appearance of the immediate setting. In this respect the

outbuilding represents an incompatible form of development which is contrary to Policy SWDP21 of the South Worcestershire Development Plan (the SWDP). This, among other things, expects new development to integrate effectively with its surroundings, reflect the given characteristics of the site, and enhance the overall quality of the built environment. This is supported in the design guidance contained in the Supplementary Planning Document Design Guide for overarching design principles (the SPD).

Living conditions

10. The appeal outbuilding is approximately in line with the front elevation of the neighbouring terrace to the east and consequently, it would have a limited impact on the outlook of the occupants of the closest property, No.54. To the other side the attached property, No.50, sits in line with its neighbour and the appeal building is positioned close to the common boundary. While reasonably excluded from view due to the extent and height of the hedge, I consider that the outlook from the neighbouring property is not unduly compromised.
11. If the hedge was removed, I consider that, due to the separation distance and its size, the appeal building would not result in an oppressive environment for the occupants to the extent that it would be considered overbearing and therefore harmful to their living conditions. For these reasons, there is no conflict with the elements of Policy SWP21 of the SWDP and the SDP which seek to ensure that new development should not be unduly overbearing and should provide an adequate level of outlook.

Conclusion

12. The appeal development harms the character and appearance of the area and there is conflict with the development plan, as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal cannot not succeed.

Appeal B – Ground (g)

13. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. In making an appeal on ground (g), the onus is on the appellant to suggest a different compliance period. The appellant has requested the period be extended to allow time for the planning appeal to be decided. There are no further reasons provided as to why four months may be insufficient. Given the reasons for issuing the notice, and that the planning appeal decision has been linked to the appeal against the enforcement notice and will be issued together, I consider that the stated period of four months is reasonable to comply with the requirements of the notice.
14. The appeal on ground (g) therefore fails.

S A Hanson

INSPECTOR