



Appeal Decision

Site visit made on 6 April 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/H1840/W/23/3329208

Land to the rear of 95 Village Street Harvington WR11 8PQ

- 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 Steve Wreford against the decision of Wychavon District Council.
 - The application Ref: W/23/00729/FUL dated 5 April 2023 was refused by notice dated 25 August 2023.
 - The development sought to be approved is Erection of a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the Erection of a dwelling at Land to the rear of 95 Village Street Harvington WR11 8PQ in accordance with the application W/23/00729/FUL dated 5 April 2023 and the plans submitted with it subject to conditions on the schedule attached.

Main Issue

2. The main issues are:
 - the effect of the proposal upon the character and appearance of the area, and
 - whether the proposed dwelling would afford suitable living conditions for occupiers having regard to privacy.

Reasons

Character and appearance

3. The appeal site is a parcel of land¹ set at the rear of 95 Village Street (No.95) within the village of Harvington which is defined as a Category 2 settlement in the South Worcestershire Development Plan (SWDP) and therefore a sustainable location for the proposed development. The appeal site would be accessed by an existing driveway which currently serves No.95, a bungalow fronting on to Village Street, running between it and the adjoining 'Golden Cross' public house. The construction of this access would involve the demolition of two prefabricated garages that make no positive contribution to the street scene and are set well back from the street frontage.
4. The development would introduce no change to the street scene which the Council describe as 'linear', but that is only correct to the extent that there are

¹ The appellant confirms a site area of 793 sq. m.

lines of dwellings fronting various roads that in many cases have an inconsistent relationship with road frontage, particularly the older development along the B4088 and in parts of Village Street which leads east to the village core. These main road frontages are backed by a number of later housing developments as the village has expanded in previous decades.

5. Although the Council refer to the proposal as 'backland development' it would be equally, if not more, appropriate to describe what is proposed as 'infilling' because the appeal site is an individual parcel of land entirely surrounded by established development and the proposal amounts to the insertion of a housing typology that is found in differing versions in the streets which surround the site. Further, the size of the appeal site is equivalent to a modest density of, perhaps, 15 dwellings per hectare and likely not greatly different to that found in the village as a whole. The development would not be 'cramped', it is a large plot, nor would it appear 'contrived' other than to the extent that the proposal reflects an effective use of land for housing in a sustainable location.
6. Overall, notwithstanding the suggestions of the Council I am not persuaded that any actual planning harm in terms of the character of the settlement would arise from what is proposed. I therefore find little conflict with Policy SWDP21 which seeks that development should complement the surrounding character through good design.

Living conditions

7. The Council² point to the proposed dwelling being within close proximity to the western boundary of the site and then refer to separation distances set out in the SWDP Design Guide SPD as a requirement of 5m per storey (from windows to boundary). The Council go on to state '*windows are located at first floor level within the neighbouring property Harvington Mews, which would be located approximately 7m from the site boundary*' reasoning '*the site would be overlooked by this neighbouring property which is considered to have an adverse privacy impact*'.
8. My observations of what is found on site in terms of window positions, taking into account the plans provided, differs from that provided by the Council. Although one first floor level window does appear to be within 7m of the boundary (applying a 45° angle) this (oriel) window faces north and away from the rear of the proposed dwelling, views therefrom would capture only a small part of the proposed rear garden in its northwest corner. There are other windows at first floor level with a *direct* view of the amenity areas (albeit with an intervening mature tree) that might arguably cause privacy concerns except that these are at a much greater distance, in the region of 12-15m from the intervening boundary, which accords with the SPD guidance. The separation distance towards the indicated patio area outside the main living room of the proposed dwelling which would be the most active and sensitive area, is much greater.
9. Overall, the privacy enjoyed by users of the proposed dwelling would be no worse, and given the large size of the plot, likely much better, than is

² At (iv) in the officer report headed Design and Amenity,

commonly found in suburban housing layouts where the potential for overlooking from the upper floor windows of neighbouring houses is typically found without being considered oppressive. In this case not only are the separation distances significant but also there is ample opportunity for perimeter planting to take place if residents desire.

- 10.I therefore conclude there would be no conflict with Policy SWDP21 or the principles set out in the South Worcestershire SPD Design Guidance SPD which seek to protect the amenity of neighbouring users and that new development should be of high quality.

Other Matters

- 11.Concerns have also been expressed by other neighbouring users to the east of the appeal site, however there would be no first floor windows in the proposed dwelling; the intervening boundary with 'Eureka' is heavily screened with trees and the outlook from 'Tudor Rose' would be of the void between the rear of No.95 (and therefore of its retained rear garden) and the forecourt of the proposed dwelling. Again, separation distances are significant and given these dwellings are single storey like the proposal, there is no realistic potential for mutual overlooking.
- 12.Harvington Parish Council identify a conflict with Policy IH3 of the Harvington Neighbourhood Plan (2019) as to the amount of parking provision. Given the available forecourt area, the additional parking space can be incorporated into the layout of the driveway/parking area.

Conclusion and conditions

- 13.I have concluded that the proposal would not harm the character and appearance of the area and that there is insufficient reason to refuse the proposal on grounds of privacy. The Council are unable to demonstrate a Framework-compliant housing land supply at the present time, however, given the basis of my decision this is not material to the outcome other than with regard to what is stated in paragraph 5 of this decision letter. Consequently, having regard to all matters raised, the appeal succeeds subject to suitable conditions.
- 14.In addition to the usual plans and timing condition the Council have proposed several conditions which I have considered in the light of the 'six tests'³ and adjusted accordingly. Conditions to require water management and provision of EV charging are necessary for compliance with the development plan, however removal of permitted development rights should be justified by the circumstances of the case and decision and is not necessary in this instance given the Council's comments as to the potential for extension. However, as the principle elevation of the proposed dwelling would not front a highway and given the concerns about overlooking and availability of parking, a condition limiting these rights in certain respects is necessary.

³ Framework #56 states that conditions should be Necessary, Relevant to planning, Relevant to the development to be permitted, Enforceable, Precise, and Reasonable in all other respects.

15. Conditions should be reasonably related to the scale of the development proposed, in this case the suggested Construction Management Plan would be disproportionate. However due to the access and proximity of surrounding occupiers, details as to arrangements for parking, together with working hours condition should be defined. It has not been demonstrated that the appeal site has a history of use other than as ancillary to residential use, so a condition which presumes a risk of contamination is not relevant. A condition requiring approval of the layout for frontage parking and soft landscaping is necessary to ensure the scheme is implemented in accordance with the reasons for allowing the appeal.

Andrew Boughton

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:
 - i) 22 75 20 Proposed Elevations
 - ii) 22 75 21 Proposed Floor Plans
 - iii) 22 75 22 Site Layout Plan
 - iv) 22 75 23A Block Plan
 - v) 22 75 24 Site Location Plan
- 3) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) at Class B of Part 1 of Schedule 2; no alteration to the roof, nor any insertion of dormer or glazed opening shall be constructed other than to the rear (north facing) slope of the roof of the dwelling hereby permitted.
- 4) Prior to the commencement of development, arrangements to provide parking sufficient for the number of site operatives attending the site during the period of construction shall be submitted to, and approved in writing by, the local planning authority. The development shall proceed in accordance with the approved arrangements.
- 5) Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain for the life of the development.
- 6) The development hereby approved shall not be first occupied unless and until a scheme for the hard and soft landscaping of the site including the driveway, turning area and three parking spaces which has previously been submitted to, and approved in writing by, the Local Planning Authority has been completed in accordance with the approved details.
- 7) No excavation nor other construction work including the loading or unloading of materials, shall take place on Bank Holidays or Sundays, or outside the hours of 07.30 until 18.30 Monday-Friday and 07.30 until 13:00 on Saturdays.

- 8) The Development hereby permitted shall not be first occupied until the proposed dwelling has been fitted with an electric vehicle charging point.
- 9) Prior to the first occupation of the development hereby permitted, the details of renewable and/or low carbon energy generation measures as set out within the Energy & Sustainability Statement accompanying the application shall be fully implemented and remain for the life of the development.
- 10) No construction above ground level shall take place 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. The development shall proceed in accordance with the approved details.