



Appeal Decision

Site visit made on 21 May 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2024

Appeal Ref: APP/D1835/W/23/3331504

6 Green Hill Bath Road, Worcester WR5 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Khalid Hussain against the decision of Worcester City Council.
 - The application Ref is 23/00051/FUL.
 - The development proposed is additional floor to an approved scheme Ref 21/00880/FUL.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted, subject to conditions, in May 2022 for a proposed new dwelling within a Conservation Area, including demolition of garage and existing wall to front (Ref: 21/00880/FUL). The proposed development is to amend that scheme by adding an additional floor.
3. The proposal is within the Sidbury and Fort Royal Conservation Area and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. It is also adjacent to a Grade II Listed Building, No 6 Green Hill Bath Road, and therefore, I have had special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest under Section 66(1) of the Act.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is also a material consideration in this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. Therefore, I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

Main Issues

5. The main issues are: -
 - whether the proposal would preserve or enhance the character or appearance of the Sidbury and Fort Royal Conservation Area;

- the effect of the proposal on the setting of the adjacent Grade II Listed Building, 6 Green Hill Bath Road; and
- the effect of the proposal on the living conditions of the occupiers of neighbouring properties, including 6 Green Hill Bath Road and properties on Bath Road, by reason of outlook and overlooking.

Reasons

Conservation Area/Listed Buildings

6. The appeal site comprises an area of land which drops in level from its road frontage on Green Hill Bath Road toward the rear where it adjoins the rear gardens of properties on Bath Road. It is located between 6 Green Hill Bath Road and 1 Woolhope Road. The site includes a detached garage. The properties in Woolhope Road are outside the Conservation Area but the majority are attractive two-storey Edwardian semi-detached houses with a traditional character of their own.
7. Green Hill Bath Road is described in the Conservation Area Character Appraisal¹ as being developed in the 1840's, slightly later than the development of the more unified and planned Bath Road and taking advantage of the rising land and views across the City and of the Cathedral. The first part of Green Hill Bath Road rises steeply and was developed to service the carriages and stable entrances. Nos 1 to 6 Road follow the contours, Nos 1 to 5 being two-storey cottages. No 6, the final house in the row is described in the Appraisal as being more ambitious with its position side on to the road and its double fronted Georgian features facing south. The houses on the opposite side of the road are set back behind walls and vegetation so this narrow section has a distinctive, almost secluded character, with No 6 providing a focal point to views into the Conservation Area from Woolhope Road.
8. The heritage asset relevant to this appeal comprises both the Conservation Area and the Grade II Listed Building, No 6 Green Hill Bath Road. Their significance lies in their historical and architectural merit. This is derived from the area's suburban development to the east of the City's historic centre and comprising a number of Listed Buildings.
9. The openness of the appeal site allows the frontage of No 6 to be clearly seen from the road. The garage, which has no architectural merit does not impact on this view. The land was previously part of No 6's garden and therefore included in the Conservation Area's boundary and delineates the edge of the Conservation Area at this point. The appellant cites an extract from the 1886 Ordnance Survey map which indicates that the appeal site may not have been originally part of the curtilage of No 6. At that time (1886) the houses in Woolhope Road were not built and there is no suggestion that the appeal site ever formed part of that development. It seems likely therefore, that although it was not originally part of No 6 it has been associated with it for a number of years even if that is not the case now.
10. Furthermore, given the orientation of No 6 and the relationship between the appeal site and the Listed Building, I am satisfied that this undeveloped area of

¹ Sidbury and Fort Royal Conservation Area Character Appraisal and Management Proposals, Adopted December 2011.

land forms part of the setting of the Grade II Listed Building. It is therefore significant for this reason as well as its inclusion in the Conservation Area.

11. The previously approved dwelling is contemporary in its design and contrasts with the Georgian/Edwardian architecture of the surrounding properties. It would however be single storey at its road frontage which limits its visual impact on the appearance of the properties either side of it. In particular, it would not obscure or lose the visual interest created by the Georgian façade of No 6.
12. The proposed additional floor to the approved dwelling would be set back from the road frontage. However, it would add a substantial box like addition at a higher level, close to No 6. This would block off part of the views of No 6 and compete with this notable façade. The effect of this is heightened by its position on the edge of the Conservation Area and subsequent views into it. The map within the Conservation Area Appraisal identifies this view as being an important one. The proposal would therefore have an adverse impact on the integrity of the Conservation Area and on the setting of the Listed Building.
13. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the scale of the development, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
14. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal. There would be economic benefits during the construction of the proposed dwelling and the subsequent economic and social benefits derived from the future occupiers contribution to the local economy and community. There would also be environmental benefits in terms of a green roof and the provision of bird and bat boxes. However, these could arise from the dwelling as approved. Although the additional floor would create a more spacious dwelling which may make it more adaptable and flexible, the additional benefits would be small.
15. Given the above and in the absence of any defined or substantiated public benefit, I conclude that the proposal would fail to preserve or enhance the character or appearance of the Conservation Area or the historic setting of the Grade II Listed Building. This would fail to satisfy the requirements of the Act and Chapter 16 of the Framework. It would also conflict with South Worcestershire Development Plan² Policy SWDP 24 which requires proposals affecting heritage assets to be considered in accordance with the Framework, relevant legislation and published national and local guidance. As a result, the proposal would not be in accordance with the development plan in this regard.

Living Conditions

16. The side facing windows to No 6 are for the most part, its main windows to habitable rooms, and its principal elevation. There are therefore a number of windows that overlook the appeal site at close proximity. Due to the drop in

² South Worcestershire Development Plan, Adopted February 2016.

levels, the approved dwelling would be single story in height at its frontage but two-stories high at the rear. The additional floor would create a third storey as viewed from the side and rear and thereby increase the bulk and massing of the proposed dwelling.

17. The outlook from No 6 would be affected by the approved dwelling and adding an additional floor would significantly worsen this. Due to the proximity, height and bulk of the proposed dwelling above that already approved, the proposed dwelling would be intrusive and create a particularly poor outlook. It would appear overbearing from a number of windows facing it in No 6. I note that the approved scheme breaches the 45 degree code but do not accept that increasing the height of the proposed dwelling would not worsen any harm caused. Furthermore, the orientation of the proposed dwelling and its relationship to No 6 would be likely to result in some overshadowing of No 6 during parts of the day.
18. The proposed approved dwelling would include a recessed first floor balcony which would be designed to limit overlooking to No 6. However, the proposed floor would include a high level terrace with open views around it including views towards No 6. Higher screening could be secured by condition but this would also increase the bulk and scale of the structure.
19. The additional floor would create two balconies facing the rear properties on Bath Road and whilst this may result in an increased perception of overlooking, it would not result in any further overlooking than would occur from the approved scheme. Also the design of the proposed dwelling and its elevated position would make it prominent but the distance between them would not make the additional floor especially overbearing.
20. For the reasons set out above in relation to No 6, the scale and appearance of this additional floor would be unacceptable. It would have a harmful effect on the living conditions of the occupiers of No 6 and conflict with the Worcestershire Development Plan Policy SWDP 21. Amongst other things, this seeks to avoid development that is overbearing and protects neighbouring amenity in terms of privacy, outlook, sunlight and daylight.

Other Matters

21. The appellant has stated that this proposal should be considered as a householder development and assessed as a house extension. However, the dwelling has not been built. The proposal would represent a redesigned dwelling and although in effect the difference relates only to the addition of a floor its impact in its totality is relevant. I note that the Council has not specifically refused permission on matters of design or referred to that aspect of Policy SWDP 21, the Council's Design Guide SPD³ or any other policies or matters of design. Nevertheless, given my conclusion on my main issues, the lack of harm on these other matters do not override the harms I have identified.

³ South Worcestershire Design Guide Supplementary Planning Document Overarching Design Principles, Adopted March 2018.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

J D Clark

INSPECTOR