
Appeal Decision

Site visit made on 16 January 2017

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 March 2017

Appeal Ref: APP/J1860/W/16/3159700
16 Victoria Road, Malvern WR14 2TE

- 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 Tyler against the decision of Malvern Hills District Council.
 - The application Ref 16/00819/FUL, dated 18 May 2016, was refused by notice dated 24 August 2016.
 - The development proposed is demolition of existing 4 bedroom house and construction of new apartment building with 6no. 2 bedroom and 2no. 1 bedroom flats.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing 4 bedroom house and construction of new apartment building with 6no. 2 bedroom and 2no. 1 bedroom flats at 16 Victoria Road, Malvern WR14 2TE in accordance with the terms of the application, Ref 16/00819/FUL, dated 18 May 2016, subject to the conditions set out in the attached schedule.

Procedural matter

2. With the appeal, the appellant submitted revised drawings concerning the car parking to the front of the site. The local planning authority has commented on this additional information and therefore to accept the revised drawings would not prejudice the interests of parties. For this reason I have accepted the revised drawings.

Main Issues

3. These are:
 - (i) the effect of the proposal on the character and appearance of the area and on the setting of the Conservation Area; and,
 - (ii) the effect of the proposal on the living conditions of future occupiers with particular regard to outlook and light.

Reasons

Character and appearance and setting of the Conservation Area

4. The appeal site is within a well-established residential area of large properties that are set within verdant and spacious surroundings. The properties are set well back from the street and therefore the boundary walls and mature landscaping which front the road make a noticeable contribution to the
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character and appearance of the area. The police station and the existing house on the appeal site, on the other hand, are notable within the street given the limited landscaping and boundary treatments between the buildings and the road. The appeal site adjoins the Great Malvern Conservation Area (CA) and given the visibility of the site in relation to this, the appeal site contributes significantly to its setting.

5. **As highlighted within the Council's first reason for refusal**, the Council considered the proposal harmful to the character and appearance of the area and to the setting of the CA because of concerns for the width of the development, **the building's** inelegant design and the hard-surfaced parking area.
6. The building would extend across a good proportion of its plot. Nevertheless space would be afforded either side of the building for it to be appreciated within its own grounds and without appearing cramped and up against the plots either side of the appeal site. As a result the development would not appear cramped or incongruous in relation to its surroundings.
7. Large areas of glazing would dominate the front elevation of the building and would add to the scale of the building at roof level. The glazing would also give the building a more contemporary and utilitarian appearance compared with other buildings within the vicinity of the site. However, the building, set back from and behind a slight bend in the road, would be subservient to the street and therefore its appearance would not dominate the character and appearance of the area to be unduly harmful.
8. The appeal site marks a point of transition between the police station and the CA. As the Council acknowledges, this provides an opportunity to develop the site with a building that is different to the form and appearance of existing buildings within the area. The building would share some of the utilitarian qualities of the police station but would also be more lightweight in appearance. As a result the building would make a transition between the police station and the land the other side of the appeal site to not dominate or unduly detract from the character and appearance of the area.
9. Submitted with the appeal are revised drawings showing a reduction in the number of car parking spaces to the front of the site, together with a revised landscaping scheme that includes trees and hedges to the front of the site. The reduction in car parking spaces together with the landscaping proposed would reduce the visual impact parked cars would have on the character and appearance of the area. Together with the trees and hedges being in-keeping with the verdant setting of the street, I find that the frontage to the site would be appropriately landscaped and in-keeping with the character and appearance of the area.
10. As the appeal site adjoins the CA, I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on its setting.
11. **The appeal site adjoins a small area of the CA's boundary**; the CA extends a significant distance from the appeal site. It is not apparent from the evidence before me what the defining characteristics of the CA are but from my observations on site it was clear that the edge of the CA to which the site adjoins was residential and verdant in character; large trees and mature

landscaping created a visually attractive area with a pleasant feel. Given the relationship of the site to the CA, the site makes a limited contribution to the character and appearance of the CA as a whole.

12. Visually, the contemporary and utilitarian appearance of the building would be visible within the street and noticeable against the verdant setting of the CA. However, given the set back of the building from the road and its separation from the CA by a gap between buildings, a public right of way and boundary trees and hedges, the development would not detract from the **CA's setting** to be considered harmful. Furthermore, in considering the relationship of the development to the CA as a whole, the development would not have a harmful effect on the latter.
13. In all, therefore, I find that the development would not have a harmful effect on the character and appearance of the area and would preserve the setting and the character and appearance of the CA as a whole. The proposal would not, therefore, be contrary to policies SWDP21 and SWDP6 of the SWDP¹ which seek development that integrates effectively with its surroundings and conserves and enhances heritage assets respectively.

Living conditions

14. The aperture that would allow light to enter the bedrooms would be sufficient in size for natural light to enter the internal living spaces, however, I have no doubt that the retaining walls and balconies above would limit the levels of light. The appellant suggests that sun pipes and white paint would further ensure that the bedrooms felt light and bright to be within. Sun pipes would help to introduce more light into the bedrooms and in the event that the appeal is allowed, it would be reasonable to secure such measures by condition. Whilst painting the walls white would also help to brighten the rooms, it would have a negligible effect and therefore is not essential to make the development acceptable in planning terms. In addition, a condition to this effect would place an unjustifiable and disproportionate burden on the appellant and future residents in light of the lack of harm found.
15. The outlook from the bedrooms would be restricted by the retaining walls. However, given the distance of the walls from the bedroom windows, the restriction would not create rooms that would be gloomy or oppressive to be within. Furthermore, residents are likely to dwell for shorter periods of time in the bedroom than they are within the more active living spaces of apartments proposed. Of the time that residents do spend in the bedroom, a large proportion of it can be reasonably expected to be spent sleeping. Any limitations to outlook and levels of light, therefore, would have little impact on the living conditions of future occupiers.
16. I find, therefore, that whilst the light to and outlook from the bedrooms would be restricted, the living conditions of future occupiers would not be harmed to an unacceptable degree. Policy SWDP21 of the SWDP refers to the importance of neighbouring amenity. The Council's **concern for the impact of the** development on the living conditions of future occupiers does not, therefore, relate directly to this policy and as a result the development is not contrary to this policy.

¹ South Worcestershire Development Plan (Adopted February 2016) (SWDP)

Conditions

17. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result I have amended some of them for clarity and eliminated others where conditions have been considered irrelevant.
18. In addition to the standard time limitation for commencement, I have imposed a condition specifying the relevant drawings as this provides certainty.
19. Conditions requiring the approval of samples of materials, the submission and approval of hard and soft landscaping, finished ground floor levels and the protection of retained trees are necessary in the interests of the character and appearance of the area and the conservation area. Details were submitted with the planning application regarding landscaping and tree protection but in light of the revised car parking and landscaping plans, updates to landscaping proposals and tree protection are required for approval.
20. I have included conditions with regards to surface and foul drainage works, waste and recycling facilities, the Protected Species Survey and a construction method statement to ensure that there are no significant adverse impacts on the local environment.
21. I have included a condition to ensure that the vehicular access and parking arrangements are in place before the building is occupied to avoid parking occurring on areas outside the site. A condition regarding the provision of secure parking for bicycles is included to ensure that the development complies **with the Council's parking standards.**
22. I do not consider that conditions pertaining to water and energy efficiency measures and the enhancement of biodiversity are necessary to achieve the development proposed and therefore I have not included conditions to this effect.
23. A condition to ensure the implementation of sun pipes to the bedrooms of the lower ground floor apartments has been included in the interests of the living conditions of future occupiers with particular regard to light.

Conclusion

24. For the reasons given above, I conclude that the development would not be contrary to the development plan and therefore the appeal is allowed.

R Walmsley

INSPECTOR

CONDITIONS SCHEDULE

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1830 1000; Site Plan 8 Spaces 1830 1210; Proposed Plans 1830 4000; Proposed Elevations 1830 6000; and Tree Crown Spread VICRDTR-APR15.
3. No development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
4. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - o means of enclosure and retaining structures;
 - o boundary treatments;
 - o hard surfacing materials to include a bound material for the first 5 metres of the access into the site from the carriageway;
 - o earthworks showing existing and proposed finished levels or contours;
 - o minor artefacts and structures;
 - o trees to be retained;
 - o planting plans to a scale of 1:100; and,
 - o planting schedules noting species, plant sizes and proposed numbers/densities.

The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

5. All planting, seeding or turfing comprised in the approved details of landscaping referred to under condition 4 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. No part of the development shall be commenced or equipment, machinery or materials brought into the site until the approved scheme for the protection of the retained trees has been carried out. **In this condition "retained tree" means**

an existing tree which is to be retained in accordance with the approved plans and particulars.

7. No development shall commence until details of surface water drainage works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - o results of an assessment into the potential for disposing of surface water by means of a sustainable drainage system (SUDS);
 - o where a sustainable drainage scheme is to be provided, details regarding storm period and intensity, the method employed to control discharge from the site and the measures employed to prevent the pollution of groundwater and/or surface waters;
 - o where relevant, details of infiltration techniques to include the results of field percolation tests and a demonstration that there shall be no increase in surface water runoff from the site compared to the existing run-off rate with a reduction of 20%, up to a 1 in 100 year storm event plus an allowance for climate change;
 - o a timetable for the implementation of the drainage works;
 - o a management and maintenance plan.

The building hereby permitted shall not be occupied until the surface water drainage works have been completed in accordance with the approved details. Thereafter, the surface water drainage works shall be managed and maintained in accordance with the management and maintenance plan as approved.

8. No development shall commence until details of sewage disposal have been submitted to and approved in writing by the local planning authority. The building hereby permitted shall not be occupied until the sewage disposal works have been completed in accordance with the approved details.
9. The building hereby permitted shall not be occupied until the access, turning area and parking facilities shown on the approved plans have been implemented on site. The vehicular access and parking layout as constructed shall be retained thereafter.
10. The building hereby permitted shall not be occupied until provisions for the secure parking of 14 bicycles have been provided on site in accordance with details that have first been submitted to and approved in writing by the local planning authority. The secure parking provisions shall be retained thereafter.
11. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives **and visitors; an area for site operatives' facilities; space for the parking and turning of delivery vehicles; an area for the storage of plant and materials used in constructing the development; wheel washing facilities; boundary hoarding and signage.** The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
12. No development shall commence until detailed plans and sections of the finished ground floor levels of the proposed building, above ordnance datum

and in relation to existing ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

13. The building hereby permitted shall not be occupied until space for the storage of waste and recycling facilities has been provided on site in accordance with details that have first been submitted to and approved in writing by the local planning authority.
14. The development shall be carried out in accordance with paragraphs 5.2.1 and 5.2.2 of the Protected Species Survey (Countryside Consultants Ltd) (20 June 2015).
15. No development shall commence until detailed plans showing sun pipes to the bedrooms of the lower ground floor apartments have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.