



Appeal Decision

Site visit made on 17 November 2009

by Mr J P Sargent BA(Hons) MA MRTPI

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

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**Decision date:
14 December 2009**

Appeal Ref: APP/R1845/A/09/2108672

Land to the rear of 5 Mill Lane, Blakedown, Kidderminster, Worcestershire DY10 3ND

- 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 The Diocese of Worcester against the decision of Wyre Forest District Council.
- The application Ref 08/0839/FULL, dated 26 August 2008, was refused by notice dated 22 April 2009.
- The development proposed is the erection of 3 detached dwellings.

Decision

1. I allow the appeal, and grant planning permission for the erection of 3 detached dwellings at land to the rear of 5 Mill Lane, Blakedown, Kidderminster, Worcestershire DY10 3ND in accordance with the terms of the application, Ref 08/0839/FULL, dated 26 August 2008, and Drawing Numbers 696.D01C, D02B, D03B, D04A, D05B, D06A, D07B, D08A, D09, D13B and B01, subject to the following conditions:
 - 1) the development hereby permitted shall begin not later than 3 years from the date of this decision;
 - 2) no development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;
 - 3) no development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied in accordance with the approved details;
 - 4) no development shall take place until details have been submitted to and approved in writing by the local planning authority of the manner and standard of surfacing for the access. No works shall take place in connection with the construction of the dwellings, garages, parking areas or turning areas until the access drive shown on the approved plans has been provided and surfaced in accordance with the approved details. No dwelling shall be occupied unless the surfacing for the access is in accordance with the approved details concerning the manner and standard of surfacing;

- 5) no development shall take place until drainage works have been submitted to and approved in writing by the local planning authority, and the approved works shall be implemented before the scheme is first occupied;
- 6) no development shall take place until details have been submitted to and approved in writing by the local planning authority of
 - a. all trees to be retained in the site and all trees outside the site but within 5m of the boundary,
 - b. all measures and practices to be used to safeguard those trees during the construction period and
 - c. a timetable for the implementation of those measures and practices.

Those measures and practices shall then be implemented in accordance with the approved timetable;
- 7) no development shall take place until the slab levels of the houses and garages have been submitted to and approved in writing by the local planning authority. The development shall then be built in accordance with the approved slab levels;
- 8) no dwelling shall be occupied until the turning space and parking facilities shown on the approved plans have been laid out within the site, and have been surfaced and drained in a manner that has first been submitted to and approved in writing by the local planning authority. That space and those facilities shall thereafter be retained at all times for those purposes.

Main issues

2. The main issues in this case are the effect of the scheme on the character and appearance of the area, the living conditions of neighbouring residents and highway safety.

Reasons

Character and appearance

3. The appeal site is surrounded by relatively modern houses of various styles and designs. It would be accessed off Mill Close, a cul-de-sac that lies to the east and is lined by detached dwellings that are of a number of designs but are of similar scale. Larger houses are to the other sides of the site.
4. It is in an area allocated for residential purposes, and there are various services in Blakedown. Furthermore, under Government guidance I consider the site can be defined as previously-developed land. Therefore, I raise no objections to the principle of housing in this location.
5. The proposed dwellings would be of a contemporary style and design. Looking from either Wannerton Road or from the houses on Mill Lane, I consider they would not be unduly apparent owing to the limited sizes of their first floors and their relationships to the site boundaries.
6. When seen from Mill Close, to my mind the proportions and scale of their 2-storey elements would be broadly compatible with the adjacent houses on that

cul-de-sac, and the single storey portions would not be sufficiently dominant to undermine this relationship. Whilst they would have gables facing the scheme's turning head, this would not be discordant, as elsewhere in the vicinity gables are oriented towards the road. Furthermore, the use of timber on some of their external elevations would not be an alien finish in this area as there are forms of weatherboarding along Mill Close. I note too that the existing dwellings on the cul-de-sac display large areas of glazing and so the bold window treatments now proposed would not be incongruous. To my mind, given the variety that already exists there would therefore not be a clash of styles with the other houses around.

7. With regard to the layout, the new dwellings would not be positioned in the regular manner of the houses on Mill Close. However, when seen from the hammer-head they would nonetheless respect the building lines established by No 19 on one side and No 16 on the other, and to my mind they would bring a visual closure to this arm of the turning area. I accept that one of the proposed garages would be sited across the end of the access road, but given its scale and its materials it would not be unsightly. Similarly the broken form of the turning area would prevent it being unduly dominant. I also consider that with appropriate measures during construction the scheme would not have an adverse effect on the protected trees round the site or the cedar, and I was aware of no other trees on the land that contributed significantly to the amenity of the area.
8. Turning to the issue of density the number of dwellings per hectare now proposed is below that on Mill Close and also below what is recommended in Government guidance. Given the constraints of the site though I consider this would not conflict with the efficient use of the land. However, the Council contended that, when assessed by the floor area, the development would be of a greater density than is found in the surroundings. To my mind there is no reason why this should be necessarily unsatisfactory, particularly as I have found that the scheme would otherwise respect the locality.
9. Accordingly, noting the variety of the adjacent built form, I conclude that the proposal would not adversely affect the character or appearance of the area and would not result in an unacceptable density of development. As such, it would not conflict with Policies D.1 or D.3 of the *Wyre Forest District Local Plan*.

Living conditions

10. Dwelling 1 would stand alongside 19 Mill Close, and its first floor element would be set in from the boundary with that property and from the fenceline with the house on the other side on Wannerton Road. Therefore, I consider its effect on the outlook or privacy of those residents would be limited.
11. Similarly, the upper floors of Dwellings 2 and 3 would be well away from the gardens and the principal rear elevations of 14 and 16 Mill Close. They would also be of a limited scale and would have no upper floor windows, apart from those to bathrooms and landings, facing those properties. Given this arrangement, and noting the new dwellings would be at a slightly lower level, I consider there would be no significant overlooking of No 14 and No 16, and the proposed houses would not be overbearing.

12. There would be an adequate interface distance to the remaining back garden of 5 Mill Lane. Furthermore, Dwelling 2 would not have an unduly dominant effect on the gardens to the west because of the separation involved, and given this the window arrangement would not cause an unreasonable loss of privacy.
13. There was also concern that the residents adjacent to the driveway would have their privacy reduced as a result of the passing traffic. However, I consider the distance between front elevations of these houses and the drive would be comparable to that between the front of many of the other dwellings on Mill Close and the pavement. I am also mindful that the movements associated with 3 houses would not be particularly great. Consequently, any noise or loss of privacy associated with this arrangement would not be unreasonable.
14. I appreciate that the surrounding occupiers may have enjoyed the open nature of the appeal site for many years, but that is not a reason, in itself, to resist further development. Any noise associated with the occupation of these 3 houses would not be inappropriate in this residential area. While there would be noise during the construction period this does not affect the planning merits of the scheme and so does not offer a reason to dismiss the appeal.
15. Finally, in my view the proposed gardens would be of sufficient size to meet the reasonable needs of the future occupiers.
16. Accordingly I conclude that the proposal would not detract unacceptably from the living conditions of the neighbouring residents and so, in this respect, it would not conflict with Policy D.1 in the Local Plan.

Highway safety

17. I consider that the on-site parking provision shown on the submitted drawings would be sufficient to serve these 3 houses and there would be adequate turning space for larger vehicles. It was contended that if one of the properties was used as a Rectory it would attract greater pedestrian and traffic flows than normally associated with a house. However, I am mindful that the application is for 3 dwellings. If any of them is subsequently used in a manner that constituted a material change of use requiring planning permission then it would be subject to further planning control.
18. With regard to the driveway I consider that the traffic flows reasonably expected in connection with 3 dwellings would not give rise to an unacceptable conflict with pedestrians. While the consent of the land owners may not have been obtained to form this drive, that to my mind is a private matter between the parties concerned. However, for this reason it would be necessary for a negatively worded condition to be imposed to prevent the construction of dwellings on the site until the drive had been formed, so as to avoid the possibility of houses being built that could not then be accessed.
19. I have noted the comments about rail travellers parking in Mill Close, children playing on the cul-de-sac, congestion in the turning area and the possible hazard for drivers leaving their drives. However, I am of the view that any movements connected with the development would be sufficiently low when compared to those already experienced on the road to mean they could be accommodated without compromising safety unacceptably.

20. Accordingly I conclude that the proposal would not jeopardise highway safety to an unreasonable extent, and so would not conflict with Policies D.9 and TR.9 in the Local Plan.

Other matters

21. I consider that any legal agreements relating to the use of the site as a Rectory do not have a bearing on the planning judgement I have to make and are not influenced by my findings. The Appellant has confirmed that the site boundaries are correctly drawn, and I have no reason to refute this. However, if they do encroach onto land owned by a third party my decision does not affect any private rights that may exist, and I consider any such parties have not been prejudiced if they have not received formal notification in this respect.
22. Given the evidence before me I have no basis to resist the scheme because of the effect on wildlife, its impact on electromagnetic interference, its potential as a fire hazard or the lack of need for the housing. If future applications are submitted concerning the remaining grounds of 5 Mill Lane they are not for me to consider now but will be assessed against the policy background in place at that time. Finally, although I have noted the 3-dimensional drawings I have judged the scheme on the basis of the submitted scaled plans.

Conditions

23. I have had regard to the conditions outlined in the Council's Statement and in the Officer's Report.
24. In the interests of the appearance of the locality conditions should be imposed requiring the approval of materials, boundary treatments and the means of tree protection. In order to safeguard the living conditions of neighbouring residents the levels should be approved. Drainage details should also be approved before the commencement of development in order to ensure the site is suitably drained, and this would allow the opportunity for the provision of a sustainable drainage scheme.
25. Finally, in the interests of highway safety on-site parking and turning should be provided and appropriately surfaced. As stated above, the access should be formed before the work commenced on the construction of the houses, garages or turning areas. The Council expressed concern that this could result in the intended finish being broken up during the construction phase, and so suggested it should then be re-surfaced prior to first occupation. This may be unduly onerous though, as such re-surfacing may not be necessary. I consider that this matter could be overcome by the wording of Condition 4 above.
26. However, removing 'permitted development rights' concerning extensions on the west side of Dwellings 1 and 2 would be unnecessary as any works would still have to have regard to the well-being of the protected trees. Given the findings of the submitted bat survey and the other legislative protection that is afforded to bats, I consider conditions relating to that matter are unnecessary. I also consider that requiring a specific landscaping scheme for these gardens would be unduly onerous. Similarly, as the site is not in a conservation area the requirement for window and door details would be unnecessary, while construction noise and level thresholds are best addressed under other legislation. Finally, noting the layout and the purposes of the first floor

windows, I consider there is no need for a condition to require any to be fitted with obscured glazing.

Conclusions

27. For the reasons given above I conclude that the appeal should be allowed.

J P Sargent

INSPECTOR