
Appeal Decision

Site visit made on 23 February 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/Y3940/W/16/3164119

'Sunnyside', 18 Elley Green, Neston, Corsham, Wilts SN13 9TX

- 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 Ms Paula McHenry against the decision of Wiltshire Council.
 - The application Ref 16/06346/FUL, dated 26 June 2016, was refused by notice dated 28 October 2016.
 - The development proposed is construction of dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for construction of dwelling house at 'Sunnyside', 18 Elley Green, Neston, Corsham, Wilts SN13 9TX in accordance with the terms of the application, Ref 16/06346/FUL, dated 26 June 2016, subject to the following conditions:
 - i) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - ii) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 2261/1C.
 - iii) The development hereby permitted shall not be first occupied until all of the external walls have been rendered and painted.
 - iv) The development hereby permitted shall not be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. Those areas shall be maintained for their respective purposes at all times thereafter. The first five metres of the access, measured from the edge of the carriageway, shall be consolidated and surfaced (not loose stone or gravel).
 - v) The development hereby permitted shall not be first occupied until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600 mm above the nearside carriageway level, for a length of 2 m either side of the access. The visibility splays shall be maintained free of obstruction at all times thereafter.
 - vi) The dwelling hereby permitted shall achieve a level of energy performance equivalent to Level 4 of the Code for Sustainable Homes. The dwelling shall not be occupied until evidence has been issued, and
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submitted to and approved in writing by the local planning authority, certifying that this level of energy performance has been achieved.

Application for costs

2. An application for costs was made by Ms Paula McHenry against Wiltshire Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the surrounding area;
 - ii) the living conditions of the residents of Yew Tree Cottage, 20 Elley Green, in respect of outlook and privacy.

Reasons

Character and appearance

4. The proposed dwelling would be on a relatively small plot compared to some others in the vicinity and it would occupy most of the width of the site to the side of the existing now two storey dwelling at No 18. It would therefore be close to the side of that existing dwelling. However, it would be seen in the context of a variety of plot sizes and layouts, building designs and relationships between dwellings in the vicinity. Those include cases where two adjacent dwellings are in close proximity to each other.
5. I acknowledge that it would contrast with the spacious plot of the neighbouring No 20. However, that property is fairly unique in terms of its plot size and, on that side of the road, in terms of the dwelling being set well back and at a significantly lower level. There would also remain a significant degree of separation between the dwelling proposed and that of No 20. Furthermore, the existing driveway serving the latter, adjacent to the boundary, would provide an additional visual break between the site and No 20's main front garden area.
6. The height, general design features, and render finish would also complement the existing house at No 18. Furthermore, although it would have three storeys at the rear, due to the slope of the site, the front would maintain the two storey appearance more characteristic of most other dwellings nearby.
7. I have had regard to the representations making reference to another proposed development at 46 Park Lane that was refused by the Council partly in respect of overdevelopment, drawing comparison with the appeal scheme. However, I have not received any substantive details of that other scheme to enable me to make a proper comparison, and in any case I have determined this appeal on its own merits.
8. For the above reasons the proposal would not appear out of place in the context of the existing streetscene and so I conclude on this issue that it would not cause unacceptable harm to the character and appearance of the surrounding area. As such, in respect of this issue, it would accord with Core Policy CP57 of the Wiltshire Core Strategy (the Core Strategy) which requires proposals to respond positively to the existing townscape and landscape features to effectively integrate the building into its setting.

Living conditions

9. The proposed development would be close to the side boundary with No 20 and at a noticeably higher level due to the slope of the land. However, there would remain a good degree of separation between the proposed dwelling and that of No 20, and the side windows of the latter would not directly face the side elevation of the proposal. The main front garden of No 20 would also be separated from the proposed dwelling by No 20's driveway and a mature high hedge. That front garden area, although fairly private, is also large and so most of it would be located well away from the proposed building. As such, the proposed dwelling would not have an enclosing or overbearing effect in respect of habitable rooms and gardens areas of No 20.
10. There would not be any windows in the side elevation of the proposed dwelling. The rear facing windows would afford only oblique views of the driveway and parking area of No 20. The rear private garden area of that property would be still further away and also largely screened by existing vegetation. Furthermore, the angle of view from those rear windows to the side facing and other habitable room windows to No 20 and a small garden area to that side of the house would be so oblique and at such a distance as to ensure there would not be a material level of overlooking of those receptors amounting to an unacceptable loss of privacy.
11. I have again had regard to the representations regarding the 46 Park Lane refusal, that was also refused in respect of privacy issues, claiming that the appeal proposal would be significantly worse in this respect than for that other case. As previously referred to, I have not received any substantive details of that other scheme to enable me to make a proper comparison, and I have in any case determined this appeal on its own merits.
12. For the above reasons, I conclude on this issue that the proposed development would not cause unacceptable harm to the living conditions of the residents of No 20 in respect of outlook and privacy. As such, in respect of this issue, it would accord with Core Policy CP57 of the Core Strategy which requires proposals to have regard to the impact on the amenities of existing occupants.

Other matters

13. I have had regard to a concern raised about the road being busy and the increased risk of an accident occurring with the proposed additional access onto that road. I note that there would be a good degree of visibility from the proposed access point along the road to enable vehicles to exit safely, and that the Council's Highways officer also raises no objection in this regard. I have no substantive basis upon which to take a contrary view and so do not consider that the proposed access would be likely to pose a risk to highway safety.
14. I note the concern raised by the occupier of No 20 about the proximity of the proposed development to the very old dry stone wall running along the side boundary which provides a key character feature of the property. However, I have no substantive basis upon which to consider that the proposal or its construction would affect the structural integrity of that wall.

Conditions

15. The Council has suggested six conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of

advice in the Government's Planning Practice Guidance and amended some of the wording.

16. The standard time condition is required in this case and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would also be required.
17. In the interests of the character and appearance of the surrounding area, it would be necessary to ensure that the proposed rendering and painting of the external walls of the dwelling was completed prior to first occupation. In the interests of highway safety, conditions to secure the provision of the proposed access, turning area, parking spaces and visibility splays in perpetuity would be necessary, along with the first five metres of the access having to be consolidated to prevent loose stones being transferred to the road.
18. In order to ensure the sustainable construction of the proposed dwelling, and having regard to Core Policy 41 of the Core Strategy, a condition to secure a level of energy performance equivalent to Level 4 of the Code for Sustainable Homes would be necessary and reasonable.

Conclusion

19. For the above reasons, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR