
Appeal Decision

Site visit made on 27 February 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

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

Decision date: 21 March 2017

Appeal Ref: APP/Y3940/W/16/3164693

Ashley, Common Road, Malmesbury, Wiltshire SN16 0HN

- 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 & Mrs C Beardsmore against the decision of Wiltshire Council.
 - The application Ref 15/10659/FUL, dated 22 October 2015, was refused by notice dated 22 June 2016.
 - The development proposed is erection of two detached dwellings and associated landscaping following the demolition of the existing dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural Matter

3. Revised plans were submitted during the course of the application. As the amended plans appear to have been consulted upon, I determine the appeal based upon those latter plans submitted.

Main Issues

4. The main issues are: the effect of the proposal on the character and appearance of the area; and the effect on the living conditions of the occupants of neighbouring properties with particular regard to outlook.

Reasons

Character and appearance

5. The appeal plot is currently the site of an existing bungalow which is positioned at an angle to the road. Properties in the area show some significant variation in design and materials. Some recent development has taken place nearby, which apparently has taken advantage of the large plot sizes along Common Road and has seen multiple dwellings constructed on one plot. The effect is of a varied street scene, including dwellings with far smaller plots than that of the current dwelling on the appeal site.
6. The proposal would see the demolition of the existing Ashley bungalow and the construction of two new dwellings on the plot. The rear dwelling labelled Plot 2

would have its principal elevation facing in the direction of the road, whereas Plot 1 to the front of the site would be positioned side-on to Common Road. Both would be of a slightly more contemporary design than other properties along Common Road, featuring fairly large areas of glazing to their road-facing elevations. However, they would draw on design characteristics seen in the locality including in their rendered finish.

7. Plot 1 would also be screened somewhat from the road by mature trees and greenery to the front of the site and the rearward position of Plot 2 would also reduce its prominence in the street scene. As such, and given the significant variation in property styles in the immediate area, the proposed dwellings would not appear visually discordant.
8. I therefore find on the first main issue that the proposed development would not harm the character and appearance of the area. It would accord in this way with Core Policy 57 (iii) and (vi) of the Wiltshire Core Strategy (adopted January 2015) (CS) which seek, amongst other things, to ensure that development responds positively to the existing townscape and relates effectively to the immediate setting and wider character of the area. It would conform to the requirements of paragraphs 17 and 64 the National Planning Policy Framework (the Framework) related to good design.

Living conditions

9. The Birches is a single storey property positioned behind the existing dwelling at Ashley and which is on elevated ground. Recent development has meant that there is housing fairly close to each of the side boundaries of The Birches. The relatively short rear garden section of Ashley and front garden of The Birches means that the built form of the Ashley bungalow is also fairly close to the front elevation of The Birches.
10. As The Birches is positioned close to its rear boundary, the main portion of its garden is to the front and side of the dwelling. Habitable room windows face in the direction of the existing Ashley bungalow at a close distance. The limited height of the existing Ashley bungalow and the fact that only the roof of this can be seen from the front of The Birches prevents the existing relationship from having an overly enclosing effect for occupants of The Birches.
11. The proposed development would see the Plot 2 positioned a similar distance from The Birches as the existing bungalow at Ashley. However, the ridge height of Plot 2 would be noticeably increased from the existing bungalow and upper floor windows of the house at Plot 2 would be visible above the boundary treatment to the front of The Birches. This would have an enclosing and oppressive effect on the outlook from the front habitable room windows and front garden area of The Birches.
12. There would be no harm though as regards other neighbouring properties given that these generally have their side elevations only facing in the direction of the appeal site, or else are not in a comparable position to The Birches. As such, the outlook from main habitable rooms and gardens of other neighbouring properties would not be harmfully affected.
13. Whilst separation distances proposed might be greater than between some other houses in the area, I do not have full details of the planning circumstances leading to those developments in order to form a detailed

comparison with the proposed development. I have in any event considered the appeal proposal on its merits, taking into consideration the particular relationship that would result between The Birches and proposed Plot 2.

14. Whilst some degree of inter-visibility would be expected in this location, nonetheless, the impact as proposed would be overbearing. The presence of a shared sewer on site affects the layouts possible but does not alter the harm found. Amendments made to reduce the roof pitches of the dwellings have not overcome the issue of an overbearing development.
15. Permitted development rights are cited as a fall-back position and it appears that the appellant has obtained a Certificate of Lawfulness in this regard. Whilst I do not have full details of the fall-back position as cited, it would appear that this would not include a ridge height increase and thus would not be comparable to the effect of the appeal proposal in this regard. There is also no indication of any realistic likelihood of such development being carried out. I have borne in mind comments that impression drawings provided by third parties are based upon copyrighted application drawings and have not been verified. My assessment thus is based upon the application plans and observations at my site visit.
16. In respect of the second main issue, the proposal would have a harmful effect on the living conditions of the occupants of The Birches, with particular regard to outlook. It would conflict in this way with the underlying aims of Core Policy 57 (vii) of the CS relating to the protection of residential amenity. It would be contrary also to the Framework's aims of seeking a good standard of amenity for occupants of land and buildings, as contained in paragraph 17.

Other Matters

17. The proposed development is acceptable in principle, being located within the settlement boundary for Malmesbury. It would provide two additional units of residential accommodation in an established residential area and in a sustainable location. This would be in line with local and national policy in relation to housing delivery and making efficient use of land. The proposal would incorporate sustainable construction techniques and would intend to provide flexible accommodation for the appellants' family. These aspects weigh modestly in favour of the proposal.
18. The application was turned down contrary to officer recommendation and following a previously withdrawn application, pre-application advice and negotiation with the Council. Whilst I can appreciate the appellants' frustration in this respect, this does not overcome the harm found. Other concerns have been raised in representations including in relation to highway safety and protected species. These have not though led me to any different overall conclusion given the harm found above.

Conclusion

19. The proposal would not result in any harm as regards the character and appearance of the area and would offer modest benefits. This does not though outweigh the harm that would result from the inadequate living conditions that would be afforded to future occupants. In view of this harm and given the tripartite definition of sustainable development in the Framework, the proposal

would not represent the sustainable development in respect of which there is a presumption in favour. For the above reasons, the appeal should fail.

Veronica Bond

INSPECTOR