

Appeal Decision

Site visit made on 7 February 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 24 March 2017

Appeal Ref: APP/Y3940/W/16/3160987

19 Milbourne Park, Milbourne, Malmesbury Wilts SN16 9JE

- 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 Richard Payler against the decision of Wiltshire Council.
 - The application Ref 16/03964/FUL, dated 24 April 2016, was refused by notice dated 21 June 2016.
 - The development proposed is a single detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether or not a new dwelling in this location is acceptable, having particular regard to the settlement strategy for the area and the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposal on the living conditions of nearby occupiers having particular regard to outlook.

Reasons

3. The appeal site comprises part of the 'L' shaped rear garden to No 19 Milbourne Park. It has a vehicle access onto the adjoining lane. The proposal is to erect a detached dormer style dwelling on the site.

Settlement Strategy/Character and Appearance

4. Wiltshire Core Strategy (WCS) Core Policy 1 establishes the settlement strategy for the area. The Settlement Strategy identifies four tiers of settlements, namely: Principal Settlements; Market Towns; Local Service Centres and Large and Small Villages. Milbourne is identified as a Small Village. The supporting text to WCS Core Policy 1 states that there is a general presumption against development outside the defined limits of development of the Principal Settlements, Market Towns, Local Service Centres and Large Villages. At Small Villages, where there are no defined limits of development, some very modest development may be appropriate to respond to local needs and to contribute to the vitality of rural communities.
 5. Core Policy 2 of the WCS states that within Small Villages development will be limited to infill within the existing built area. Support will be given for proposals
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- where they seek to meet the housing needs of settlements or provide employment, services and facilities. This is subject to a number of criteria being satisfied including that the proposal respects the character and appearance of the area and does not elongate the village.
6. The appellant has drawn my attention to Sheet 8A of the North Wiltshire Local Plan 2011, which indicates that the appeal site is included within a red line denoting a Framework of Settlements. The Council submit that whilst the settlement boundaries of the Principal Settlements, Market Towns, Local Service Centres and Large Villages, as defined by former District Local Plans was carried forward into the settlement strategy of the WCS, this has not been so for Small Villages. The supporting text to Core Policy 1 confirms this. I have considered the proposal accordingly.
 7. Amongst other matters, WCS Core Policy 57 requires development to take account of the characteristics of the site and the local context and to integrate new development into its setting.
 8. Milbourne Park is a relatively modern housing estate, to the rear of which are agricultural fields. Whilst the appeal site address is Milbourne Park, the proposal would be accessed from the lane to the south of the site. It is within this context that the new dwelling would be viewed, rather than Milbourne Park. This lane is rural in character, with an attractive sylvan appearance. On the side of the lane backing onto Milbourne Park are a number of single storey dwellings, including a bungalow adjoining the appeal site, to the east. The opposite side of the lane comprises open fields and more sporadic development. To the west of the appeal site are agricultural fields.
 9. The appeal site is located within, but on the edge of the built form of the village. The area is characterised by single storey dwellings, set back from the boundary with nearby agricultural fields, creating a buffer between the built form of the village and the natural landscape beyond.
 10. The appeal proposal would comprise a dwelling with accommodation in the roof space, served by dormer windows and would be located close to the western boundary of the site and adjoining agricultural field. It would take the built form of this part of the village closer to the undeveloped countryside beyond the appeal site. In this regard, it would elongate the built form of the village, but given the narrow width of the appeal site, I consider that such elongation would not be significant.
 11. However, the design of the new dwelling would result in a form of development that would not respect the character and appearance of the area or this edge of village location, where dwellings are generally low rise to reflect the transition from the more built up part of the village and the open countryside beyond. The new dwelling, would as a result of its height and proximity to the western boundary result in a prominent addition in the street scene which would be alien to the established character and appearance of the area. It would not satisfactorily integrate into its setting. There would be limited opportunity to soften the impact of the building with landscaping because of the limited space to the side of the dwelling.
 12. Furthermore, whilst the layout of dwellings visible from the lane varies, the plot widths are generally spacious. Frontage development is a characteristic along the lane. The new dwelling would be orientated such that its side elevation would be

visible from the lane. The plot width would be significantly smaller than nearby development and the dwelling would appear cramped within its plot. Whilst not raised as a concern by the Council, I noted on my site visit that the proposal would result in a loss of trees to the frontage of the site. Such trees contribute to the sylvan appearance of the lane. Their loss would cause further harm to that which I have identified.

13. The proposal for 1 dwelling could reasonably be described as modest development and it is reasonable to assume that the intended future occupiers of the new dwelling would be likely to support the vitality of the rural community. However, whilst noting the appellant's submissions that the proposal would contribute towards the housing type and size in the area, I have not been provided with evidence to demonstrate that there is a local need for such development. In this regard there would be conflict with Core Policy 1 of the WCS. Core Policy 2 of the WCS makes it clear that to be acceptable in Small Villages development should respect the character and form of the settlement. The proposal would not achieve this for the reasons given above.
14. I therefore conclude that the proposal would result in conflict with the settlement strategy for the area as established by WCS Core Policies 1 and 2. There would also be conflict with the design and character objectives of Core Policy 57.

Living Conditions

15. Amongst other matters, WCS Core Policy 57 (criteria vii.) requires development to be compatible with adjoining buildings and uses, and respect the living conditions of existing and future occupiers. The Council has calculated that the side elevation of the new dwelling would be 5 metres from the bungalow adjoining the appeal site on the lane, and has expressed concern that this relationship would result in an overbearing impact on the occupiers of this property.
16. I noted on my site visit that the neighbouring property had no windows in its side elevation facing the appeal site. There was a partially glazed door in this elevation which the appellant has indicated serves a kitchen. It is submitted that the window on the front elevation of this property also serves the kitchen. This is not disputed. I have not been provided with details of the windows on the rear elevation of this property; however it is reasonable to assume that any windows on this elevation would look across the property's rear garden, as opposed to across the appeal site. Whilst the proposed dwelling would extend beyond the rear elevation of the neighbouring bungalow, I am satisfied that there would be sufficient distance between the building and the party boundary such that the scheme would not be overbearing, or harmful to the outlook to the occupiers of this property.
17. The Council has also expressed concern that the proposal would result in a loss of privacy to nearby occupiers; however has failed to substantiate this assertion. Having regard to the eastern elevation of the new dwelling having a roof light to serve the landing, I am satisfied that there would be no loss of privacy to the occupiers of the adjacent bungalow. It is reasonable to assume that there would be a slight loss of privacy to the garden of No 19 Milbourne Park from the first floor window in the rear elevation, but this would be no worse than the likely mutual overlooking that is likely to exist within this part of the village.
18. In respect of the second main issue, I conclude that the proposal would not be harmful to the living conditions of nearby occupiers. There would be no conflict with WCS Core Policy 57 in this regard.

Other Matters

19. The appellant submits that the proposal would comprise sustainable development and has drawn my attention to the National Planning Policy Framework (the Framework) which establishes that planning decisions should be based on the presumption in favour of sustainable development. Whilst noting this, the Framework also makes it clear that the planning system is plan led (paragraph 196). Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise¹.
20. For the reasons given above, I have found that the proposal conflicts with the development plan in respect of its settlement strategy and design and character objectives. There would also be conflict with the Framework's core planning principles which seek to secure a high quality design and take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
21. I have attached limited weight to the appellant's assertion that the appeal site is redundant land as it seemed to be being used for the storage of a caravan on my site visit and part of the garden to the host property. The benefits of the scheme as advanced by the appellant including the provision of new housing in this location, the proximity of the appeal site to Malmesbury and the scheme being designed by an experienced designer do not amount to benefits that would outweigh the harm that I have identified.
22. Furthermore, the presence of relatively recently constructed new dwellings within the gardens of other properties in Milbourne Park, and accessed from the lane do not provide good reason to permit harmful development. I find that the schemes referred to by the appellant are not directly comparable to the appeal scheme, in terms of their design, location and relationship to neighbouring land uses. Moreover, they also seem to have been considered under a different development plan to the appeal scheme. Each planning application and appeal must be determined on its individual merits and this is the approach that I have taken in my consideration of the appeal proposal.
23. Given my findings, I conclude that the material considerations advanced in support of the proposal do not outweigh the harm that I have identified. The proposal would not comprise sustainable development, for which the Framework indicates there is a presumption in favour.

Conclusion

24. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR

¹ Section 38(6) of the Planning and Compulsory Purchases Act 2004 and section 70(2) of the Town and Country Planning Act 1990).