
Appeal Decision

Site visit made on 7 February 2017

by Elaine Benson BA (Hons) DipTP MRTPI

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

Decision date: 12 May 2017

Appeal Ref: APP/U3935/W/16/3162104

92 Gipsy Lane, Swindon, Wiltshire SN2 8DH

- 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 Jacobs against the decision of Swindon Borough Council.
 - The application Ref S/16/0741, dated 20 April 2016, was refused by notice dated 14 June 2016.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In this appeal the appeal site address is described as both Gipsy Lane and Gypsy Lane. I have used the spelling identified on the planning application and appeal forms which is also used by neighbouring occupiers and is found on mapping information.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on: the character and appearance of the surrounding area; the living conditions of future and neighbouring occupiers and highway safety.

Reasons

Character and appearance

4. The appeal site is at the side of 92 Gipsy Lane (No 92) at the end of a small terrace of traditional properties. The Council and neighbouring occupiers have no objection in principle to a new dwelling at the appeal site and there are no reasons to disagree.
 5. The proposed house would align with the front and rear elevations of the houses in the terrace, would match their elevational design and would comprise matching materials. In this regard the development would be sympathetic to its local context. However, it is proposed to incorporate an undercroft access leading to a parking area at the rear. The opening would be more than half of the width of the existing and proposed houses. The size of the undercroft access would appear dominant and incongruous and would interrupt the linear form and rhythm of the terrace. It would therefore harm the appearance of the
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terrace as a whole and would not reflect the local identity, context or character of the surrounding area.

6. The use of an undercroft access to parking areas and coach houses are found in some historic areas, but none are identified within the locality of the appeal property. Furthermore, I have not been provided with any examples showing the type of vehicle access proposed in this appeal and the photographs of accesses provided by the appellant appear to be within a different built context to the appeal site. The appellant's evidence in this regard is therefore unconvincing.
7. The plot would be subdivided to provide parking spaces towards the centre of the site, and a garden for the proposed house beyond them. Therefore a large part of the existing garden would be given over to the parking and vehicle turning areas. The proposed layout of this space would be unattractive and out of character with the established garden layouts behind the terraced houses.
8. The Council and neighbours suggest that vehicle access could be provided to the rear of the plot, from Elgin Drive, and I note that the appellant has made some enquiries about this. However, I am required to determine the appeal proposal as submitted. The appellant has also suggested a number of amendments to address the Council's design concerns. However the totality of these changes, whether or not they could be controlled by conditions, would fundamentally change the scheme to the extent that it would be materially different. I also note the Council's comments that the suggested alterations may exacerbate other design and amenity concerns. Accordingly, it would be inappropriate for me to consider these amendments in the current appeal.
9. For the identified reasons the proposal would be contrary to the requirements for high quality design set out in Policy DE1 of the Swindon Borough Local Plan 2026 (2015) (LP), the Council's emerging Residential Design Guide (RDG) and the design policies of the National Planning Policy Framework (the Framework). The development plan policy is in conformity with the Framework.

Living conditions

10. Whilst the position and size of the undercroft access would significantly limit the overall floor space of the proposed dwelling and the ground floor accommodation would be narrow, the size of the proposed dwelling would be acceptable. However, aspects of its internal layout would provide a poor living environment and outlook for its occupiers. In particular, the second floor bedroom would have no windows, only a north facing roof light. Its occupiers would therefore have no outlook and insufficient daylight. I address issues relating to the position of the accesses into the proposed dwelling below.
11. No 92's rear garden is long. A garden, albeit a much smaller one, would be retained behind the existing house. However, the layout of the parking and circulation spaces would separate the proposed house from its garden at the far end of the plot. This layout would involve walking across the vehicle dominated area to reach the garden, thereby making its use inconvenient to an extent that would compromise the residential amenities of the future occupiers of the proposed dwelling.
12. In respect of the effect on neighbouring occupiers, the proposed parking area would be introduced adjacent to 94 Gipsy Lane's garden and it would be

elevated. As a result of these factors, the transmission of noise from cars passing beneath the proposed house to the rear parking area and light nuisance caused by vehicles' lights would harm the living conditions of the neighbouring occupiers. Such noise would be from an additional source to that already experienced at the front of the property. I saw that vehicles are parked in the garden of the adjacent property and I am informed that some other neighbours also park in their back gardens. However, I note that this is an informal arrangement over which the Council states that it has no control. This type of parking may not be continued by other future occupiers of those properties and furthermore does not justify permitting the formal parking and access elements of the proposed development.

13. Neighbouring occupiers have raised concerns regarding fumes generated by additional cars passing so close to the terrace of houses. However, I consider this would be little different to the current situation as the houses are located close to the busy road in front of them.
14. For the forgoing reasons the proposal would be contrary to LP Policy DE1 in respect of its requirement for securing good amenity and the similar provisions of the RDG and the Framework. In respect of the effect on neighbouring occupiers, the proposal would also be counter to the guidance within the Council's *Backland and Infill Development* DPD.

Highway safety

15. The doors into the new house would be on its side elevation, within the undercroft area, and there would be insufficient clearance for pedestrians, or for the additional space required by wheelchairs or pushchairs. The likelihood of safety conflicts between the occupiers or visitors to the new house and vehicles entering or leaving the parking area would be high. I conclude that the proposed layout would not provide safe access for pedestrians and this would be contrary to the amenity objectives of Policy DE1 and those of LP Policy TR2 which among other things in its criterion 'b' requires safe and convenient pedestrian access or its provision. This latter policy is also in compliance with the Framework. There would thus be additional conflict with the similar requirements of the Framework and the RDG.
16. The access would not be of sufficient height to allow access for larger vehicles such as vans. Whilst this would result in vehicles stopping and parking on Gipsy Lane to the detriment of the free flow of traffic and highway safety, the situation is similar to that at the other houses in the terrace and properties in the wider area and to my mind this would in itself be insufficient reason to dismiss the appeal. However, the height would also be insufficient for cyclists, having regard to the clearance requirements set out in *Manual for Streets*. This factor adds weight to the concerns on highway safety grounds. As the undercroft access has been found unacceptable for other reasons, it would be inappropriate for me to consider conditions to secure an increase in the height of the access in this appeal.

Other matters

17. The concerns of neighbouring occupiers about the potential for exacerbating drainage problems and about construction close to a sewer would be addressed by other legislation. Thames Water raises no objection to the proposal and there are no supportable reasons to take a different view.

18. The appeal proposal might well result in a property suitable for a first time buyer or for use as a 'granny annexe'. However these matters do not outweigh the concerns I have identified.
19. I note that the appeal scheme was submitted following consultation with the Council. However, the Council advises that its advice was not followed. In any event this is not a matter which would lead me to alter my conclusions in this case.

Conclusion

20. For the reasons set out above the appeal should be dismissed.

Elaine Benson

INSPECTOR