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# Appeal Decision

Site visit made on 24 April 2017

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 17 May 2017**

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**Appeal Ref: APP/U3935/W/16/3160643**

**Land adjacent to 1 Kingsdown Lane, Blunsdon, Swindon SN25 5DL**

- 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 Dave Blatchford of Green Spinnaker Ltd against the decision of Swindon Borough Council.
  - The application Ref S/15/1950/JROD, dated 16 November 2015, was refused by notice dated 18 April 2016.
  - The development proposed is erection of four no. detached dwellings and associated works.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Amended plans were submitted during the course of the application to reduce the number of dwellings from five to four. The description of development above is taken from the decision notice and is also the one provided by the appellant on the appeal form. For the avoidance of doubt, my determination of this appeal is based on the revised plans.
  3. The Council has advised that it wishes to withdraw the third refusal reason relating to the location of the appeal site outside of settlement boundaries. Given the authority's inability to demonstrate a five-year supply of deliverable housing sites, Policy SD2 of the Swindon Borough Local Plan 2026 (SBLP), which deals with settlement boundaries in the context of the development strategy for the borough, would be rendered out-of-date, by virtue of paragraph 49 of the National Planning Policy Framework (the Framework).
  4. The proposal therefore needs to be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the Framework explains that in circumstances where relevant policies of the development plan are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. This is the starting point for my assessment.
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## **Main Issues**

5. The main issues in this case are:

- a) the effect of the proposal on the character and appearance of the area; and
- b) the effect on the living conditions of the occupants of adjoining properties, with particular reference to outlook and privacy.

## **Reasons**

### *Character and appearance*

- 6. The appeal site consists of a single field parcel of roughly a third of a hectare sandwiched between 1 Kingsdown Lane and the rear boundaries of properties on Turnpike Road. Turnpike Road is of mixed character, comprising a ribbon of Edwardian style houses and rural vernacular cottages together with a number of commercial uses. The latter includes a motorhome sales operation immediately to the east of the appeal site. At the time of my visit several new homes were under construction on the stretch of Turnpike Road adjoining the southern site boundary. These properties would back directly onto the proposed development.
- 7. Kingsdown Lane has an altogether different character. The lane is dominated by native trees and hedging and there are glimpses of open countryside to the north through field entrances and gaps in vegetation. Beyond the appeal site there are a number of dwellings facing onto the lane. The ambience here is distinctly more rural. Although I note the plans for an urban extension<sup>1</sup> further to the east there is no layout before me and no compelling evidence to indicate that this development would diminish the rural feel of this part of Kingsdown Lane.
- 8. The proposal is for a row of four detached dwellings running the depth of the site perpendicular to the lane. Although this arrangement would make efficient use of land, it would bear no relation to the pattern of development in the locality which is typically single plot depth and with a frontage onto the highway. Residential cul-de-sacs are not characteristic of the area and in my opinion the suburban layout would appear rather incongruous in this context.
- 9. Whilst not unattractive in themselves, the contemporary dwellings, with their bulky proportions, extensive glazing and sub-basement garages, would lack affinity with the simple architecture surrounding the site. Paragraph 60 of the Framework explains that decision-makers should not attempt to impose architectural styles or stifle innovation. However, it does make clear that schemes should promote or reinforce local distinctiveness. In my view the wrong balance has been struck in this particular case and, notwithstanding the merits in terms of sustainable construction and flexibility for future occupants, the dwellings would stand out as discordant features in this part of Kingsdown Lane.
- 10. I appreciate that the intention is to provide larger homes to satisfy the higher value end of the market. However, Policy HA1 of the SBLP makes clear that this should not come at the expense of the character of the local area. Accordingly, I conclude that the proposal would cause material harm to the character and appearance of the area. It would thus conflict with Policies DE1 and HA1 of the SBLP which seek high quality design which respects its context.

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<sup>1</sup> Policy NC5 of the SBLP - Kingsdown Strategic Allocation, including up to 1650 dwellings

### *Living conditions*

11. The Council raises the concern that the proposed development would be overbearing for the occupiers of adjacent dwellings. It also considers that there would be unacceptable levels of overlooking.
12. The submitted sections show that the new houses would sit above those properties to the east and west of the site, due to their height and the topography. However, there would be a sufficient degree of separation to ensure that the buildings are not overbearing. The distances between windows would also exceed the minimum requirements set out in the Swindon Residential Design Guide (2016). Ground level differences are not so significant as to result in unacceptable overlooking from raised patios and in my opinion neighbouring residents would maintain an acceptable level of privacy.
13. I conclude on this issue that the proposal would not have a material adverse effect on the living conditions of the occupants of adjoining properties. It would thus comply with Policy DE1 of the SBLP insofar as it seeks to ensure that proposals take proper account of the potential effect on amenity.

### **Other Matters**

14. The parish council and local residents raise a number of other concerns including in relation to traffic, flooding, foul drainage, the size of private gardens, the effect on daylight and the arrangements for refuse collection. However, based on the information before me, these matters would not constitute reasons to dismiss the appeal.
15. I have taken into consideration the argument that occupiers of the scheme would have access to bus services and the local centre and community facilities being provided as part of the Kingsdown Strategic Allocation. However, this does not alter my findings on the main issues.
16. The appellant makes extensive reference to negotiations with officers, the Committee Report and the fact that the amended application was recommended for approval. Whilst these are material considerations, under S79(1) of the Act I must consider the scheme *de novo*, taking account of the reasons for refusal set out on the decision notice and also the matters raised in third party representations.
17. Although the Council has cited the Backland and Infill Development Supplementary Planning Document (2011) in its reason for refusal, the proposal would not conform to the published definitions for backland and infill development. As such, the guidance has had no significant bearing on this case.

### **Conclusion**

18. I have concluded above that the proposal would not have a material adverse effect on the living conditions of neighbours. However, this does not negate my concerns regarding the impact on the character and appearance of the area. In my judgement, this harm significantly and demonstrably outweighs the benefits of the proposal in terms of its contribution to the supply of large and higher value houses and the supply of housing overall, and the short-lived economic benefits arising during construction. As such it is not sustainable development

and there are no grounds to make a decision otherwise than in accordance with the development plan.

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR