
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: 22 May 2017

Appeal Ref: APP/U3935/W/16/3161036

Land adjacent to 31 Pritchard Close, Swindon SN2 7TZ.

- 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 Michael Hayes against the decision of Swindon Borough Council.
 - The application Ref S/16/0897, dated 10 May 2016, was refused by notice dated 7 July 2016.
 - The development proposed is described as a 'proposed new dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for a 'proposed new dwelling' at land adjacent to 31 Pritchard Close, Swindon SN2 7TZ in accordance with the terms of the application, Ref S/16/0897, dated 10 May 2016, subject to the conditions on the attached schedule.

Preliminary Matter

2. The Council indicates that the appeal scheme constitutes Community Infrastructure Levy (CIL) liable development. It is the responsibility of the charging authority to serve a notice setting out the amount of CIL payable by the developer. There is no dispute in this appeal about this matter and no further evidence has been provided. As such, the requirement for, and enforcement of, the payment of a CIL contribution is not a matter for consideration in this appeal.

Main Issue

3. The effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. It is proposed to build a two-storey house on the appeal site which is a long, narrow plot of land with an irregular boundary which extends primarily between 42 Hyde Road (No 42) and Pritchard Close, adjacent to No 31 (No 31). According to the representations made, a pedestrian route between Hyde Rd and the appeal site was required to retain access to parking when the estate was originally developed. This led to the unusual situation that 3 tandem pairs of parking spaces (6 spaces in total) are located at the head of the cul-de-sac. The appellant has provided photographs of the overgrown and somewhat neglected land behind the parking spaces, which were taken prior to his

- ownership, and the works of clearing, gravelling and securing the plot with fencing which have been undertaken. A garage has also been removed.
5. Since making its decision and in response to the appellant's claim that the site is not former garden land; the Council has confirmed that the appeal site is not in the back garden of No 42 and 40 Hyde Road (No 40). (The Council had incorrectly referred to Nos 41 and 44 Hyde Road in its officer report and decision notice). However, the neighbouring plots to each side of the appeal site appear to be the adjoining gardens of Hyde Road and Pritchard Close properties. Although the planning application form describes the existing use of the appeal site as "residential gardens", in the appeal submissions the appellant describes the site as a 'disjointed piece of land'. Having considered all of the circumstances, in my judgement it is reasonable for the purposes of this appeal to describe the site as having the characteristics of former garden land.
 6. The housing estate containing Pritchard Close is more recent than Hyde Road. The houses within Pritchard Close are of different sizes and layouts and there is no coherent building line. As indicated above, the land at the head of the cul-de-sac is divided into 6 parking spaces. The central 2 tandem parking spaces would serve the proposed dwelling. The spaces to either side would remain in separate ownership and use. There are 3 houses fronting onto these parking spaces which are set well back from the road and do not face onto the cul-de-sac. Within the wider area are a number of other properties, such as 'The Bungalows', which do not have a road frontage.
 7. The significant stretch of open parking to the front of the proposed house appears anomalous as no other properties are situated in this way. The position of the proposed house in relation to the road would therefore be different to its neighbours. However, the parking arrangement is existing and longstanding. Notwithstanding that the proposed house would be set back considerably because of this; on balance I do not consider that the proposed dwelling would appear out of character within its varied setting, having regard to the layout of housing in the area. To some degree the proposed development would fill the gap between existing buildings. This gap is not one which allows for an attractive view or for visual separation between dwellings as an inherent characteristic of the area that the Council's Residential Design Guide (RDG) SPD seeks to protect.
 8. Even if the appeal site had not been garden land, I consider that the principle of its development would have been acceptable in the specific circumstances of the case. I therefore conclude that there would be no conflict with the National Planning Policy Framework (the Framework) in this regard.
 9. Behind the parking area would be a footpath and front garden for the proposed house. There would also be a rear garden backing onto the gardens of Nos 42 and 44. The amount of amenity space around the proposed dwelling would be comparable to, or greater than, the land around other houses in Pritchard Close. Furthermore, the house would be a similar size and massing to the nearby pair of semi-detached houses. There would therefore be adequate amenity space and the scheme could not reasonably be described as a cramped form of development leading to overdevelopment of the plot, as suggested by the Council. No policies, technical or other evidence has been provided to support this assertion.

10. In terms of design, the proposed house would resemble the pair of semi-detached neighbours at Nos 29 and 31 Pritchard Close, having similar design details and the semblance of being a pair. It would adequately reflect their appearance. I am satisfied that the proposed 'double fronted façade' would be acceptable although there are no other detached houses in the immediate vicinity. Furthermore, the proposed external materials would be in keeping with those found in the surrounding area.
11. I conclude on the main issue that the design, layout and positioning of the proposed dwelling would result in a development which would respect the character and context of its surroundings. It would therefore comply with Policy DE1 of the Swindon Borough Local Plan 2026 (2015) (LP) which among other things requires high quality design that respects the context, character, layout, form and function of an area. This policy is in accordance with the requirement for high quality design set out in the Framework.
12. I have also considered the local design guidance of most relevance to this appeal. There would be no conflict with the adopted RDG which in summary seeks to ensure that new backland development does not impact on neighbouring properties or the streetscene and requires that sites should be well assembled and not piecemeal. I have not been provided with the Council's Backland and Infill Development SPD which I understand emphasises the need for new development to respect the character of its surroundings, whether or not it would be in public view. In this regard it appears to be similar to the RDG.

Other Matters

13. Neighbours have expressed concern about the potential for overlooking of houses and gardens from the proposed property, resulting in a loss of privacy. However, as the Council indicate, there would be a sufficient distance between the existing and proposed properties, there would be no side windows and the scheme would comply with the distance standards set out in the RDG. In some instances, views would also be blocked by garden buildings such as garages. I am not convinced that the proposal would lead to additional noise and footfall to the rear of the properties in Hyde Road which are some distance from the proposed house. Therefore I am satisfied that there would be no unacceptable harm to the living conditions of neighbouring occupiers and accordingly no conflict with the aims of LP Policy DE1 to protect residential amenities.
14. I acknowledge that the parking ownership situation at the appeal site is not straightforward. I also note that the Stratton St Margaret Parish Council considers that the access to the site is still disputed and that neighbours consider that there are already too many cars using and parked in Pritchard Close. However, the Highway Authority raises no objection to the proposal, noting that the scheme would make adequate parking provision for the new house, notwithstanding that the car parking for No 44 which it describes as "non-original, detached and disconnected" would be lost. Additional concerns about the difficulty in maintaining emergency access are not shared by the local Fire Service. It makes recommendations which it states would be addressed under the Building Regulations. There are no supportable reasons to disagree with these consultees' comments.

15. I note that there was a previous refused planning application for the erection of a dwelling on the appeal site in January 2016. However, the appeal proposal has been determined on its individual merits.
16. Whilst I have sympathy that the reasons for providing the proposed house include making caring provision for the appellant's mother, this factor has not weighed heavily in favour of this appeal.

Conclusion

17. For the reasons I have set out, the appeal should be allowed, subject to the following conditions.

Conditions

18. I have imposed a condition setting out which are the approved drawings in the interest of certainty and proper planning. Details and samples of the proposed external materials are required to ensure the satisfactory appearance of the development. Details of finished floor levels are required by condition to ensure that the appearance of the development is satisfactory and to protect the living conditions of neighbouring occupiers. In the interest of amenity and highway safety, details of the sustainable disposal of surface water are required by condition.
19. The Highways Authority advises that conditions are required to ensure that the parking areas are used for parking and remain unobstructed, and that any entrance gates are hung so as to open away from the highway. I agree that these conditions are necessary in the interest of highway safety. It is reasonable and necessary to withdraw permitted development rights in respect of providing any additional windows in the side elevations of the approved dwelling in order to protect neighbouring residential amenities.
20. In some instances I have amended the wording of the conditions suggested by the Council to better reflect the appeal proposal and guidance within the Planning Practice Guidance.

Elaine Benson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16/0407/01 and Ordnance Survey location plan.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the floors of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) The building hereby permitted shall not be occupied until the sustainable disposal of surface water within the site, so as to prevent its discharge onto the highway, has been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 6) The areas allocated as car parking spaces on the approved drawing shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.
- 7) Any entrance gates erected shall be hung to open away from the highway.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the side elevations of the approved dwelling.