

Appeal Decision

Site visit made on 4 May 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 01st June 2017

Appeal Ref: APP/U3935/W/17/3168136

172 Beechcroft Road, Swindon, Wiltshire SN2 7QE

- 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 Headlands Dev. against the decision of Swindon Borough Council.
 - The application Ref S/16/1235/HC, dated 1 July 2016, was refused by notice dated 9 September 2016.
 - The development proposed is new dwelling & access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council, in its decision notice, refers to its Backland and Infill Development (the BAIDSPD) and Residential Design Guide (the RDG) supplementary planning documents. I have applied some weight to those documents due to their role in supporting the relevant development plan policy.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers, with regard to privacy.

Reasons

4. The rear elevation of the proposed dwelling would face that of the dwelling to the rear of the site at No 40a St Phillips Road. The rear garden of that existing property, like that proposed, is not very deep such that the two dwellings would be fairly close together. Furthermore, No 40a has a habitable room window at first floor level that would directly overlook the rear of the appeal proposal.
 5. The proposed dwelling would have two rear habitable room windows on the ground floor. These would either be directly or slightly obliquely overlooked from No 40a's first floor room at a distance significantly less than the 21 metres back to back standard set out in the RDG or the 22 metres standard for facing window separation in the BAIDSPD. The appellant refers to a 12 metre separation standard set out in the BAIDSPD. However, that relates to the minimum distance between principal windows of one property and two storey walls of another without reference to any windows in the latter or it necessarily being a back to back relationship.
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6. Furthermore, the proposed rear garden, which would be the main area of external amenity space, as opposed to the narrow strips to the side and rear of the house, would be clearly overlooked from No 40a's first floor window. Crucially, most of that main garden area would be within 10 metres of that window and therefore in close proximity to it, that distance being the minimum set out in the BAIDSPD for windows overlooking the most sensitive parts of private gardens. It is not set out as a distance between buildings.
7. For the above reasons, due to the closeness of No 40a's first floor window to the proposed dwelling and its garden, the degree of overlooking would be likely to afford future residents a poor level of privacy both inside and outside.
8. The appellant claims that proposed vegetation planting in the rear garden would provide privacy screening and that this could be secured by condition. However, due to the proximity of No 40a's first floor window, such planting would have to be fairly substantial in terms of height and density in order to prevent that overlooking. Not only would that be likely to take some time to reach the required maturity to fulfil that role, but it could not be relied upon in the longer term in terms of its maintenance or survival.
9. I have had regard to a previous appeal proposal for a dwelling on the site, Ref APP/U3935/A/11/2150877, that was dismissed on the grounds that the amenity space at the rear would provide an inadequate level of privacy and unacceptable living conditions for future occupants. Although I have determined this appeal on its own merits, that decision is nevertheless a material consideration.
10. I acknowledge that the currently proposed dwelling would be slightly further away from No 40a than the nearest projecting part of the rear elevation of that previous appeal scheme. However, the separation would still be similar in comparison with the main rear elevation either side of that projecting part. The level of overlooking of the garden area would therefore not be materially less for the current scheme than for that previous scheme. The garden area would be wider than that of the previous scheme and so would be an improvement in terms of the amount of space. However, that factor would not be of such a benefit to outweigh the unacceptable level of privacy that would be afforded. Having regard to privacy within the dwelling, the current proposal also differs in that it has introduced an additional rear habitable room window at ground floor level, where one of the windows previously proposed would have served only a small utility room.
11. I have also had regard to the existing relationship between the adjacent No 170a Beechcroft Road and those dwellings to its rear by way of comparison. However, the degree of separation between them is greater than would be for the appeal proposal and No 40a and the orientation relative to each other is also different. The appellant has also drawn my attention, through aerial photography to other examples of direct overlooking of gardens relating to other properties in Swindon. However, based on that evidence, the relationship between the properties concerned is not the same as would be the case between the appeal proposal and No 40a. In all of these other comparison cases, the circumstances are therefore different from those relating to the appeal scheme which I have in any case determined on its own merits based on all of the submitted evidence and my own observations.

12. For the above reasons, the proposed development would not provide acceptable living conditions for future occupiers, with regard to privacy. As such, it would be contrary to policy DE1 of the Swindon Borough Local Plan, the BAIDSPD and the RDG which together, in respect of this issue, require high standards of design including taking account of amenity in respect of privacy. It would also be contrary to the National Planning Policy Framework which in paragraph 17 states that planning should, amongst other things, always seek to secure a good standard of amenity for all future occupants of land and buildings.
13. The Council also raises a concern about the potential for additional rear windows to be inserted at first floor level in the future. However, the rooms concerned would already have a front facing window relating to the bedroom and an obscure glazed window for the bathroom. Further windows would therefore not be necessary and could in any case be prevented through a planning condition. This matter therefore has no additional bearing on my decision.

Conclusion

14. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
15. The proposed single dwelling would have a small economic benefit in terms of adding to local housing supply and in providing construction jobs. I acknowledge also that any additional vegetation planting on the site would have the potential to improve the visual appearance and ecology of the site. However, such benefits would be insufficient to outweigh my finding that the proposed development would not provide acceptable living conditions for future occupiers, with regard to privacy. It would therefore not be a sustainable form of development.
16. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR