



Appeal Decision

Site visit made on 30 August 2017

by Chris Couper BA (Hons) DipTP MRTPI

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

Decision date: 04 September 2017

Appeal Ref: APP/Y3940/W/17/3173349
88 Bristol Road, Chippenham SN15 1NS

- 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 Indent Investments Ltd against the decision of Wiltshire Council.
 - The application Ref 16/11358/FUL, dated 21 November 2016, was refused by notice dated 24 January 2017.
 - The development proposed is the erection of two 2 bedroom bungalows to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two 2 bedroom bungalows to the rear at 88 Bristol Road, Chippenham SN15 1NS in accordance with the terms of the application, Ref 16/11358/FUL, dated 21 November 2016, subject to the following 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 with the reference DWG No. 88: Site Location Plan; Proposed Block Plan; Typical Elevations; Sections; Floor Plan; and Drainage.
 - 3) The bungalows hereby permitted shall not be occupied until the turning and parking areas have been completed in accordance with the details shown on the approved plans. Those areas shall be maintained for those purposes at all times thereafter.
 - 4) Prior to the commencement of the development, details depicting the width of the proposed access shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.
 - 5) The dwellings shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met, and the details of compliance provided to the local planning authority.
 - 6) Prior to the commencement of the development, details of all boundary treatment shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.

Main Issue

2. The main issue is the effect of the proposal on the living conditions at 88 and 86 Bristol Road, with particular regard to noise and disturbance.

Background

3. I have had regard to the site's planning history, including an extant planning permission for 2 two bedroom bungalows (Ref: 14/11708/FUL) ('previous permission') which involved the creation of an access to the rear from Patchway, and a refused scheme for two detached dwellings accessed from Bristol Road (Ref: 14/05759/FUL).

Reasons

Living conditions

4. Unlike the previous permission, access to the proposed bungalows would be via a driveway from Bristol Road. Much of that driveway to the side and rear of No. 88 is already in existence, and although a neighbour states that it has only recently been created, I have no evidence that it is unlawful. As a result of this scheme it would be extended further along the full length of the side boundary with 86 Bristol Road, with parking and turning areas serving the proposed bungalows beyond.
5. The dwelling at No. 86 is set in from its side boundaries, with a blank gable wall facing the driveway. Whilst No. 86 and No. 88 have ground and first floor rear windows, some of which serve bedrooms, they are set in from the side boundaries and have an outlook mainly down those properties' rear gardens. The side wall of No. 88, abuts the driveway and contains a window, which the appellant describes as 'secondary'. The main rear ground floor windows of both dwellings are screened from the driveway by a tall timber fence, which is in a good condition. Both Nos. 86 and 88 have fairly long, wide gardens, parts of which would be some distance from the driveway and parking areas.
6. As a result of this scheme, there would be vehicular and pedestrian movements associated with the two proposed bungalows passing along the length of No. 86's and No. 88's side boundary. However, using the TRICS database, the appellant calculates that in this sustainable location the number of daily vehicle movements per dwelling would typically be about 7-8. I have no reason to disagree, and those movements along this short drive would typically be brief.
7. As parking for No. 88 would be to the front, rather than potentially to the side, that could limit the net increase in vehicular movements along a section of the driveway. Furthermore, as the driveway would be used as an access, there may be less likelihood of noise and nuisance from vehicles being left running, or being worked on, in that location than with the current arrangement.
8. Bristol Road is busy and fairly noisy. In that context, given No. 86 and No. 88's large gardens and the location of their main windows, the modest net increase in vehicular movements along the extended driveway as a result of this scheme, would cause only limited disturbance to those occupants. The proposed rear parking and turning areas, and the bungalows beyond, would be located a significant distance from the rear elevations of those dwellings, and from No. 90 Bristol Road.

9. The beam from car headlamps should be focussed towards the driveway rather than upwards. Any night-time disturbance from them would be significantly limited by the existing fences, and, if drawn, by curtains or blinds. Those impacts, along with views towards neighbouring properties from the driveway, would be fleeting. As a result, the scheme would not impact those occupants' living conditions to a harmful degree.
10. Although it is not directly comparable in all regards, and the development plan policies have subsequently changed, my conclusion on this matter is supported by the nearby example of development in depth to the rear of Ashleigh, which is accessed from Hungerdown Lane to the side of that property.
11. Consequently the scheme would not conflict with Wiltshire Core Strategy 2015 ('CS') Core Policy 57 (part vii) which requires development to have regard to the impact on existing occupants' amenities, or with the National Planning Policy Framework ('Framework') objectives of securing high quality design and a good standard of amenity for all.

Other matters

12. Local residents and Chippenham Town Council object on the grounds that the scheme's vehicular movements would cause air pollution and odour close to homes. However, I have found that those movements would typically be few and brief. The Council sets out in its statement that as the scheme would not pollute the environment or harm public health, its reference to North Wiltshire Local Plan 2011 Policy NE18 was superfluous. I agree that from the evidence before me there would not be significant air pollution or odour as a result of this scheme, and that it would not conflict with that policy.
13. Bristol Road is busy, with many accesses. I understand that vehicles are sometimes parked on the pavement outside No. 88, although the Highway Authority points out that that is not permitted, and that there are existing powers to enforce against such infractions. The scheme makes appropriate car parking provision for two or more spaces per dwelling, with turning facilities, and it is reasonable to expect drivers using the short driveway to proceed at low speeds. Visibility from the access across the wide pavement and white-lined section of Bristol Road onto the carriageway is generally good. The absence of an objection from the Highway Authority supports my conclusion that the scheme would not raise significant highway safety concerns.
14. Although there are representations that the previous permission was better, or that there could be future amendments to this scheme, I have dealt with the proposal before me on its merits against the development plan and other material considerations.
15. The previous permission established the principle of bungalows on the site, which is mostly overgrown garden. Some of the boundary landscaping is proposed for retention, and although there would be a limited impact on fauna and flora, I have no cogent evidence that there is a reasonable likelihood of protected species being present on or near the site and being adversely affected by the proposal.

Conditions and conclusion

16. In the event that the appeal is allowed, the Council proposed a number of conditions, which I have considered against the relevant tests in the

Framework, making amendments where necessary to improve precision, clarity and enforceability. I have imposed the standard time limit condition, and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans. In common with the previous permission, and in the interests of highway safety, a condition is necessary requiring that the turning and parking areas be provided prior to the bungalows' first occupation. However, as the plans show the proposed layout with parking and turning areas, a separate condition requiring the submission of details for the loading and unloading of goods vehicles is unnecessary.

17. Although the Council suggests a surface water drainage condition for the access, that was not requested by the Highway Authority. Consequently, and as that part of the access close to Bristol Road is already in place, it is unnecessary.
18. The Council and Highway Authority have suggested a condition requiring that the access be widened to 4.1m. That appears to be broadly what is shown on the Proposed Block Plan, although the proposed driveway's width is not clear, and the existing driveway appears to be narrower in places such as where there is vegetation. In the interests of clarity, and to ensure a safe access for vehicles and pedestrians, I have attached a condition requiring details of the driveway's width to be provided.
19. The Council's sixth condition would require the dwellings to achieve a level of energy performance at or equivalent to Level 4 of the (now withdrawn) Code for Sustainable Homes, in accordance with CS Core Policy 41. Although the previous permission, which post-dated the adoption of the CS, contained no such requirement, the Written Ministerial Statement of 25 March 2015 is clear that where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a condition for energy performance requirements at a Code Level 4 equivalent until the amendments to the Planning and Energy Act 2008 in the Deregulation Act are commenced. Consequently, in the interests of sustainable development and energy efficiency, I have imposed a condition along the lines of that suggested.
20. Finally, the appellant's statement makes reference to a possible boundary treatment condition. For the reasons given, in the interests of protecting living conditions, that is necessary. General upkeep of a property including its boundaries is the responsibility of the owner.
21. Summing up, I conclude that the scheme would not impact on the neighbouring occupiers' living conditions to a harmful degree. Consequently, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR