



Appeal Decision

Site visit made on 9 December 2019

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 December 2019

Appeal Ref: APP/U3935/W/19/3237234

Rose Dene, Lechlade Road, Upper Inglesham, Swindon SN6 7RA

- 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 Keith Hillyard, Julie Murphy, Jason Murphy and James Murphy against the decision of Swindon Borough Council.
 - The application Ref S/19/0333/FELY, dated 18 February 2019, was refused by notice dated 7 May 2019.
 - The development proposed is the erection of 2 x 3 bedroom self-build detached dwellings (C3), a detached ancillary triple garage with home office and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 x 3 bedroom self-build detached dwellings (C3), a detached ancillary triple garage with home office and associated works at Rose Dene, Lechlade Road, Upper Inglesham, Swindon SN6 7RA in accordance with the terms of the application, Ref S/19/0333/FELY, dated 18 February 2019, subject to the conditions in the attached schedule.

Procedural matters

2. A different postcode is given for the appeal site on the application and appeal forms. I have used the one from the application form in my heading and formal decision, above.
3. The appeal was accompanied by amended plans showing a different application site area to that considered by the Council, and revisions to the garage/outbuildings. The garage revisions include alterations to the position of first floor windows and internal stairs, and a reduction in the overall height. The Council's appeal statement indicates that the plans have been considered and do not affect the Council's concerns. The plans were provided at the time of the appeal so those other parties notified of the appeal by the Council have had an opportunity to review the submission.
4. With regard to the above and the principles outlined in *Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]*, no injustice would arise if I were to consider the proposal on the basis of the amended plans. The amended plans refer to the upper floor of the garage as a store rather than a home office. Regardless of its ultimate intended use, in the interests of clarity, I shall simply refer to this structure as a garage building within my decision.

Main Issues

5. The main issues are (i) whether the site is in an appropriate location for the development with particular regard to its accessibility to services and facilities; (ii) the effect on the character and appearance of the area; (iii) the effect on highway safety; and (iv) whether there are any material considerations that may indicate a decision other than in accordance with the development plan.

Reasons

Location

6. Inglesham is a small settlement that does not have a settlement boundary in the Swindon Borough Local Plan 2026 (LP). It does not have schools, shops or other services required to meet the day to day needs of most residents and the bus service to other nearby settlements is limited. Residents of the proposed dwellings would, therefore, likely be reliant upon private motor transport to travel to most services and facilities. Accordingly, the proposal would conflict with LP Policy SD2 that seeks to control the location of new development, those parts of LP Policy TR2 that seek to reduce the need to travel, and the principles outlined in the Swindon Residential Design Guide 2016 (SRDG) relating to the accessibility of services and facilities.
7. The National Planning Policy Framework (the Framework) sets out at paragraph 78 that rural housing should be located where it will enhance or maintain the vitality of rural communities. Given the lack of services and facilities in Inglesham, the extent to which additional residents would contribute to this aim would be limited. The paragraph also indicates that development in smaller settlements can help to support services nearby. Given the accessibility shortcomings identified above, only a very modest positive benefit in that regard is likely to arise. Therefore, Paragraph 78 does not offer any meaningful support to the proposal, but neither is there any clear conflict.
8. Framework Paragraph 103 sets out that the planning system should adequately manage patterns of growth to meet various transport objectives including promoting opportunities for walking, cycling and public transport use, and limiting the need to travel. The location of the site does not support these objectives. However, the proposal is only for 2 dwellings and the reference in Paragraph 103 to significant development, as well as acknowledgement that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, greatly tempers the weight that I attach to any conflict with this part of the Framework.

Character and appearance

9. Inglesham is a loose knit settlement. There is a concentration of dwellings around a junction with the main road. Leading away from there, along the main road towards Lechlade, is a more sporadic collection of irregularly spaced dwellings. Heading towards Lechlade, those on the right hand side tend to have narrow plots with garden areas extending along the roadside. The existing dwelling is the last such dwelling and the site is within the garden area between it and the next dwelling, Sunnyside Cottage.
10. Over the road, opposite the appeal site, are two pairs of semi-detached dwellings in close proximity to one another. They are set facing a separate access drive that runs at an approximate right angle to the main road with

gardens behind them. Thus, whilst the area has a distinctly rural character, there are sufficient dwellings surrounding the site for it to be read as a part of Inglesham, rather than the more scattered nature of the rural dwellings beyond the site.

11. The addition of two further dwellings and the detached garage building would add significant built form to the site. It would result in a more continuous built form between Rose Dene and Sunnyside Cottage. In the context of the two pairs of semi-detached dwellings opposite, there would be a slight consolidation of built form around the appeal site. However, gaps between the buildings would remain and, as such, they would not appear as an intense form of development.
12. The dwellings would have smaller gardens than those immediately around the site and the plots would be narrow from front to back. However, as they would back onto open countryside, the dwellings would not appear cramped or constrained by their plots. The overall sense of a ribbon of individual dwellings separated by gaps would remain and so would not harm the open appearance or sporadic character of the area.
13. Most of the existing trees on the site are small and do not make a significant contribution to the character and appearance of the area. Therefore, whilst there may be no long-term protection to any retained or new trees, such as a tree preservation order, any tree loss can be adequately mitigated through replacement planting. There are no detailed proposals explaining how the more important copper beech tree that would be close to the proposed parking area would be protected. However, there is no substantive evidence to suggest that suitable protection could not be adequately secured through planning conditions.
14. The garage building, even in its modified form, would be a substantial building. I note that it would be of greater height than the Council would generally consider appropriate for an ancillary building and that the footprint would be sizeable in relation to the proposed and existing dwellings. However, despite the inclusion of dormer windows, it would appear as a predominantly single storey building with low eaves. Being orientated with the gable end facing the road, it would be narrower than Rose Dene and would not visually compete with the existing or new dwellings at the site.
15. The semi-detached dwellings opposite the site have low eaves lines with rooms partially in the roof space. Rose Dene and Sunnyside Cottage are both two storey and, whilst they are not tall buildings, the introduction of further two storey dwellings at the site would not be at odds with the overall character and appearance of surrounding dwellings.
16. With regard to the above I find that the proposal would not harm the character and appearance of the area. It would not, therefore, conflict with those parts of LP Policies EN1, EN5 or DE1 that seek to maintain the landscape character and local distinctiveness of the Borough, protect important trees, and ensure respect for the context and character of the area. Nor would it conflict with those parts of the Framework that share those aims.

Highway safety

17. When the Council determined the application, there was concern about the extent of available visibility at the access. However, since this time, the speed limit past the site has been reduced and there is no longer any dispute that the visibility is adequate.
18. The Council remains concerned that the parking spaces would not meet the needs of the development, suggesting that they are very slightly under the dimensions required in the Parking Standards Supplementary Planning Document. However, there appears to be adequate space for slightly longer vehicles to be accommodated outside the garage building without encroachment into the turning area.
19. The size of the garage spaces would also fall below the required standard and the Council indicates that this could prevent the storage of cycles. However, the Council's officer report also indicates that due to the proposed open internal arrangement of the garage, the internal space could be adapted. Therefore, there is no substantive evidence that the proposed garage spaces shown for the new dwelling would not adequately accommodate vehicles.
20. It may well be that the internal stairs shown as providing access to the upper floor of the garage building result in insufficient length for the garage space shown for the existing dwelling. However, two external spaces are shown for this property and, therefore, adequate parking would exist across the site as a whole.
21. With reference to the SRDG, the Council has raised some concern that the parking spaces would be too far from plot 2. However, whilst this may result in some inconvenience for the occupiers of that plot, there is no clear connection to any material harm. Therefore, I attach very little weight to these concerns.
22. With regard to the above, there is no substantive evidence that the parking provision would be so inadequate as to result in harm to highway safety. Therefore, despite a technical conflict with that part of LP Policy TR2 that requires parking to be provided in accordance with the Council's adopted standards, I find that no harm would arise and there would be no conflict with those parts of the Framework relating to highway safety.

Material considerations

23. There is no dispute that the Council cannot currently demonstrate a 5 year deliverable supply of housing land. Although the proposal would make only a very small contribution to the overall housing supply, the Framework nevertheless indicates that the delivery of housing is a benefit. This weighs in favour of the proposal.
24. The lack of sufficient housing land supply within the Borough engages Framework Paragraph 11(d). This indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when considered against the policies in the Framework taken as a whole.
25. As outlined in my analysis of the first main issue, there are some tensions with those policies of the framework relating to the location of development and whether the proposals would offer any meaningful support to the vitality and

viability of rural settlements. However, the tension is not significant and I attach greater weight to those policies that seek to significantly boost the supply of housing. Accordingly, and in light of my findings on the Framework in respect of the other issues, I find that any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Accordingly, the presumption in favour of sustainable development outlined at Framework Paragraph 11 applies. I attach substantial positive weight to this material consideration.

Planning balance

26. Decisions must be made in accordance with the development plan unless material considerations indicate otherwise. There is a conflict with the development plan in respect of the location of development and also a technical conflict in respect of the parking provision. As I have found no harm to highway safety, I attach very limited weight to the conflict with those parts of LP Policy TR2 relating to access and parking.
27. In considering Framework Paragraph 103 as part of the first main issue, I found that the weight to be attributed to concerns of accessibility and encouraging the use of sustainable transport alternatives was tempered by the other parts of that paragraph. There is a conflict with the part of LP Policy TR2 relating to accessibility. However, unlike the Framework, consideration of the scale of development, and differences between accessibility in urban and rural areas is not a clear part of the Policy. Moreover, the Council's reasons for refusal do not explicitly refer to shortcomings in accessibility or identify a conflict with that part of Policy TR2. Therefore, I find that limited weight should be attributed to the conflict with the development plan in this regard.
28. The Council's analysis of the principle of the development suggests that, in light of the housing land supply situation, the weight to be attributed to any conflict with the locational requirements of LP Policy SD2, in particular the site's location outside any settlement boundary, is limited.
29. There is conflict with the development plan as a whole, but for the reasons given, the weight that I attribute to this conflict is limited. As I have attached substantial weight to the presumption in favour of sustainable development outlined at Framework Paragraph 11, I find that this indicates a decision other than in accordance with the development plan and that permission should be granted.

Conditions

30. A plans condition is required in the interests of certainty. Details of facing materials, boundary treatments, landscaping and clarification of finished levels, are required in the interests of the character and appearance of the area.
31. To ensure that adequate facilities are available for the traffic likely to be attracted to the site and thereby safeguard highway safety, a condition is required to ensure that the access works and parking facilities are provided. To promote travel by bicycle, a condition is required to secure appropriate cycle parking facilities. Whilst there is an indication of such facilities on the site plan, final details are limited so further clarification is necessary.
32. I have made minor revisions to those conditions suggested by the Council to ensure compliance with the Framework and Planning Practice Guidance.

33. The Council has suggested a condition to control the timing of noisy construction activities. However, the development is relatively small scale, neighbouring dwellings not unusually close and it is sited on a main road. In light of this and a lack of specific evidence relating to the need for such a condition in this case, I have not imposed one.
34. Similarly, there is no substantive evidence as to why a construction method statement is necessary at this relatively unconstrained site. A further condition has been suggested that restricts the use of the garage building to private domestic uses. However, that is the use detailed within the description of development and there is no clear evidence as to why such a condition would be necessary in this case. I have, therefore, not imposed conditions relating to these matters.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 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: 2302/100; 2302/001A; 2302/150A; 2302/151A; 2302/155; 2302/156; 2302/160A; 2302/170A; PLAN 05091/2018.
- 3) No works above ground level shall take place regarding the erection of the development hereby permitted until details of all external facing materials have first been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with those approved details and thereafter maintained as such.
- 4) The development shall be constructed in accordance with slab levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land that have first been submitted to and approved in writing by the Local Planning Authority.
- 5) The development shall not be occupied until details indicating the positions, design, materials and type of all boundary treatment has been submitted to and approved in writing by the Local Planning Authority. This approved boundary treatment shall be implemented before the dwelling to which it relates is occupied and shall thereafter be retained in the approved form.
- 6) The dwellings hereby permitted shall not be occupied until the vehicular access visibility splays, parking and turning facilities have been provided in accordance with the submitted plan. Such facilities shall thereafter be maintained available for those purposes.
- 7) Prior to the occupation of the dwellings hereby permitted, secure and sheltered cycle storage facilities for a minimum of 1 bicycle per dwelling shall be made available in accordance with details that shall first have been submitted to and approved in writing by the LPA, and shall thereafter be maintained as such.
- 8) No works above ground level shall take place regarding the erection of the development hereby permitted until a scheme of landscaping to include a planting schedule and timetable of works, has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the positions, species and crown spread of all existing trees and hedgerows on the land, detailing those to be retained, together with measures for their protection during development. The approved scheme shall be implemented as per the approved timetable.

Any tree or shrub planted in accordance with the scheme which is removed, dies or becomes diseased within a period of five years from first being planted, shall be replaced by one of a similar size and the same species.