
Appeal Decision

Site visit made on 14 January 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/U3935/W/19/3235208

Hillsborough, Marlborough Road, Chiseldon, Wiltshire SN4 0EP

- 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 Mrs Jenny Jefferies against the decision of Swindon Borough Council.
 - The application Ref S/19/0095/CHHO, dated 10 January 2019, was refused by notice dated 12 April 2019.
 - The development proposed is 2 no detached chalet style bungalows with attached garages and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development in the banner heading above from the application form. While different to the decision notice and appeal form, no confirmation has been provided that any change was agreed.

Main Issues

3. The main issues of the appeal are the effects of the proposed development on;
 - The character and appearance of the area, with particular regard to its location within the North Wessex Downs Area of Outstanding Natural Beauty (AONB);
 - The living conditions of the occupiers of nearby properties and the host property, with particular regard to privacy and daylight/sunlight; and
 - Whether the proposal would be in a suitable location for housing, having regard to local planning policies.

Reasons

Character and Appearance

4. The row of properties where the appeal site is located, and the wider area, are characterised by ribbon frontage development. There is some variation of garden and plot sizes in the area. Nevertheless, there is a relatively consistent building line with properties generally having generous rear gardens.

5. The scheme may accord with elements of the SPD¹ which does not preclude the development of land situated to the rear of existing properties. Moreover, while the proposed dwellings would be taller than the existing one, there is some variety to the size and design of dwellings in the area.
6. Nonetheless, I did not see any properties located to the rear of others near the site. Therefore, the positioning of the proposed dwellings would be incongruous with the linear pattern of development in the area. Additionally, the orientation of the dwellings would also be discordant with the surrounding built form where properties face towards the road. Furthermore, the proposed plots would be considerably smaller in comparison to many of those in the same row. As such, the scheme would be at odds with, and appear cramped in comparison to, the prevailing pattern of development in the area.
7. I note comments regarding the protection of landscape features, soil type, water demand, and location of works in relation to root protection areas. Nevertheless, while I acknowledge the details provided, the proposed driveway would be in close proximity to the existing landscape features on that boundary. Moreover, having seen the size and canopy spread of the tree subject to the Tree Preservation Order (TPO), there would be elements of the scheme that would be close to it. In the absence of a detailed arboricultural report, there is insufficient information for me to be certain that the development would not adversely affect these features.
8. While there may have been some works to the TPO tree in the past, it and the other landscape features at the site contribute towards the wider verdant character of the area. Damage to, or the loss of, the TPO tree and other mature features would detract from the green character of the area.
9. Landscape features and the surrounding topography would result in the development being somewhat concealed from public views. Moreover, further landscaping is proposed. Nevertheless, the fact that a proposal can be screened is not a reason for allowing development that is inherently unacceptable. Furthermore, there would be glimpsed views from the road and the development would be clearly visible from the adjacent dwellings. The potential loss of mature landscape features would only serve to increase the prominence of the site.
10. My attention has been drawn to other properties and permissions in the area. While these show plot sizes can vary, many of the properties highlighted are infill frontage developments rather than examples of dwellings located to the rear of another. They are therefore materially different to the appeal scheme.
11. Consequently, the proposed development would have a harmful effect on the character and appearance of the area and therefore would not conserve or enhance the landscape and scenic beauty of the AONB. It would be contrary to Policies EN5, EN1, and DE1 of the Swindon Borough Local Plan 2026 (LP). These, among other things, require developments to respect the context and character of an area, protecting local distinctiveness and existing trees as well as conserving and enhancing the landscape and scenic beauty of AONB's. The scheme would also fail to comply with the SPD where it seeks to ensure developments harmonise and compliment the local area.

¹ Residential Design Guide Supplementary Planning Document

12. Finally, it would fail to comply with the National Planning Policy Framework (Framework) where it requires development to respect the character of the locality and nationally designed landscapes such as an AONB.

Living Conditions

13. The proposed dwellings would be orientated away from the host and neighbouring ones with no habitable windows facing directly towards them. Consequently, the angle of views, along with the separation distances involved would prevent unacceptable overlooking into the adjacent properties themselves. Notwithstanding this, the first-floor bedroom windows would face the adjacent gardens. While there are mature trees and shrubs at the boundaries of the appeal site, variation in the height and density of these allow views over and through them.
14. The proposed driveway would run along the boundary with Sunnyside. On the basis of the information presented to me, and my observations on site, the creation of the drive would be likely to require the removal, or works to, the existing landscape features. This would reduce the level of screening they currently provide. The height of the first-floor windows of the proposed dwellings would allow views over the boundary vegetation in to the garden of Sunnyside. There would be greater separation between the proposed dwellings and their rear boundary than to the front. Nonetheless, there would still be views in to the garden of The Fairway over the features along the boundary between it and Plot 2.
15. The position of the dwelling at Plot 2 would be likely to result in some loss of light at the host property and its garden. However, from my observations the presence of existing mature vegetation at the appeal site and adjacent land already limits the daylight and sunlight that reaches parts of the host property's garden and rear rooms. The host dwelling would have a more open garden area towards the proposed driveway. In addition, there are large windows serving the rooms on the rear elevation of the property. As such, even if there was a marginal shortfall in the separation distances outlined in the SPD, given the individual circumstances of this case, it would be sufficient to prevent any unacceptable impacts on the outlook from, or light reaching, the host property.
16. Nevertheless, the proposal would have an unacceptable effect on the living conditions of the occupiers of neighbouring properties with regard to privacy. The scheme would be contrary to Policy DE1 of the LP and the SPD where they, in part, seek to ensure adequate levels of privacy are provided. It would also fail to accord with the Framework where it states developments should provide a high standard of amenity for existing users.

Location of Development

17. It is not disputed by the main parties that the site is located outside any defined settlement boundary. Policy SD2 of the LP sets out the overall development strategy for the area and is clear that beyond any settlement boundary new residential development is limited to certain circumstances. While I acknowledge reference to the availability of services nearby, no specific details of these have been provided of these. There is no compelling evidence before me that the scheme would meet any of the exceptions outlined in Policy SD2.

18. Therefore, the proposal would not be in a suitable location for housing, having regard to local planning policies. It would be contrary to Policy SD2 of the LP which provides the overall principles of development in the area, and specify the exceptions where housing is permitted outside of development boundaries.

Other Matters

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
20. The Council accept that they do not have an up-to-date 5 year housing land supply. However, the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. An AONB is an example of such an area/asset. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. I have found that the proposal would be contrary to this aim of the Framework.
21. The proposal would contribute to the supply and mix of housing in the area. Nonetheless, being for 2 dwellings, the contribution would be small as would any economic benefits associated with the construction and occupation of the properties and support for local services.
22. While I note concerns from local residents, the refusal reasons do not relate to matters such as flooding, drainage, accessibility to services and facilities or highways safety. As I am dismissing the appeal on the main issues, there is no need for me to consider these matters further. In any event, a lack of harm would be a neutral factor.
23. The proposal would result in harm to the character and appearance of the area and the scenic beauty of the AONB. It would also conflict with the relevant housing policy of the development plan, thus undermining the housing strategy and unacceptably impact on the living conditions of occupiers of neighbouring properties. I consider that the benefits of the proposal taken individually and cumulatively do not outweigh this harm, and that the other material considerations are not sufficient to grant planning permission in this case.
24. The appellant sought pre-application advice and I note comments regarding the conduct of the Council. Notwithstanding this, I have considered the scheme on its planning merits and found it would result in harm.

Conclusion

25. Therefore, for the above reasons, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR