
Appeal Decision

Site visit made on 5 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/U3935/W/19/3241592

Woodlands, High Street, Wanborough, Swindon SN4 0AE

- 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 Les Duncan against the decision of Swindon Borough Council.
 - The application Ref S/19/1135/RACH, dated 29 July 2019, was refused by notice dated 23 September 2019.
 - The development proposed is the erection of one three-bedroom detached dwelling, with associated access, vehicle parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Les Duncan against Swindon Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area with particular regards to whether it preserves or enhances the setting of the Lower Wanborough Conservation Area (CA), the setting of the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and nearby protected trees.

Reasons

Character and appearance

4. The appeal site is adjacent to, but outside of the CA which primarily covers the historic core of the village. Its significance is derived from a combination of factors including the distinctive linear development which contains a significant number of vernacular buildings. The prevailing building line is particularly evident on the north eastern side of the High Street. In addition, the rural setting of the settlement at the foot of Callas Hill, on the edge of the low-lying Thames Valley plain further contributes towards its significance. These factors result in an attractive verdant, rural spacious character to the village and CA.
5. The appeal site comprises of sloping garden land to 'Woodlands', a detached dwelling set in generous broadly triangular shaped grounds. Notwithstanding the presence of a detached domestic garage, there is otherwise an absence of built form in the tapering north-eastern part of the grounds, which together with the grass, and boundary planting conveys an open verdant feel. This is

reinforced by the presence and proximity of adjacent fields, gardens and vegetation. There is a public right of way directly adjacent to the northern boundary from which clear views of the site are possible. As such, the site forms part of the transition experienced from the village edge into the surrounding natural environment that provides the rural setting to Lower Wanborough. Consequently, it contributes positively to the rural character and appearance of the area and the setting of the CA.

6. In considering the impact of the proposal, I am mindful of my statutory duty¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, including its setting.
7. The proposal would introduce a detached two storey dwelling that would incorporate the existing garage building and would have a notable physical presence that would encroach into an area mostly free from built form. Furthermore, as the building would be level with the garage, given the sloping nature of the site, this would involve engineering works that would be out of character with the natural topography of the rural surroundings². Additionally, the dwelling would be sited behind Woodlands, which would be out of keeping with the prevailing settlement pattern whereby dwellings are generally positioned nearer to the road. As a consequence, the increased presence of built form would protrude further towards open countryside than is generally the case for development in the immediate vicinity.
8. In addition, a new dwelling in this location is likely to have associated domestic paraphernalia, which would increase the presence of such objects within this part of the grounds. Taken together these factors reflect characteristics more sub-urban in nature that would be out of character with the rural surroundings. This would harmfully erode the established layout of this part of the settlement. Moreover, whilst the use of conditions might control domestic paraphernalia to a certain extent, this would not address the entirety of my concerns.
9. The Swindon Residential Design Guide, June 2016 indicates that backland development³ can present design difficulties. In particular, it advises that tandem developments, where a new dwelling is placed immediately behind an existing dwelling, are rarely able to satisfy the design principles of policy DE1 Swindon Borough Local Plan 2026, March 2015 (LP) and can often, amongst other things, have an adverse impact on the character of the area. Although the appeal proposal does differ from the example illustrated in Figure 17 of the design guidance, the proposed arrangement would nevertheless result in a new dwelling directly behind Woodlands, such that the design advice has considerable relevance to the scheme before me.
10. Furthermore, the Lower Wanborough Conservation Area Appraisal and Management Plan, February 2009 (LWCAAMP) identifies the characteristics of the CA overall. Although some development has no doubt taken place since the document was adopted in 2009, my general observations of the settlement did not indicate that these have fundamentally changed in the intervening period. It therefore retains considerable relevance and weight in terms of identifying

¹ Section 72 Planning (Listed Building and Conservation Areas) Act 1990

² Illustrative Long Section drawing ACLA/BJR 04

³ Page 15-16

the significant features of the designated heritage asset. It refers⁴ to the negative impact of late 20th century backland or grouped development within the conservation area where the historic linear settlement pattern predominates. Therefore, although I accept that there has been some dilution of the linear aspect of the village over time, generally this neither preserves nor enhances the CA. It is my view that the proposal would dilute this further.

11. The photographs in the landscape appraisal provided⁵ together with my own observations, indicate that the impact would be particularly prominent from the adjacent public right of way and would be seen in the foreground of views towards the CA. Whilst additional planting may reduce the harm to a certain degree, it would be unlikely to fully prevent glimpses of the development given the proximity of the public right of way and surrounding topography. In any event, such planting would take some time to become established.
12. I acknowledge that views of the proposal from the High Street would be largely prevented by existing buildings, and that vegetation and topography would filter views of the development in long range views from elsewhere. However, this does not mitigate or outweigh the visual harm already outlined. Furthermore, I am not aware that the special attention that must be given to the desirability of preserving or enhancing the character or appearance of the CA and its setting, is confined to the impact on the public domain.
13. I also accept that, given the physical separation and distance, the proposal would not prevent the retention of the protected woodland trees adjacent to Callas Hill⁶. Although the Council suggest that the proposal would harm their setting, I do not consider that specific additional harm would result over and above that already identified to the general rural verdant character of the area.
14. The appeal site is located some considerable distance from the AONB, which includes expansive rolling chalk hills and a mosaic of woodlands, pasture, heath and common land amongst its special qualities. The cross section drawing⁷ and long-range photographs in the landscape appraisal provided, illustrate the distance and setting of the development into the scarp. Additionally, in wider views the development would be seen against the edge of the village and due to its modest scale, would not be particularly discernible from longer perspectives. Therefore, although I consider there would be some limited landscape harm, this would be localised and would not be to such a degree that it would harm the setting of the AONB.
15. My attention is drawn to the traditional design of the proposal. Be that as it may, this would not address my concerns regarding the impact of its siting. It follows on this basis, that a condition to control the materials used would not make the development acceptable.
16. Reference is made to four examples of development where the Council have permitted dwellings⁸. Two of the examples are in Lower Wanborough but located on the opposite side of the road⁹ from the appeal site. The limited information provided indicates that the sites would be closer to the road,

⁴ Page 19

⁵ Viewpoints 2,3 & 4 prepared by ACLA Ltd dated 4.7.19

⁶ Tree Protection Order confirmed 6 January 2010, No.13.2009

⁷ Reference ACLA/BJR 04

⁸ Fairview, 22 Purley Road, Liddington S/17/1246; Netherwater Cottage, City Corner, Hinton Parva S/19/0821; Land adjoining Ivydene, High Street, Lower Wanborough S/17/1664 & 1 Callas Rise, Wanborough S/16/1769.

⁹ Page 4, Planning, Design and Access Statement

thereby respecting the linear settlement pattern rather than encroach onto land to the rear. As such, due to these differences these examples are of limited weight. The other two examples are some considerable distance from the appeal site and in the absence of details to show the nature or location of the development, I am unable to make a meaningful comparison with the proposal before me. Similarly, whilst some mention is made of development at the adjacent property of Silver Springs¹⁰ I am not provided with any details. However, I observed that construction works were taking place at my site visit. These did not suggest that the location of the building within an established building line was likely to change. In any event, I have considered the proposal on its own merits.

17. Accordingly, the proposal would have an adverse impact on the rural character and appearance of the site that would harm the relationship of the settlement with its natural surroundings. Consequently, it would affect the surroundings in which the CA is experienced, albeit that given the relatively modest nature of the proposal, this would be less than substantial harm to its setting.
18. Paragraph 196 of the National Planning Policy Framework (the Framework) indicates that where the development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide an additional family dwelling in a reasonably accessible location which would contribute towards the housing supply in the borough.
19. There is no dispute between the parties that the Council is unable to demonstrate a five year supply of housing. Therefore, the development would contribute towards this unmet need and would additionally align with support given in paragraph 61 of the Framework for people wishing to commission or build their own homes. Moreover, there would be economic benefits arising from its construction as well as long term economic benefit from the activities of the future occupants.
20. Paragraph 118 of the Framework also generally supports using suitable brownfield land within settlements for homes. The site falls within the definition of previously developed land in the Framework. Nevertheless, the definition does state that it should not be assumed that the whole of the curtilage of a permanent structure should be developed.
21. In combination these factors count in favour of the proposal. However, given its modest scale, they attract limited weight overall. Therefore, the public benefits do not surmount the great weight I must give to conserving the significance of designated heritage assets under paragraph 193 of the Framework.
22. Accordingly, I find that the proposal would fail to preserve or enhance the character and appearance of the setting of the CA and would be unacceptably harmful to the spacious rural character of the area. This would be contrary to policies DE1, EN5, EN10 and HA1 of the LP. Policy DE1 requires development to be of a high standard which includes design principles that require the consideration of the impact on the context and character of existing built characteristics. Policy EN5 only permits development when, amongst other matters, unacceptable impacts upon the landscape are avoided. Policy EN10

¹⁰ Appellant's rebuttal response to Council's statement emailed on 20.1.20

requires development which would affect the setting of conservation areas to, amongst other things, conserve those elements which contribute to their special character or appearance. Finally, whilst policy HA1, amongst other matters, provides some support for lower densities and larger homes, it nevertheless stipulates that these should be design-led such that they accord with the context and character of the local area.

Planning balance and conclusion

23. The Council does not dispute that it cannot demonstrate a 5-year supply of deliverable housing sites. Paragraph 11 of the Framework states that in these circumstances relevant policies for the supply of housing should not be considered up-to-date and the presumption in favour of sustainable development means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or (ii) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (the tilted balance).
24. Footnote 6 to paragraph 11 d)(i) indicates that the policies relating to designated heritage assets are relevant to its application. For the reasons already outlined above, I have found, having undertaken the balancing exercise set out in paragraph 196 of the Framework, that the proposal would result in harm to the significance of a designated heritage asset. As such this provides a clear reason for refusing the proposal in which circumstances the tilted balance in paragraph 11d)(ii) does not apply.
25. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹¹. The proposal would be unacceptably harmful to the spacious rural character and would fail to preserve or enhance the character and appearance of the CA. It would conflict with national and local policy on that basis.
26. There are benefits arising from the proposal including the provision of an additional dwelling to the housing supply where there is unmet demand in an accessible location. There would be short and long term economic benefits associated with the construction and the occupants of the additional dwelling. Moreover, the development would provide an opportunity for a self-build dwelling on previously developed land, and general support for both factors is given in the Framework. However, in light of the modest scale of the proposal, these benefits attract limited weight. Accordingly, the benefits arising from the proposal do not provide sufficient justification to find other than in accordance with the development plan policy.
27. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹¹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.