
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/19/3240733

**Land to the East of 58 Church Road and North of 44 Church Road,
Wanborough, Swindon SN4 0DA**

- 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 Fairwater Homes Ltd against the decision of Swindon Borough Council.
 - The application Ref S/19/0490/TB, dated 22 March 2019, was refused by notice dated 8 July 2019.
 - The development proposed is 2no. single-storey dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have taken the address of the appeal site from that used on the appeal form and decision notice as this is more specific than the address on the application form.

Main Issue

3. The main issue is the effect of the proposal on the character or appearance of the Upper Wanborough Conservation Area.

Reasons

Impact on Upper Wanborough Conservation Area

4. The appeal site is adjacent to, but outside of the Upper Wanborough Conservation Area (CA) with the exception of the access route. The CA covers large parts of the upper section of the village which is located in a rural setting on a promontory overlooking the low lying Thames Valley plain. Its significance is derived from a combination of factors which include the historic street pattern and layout of the village, its elevated rural setting allowing for views of the surrounding countryside, the prevalent use of local materials and the trees and greenery bounding roads and footpaths. These factors are amongst those described in the Upper Wanborough Conservation Area Appraisal and Management Plan, May 2006¹. I am mindful of my statutory duty² to pay

¹ Page 9, General Character Upper Wanborough Conservation Areas Appraisal and Management Plan

² Section 72 Planning (Listed Building and Conservation Areas) Act 1990

- special attention to the desirability of preserving or enhancing the character or appearance of the CA, including its setting.
5. The appeal site is at a lower level than Church Road and comprises an area of undeveloped land of scrub, grass, trees and hedgerows. Due to the presence of vegetation and absence of built form, it has a spacious and natural appearance. This, when combined with other nearby fields and vegetation, and its distance from the prevailing built form generally situated closer to Church Road, results in a peripheral edge of settlement character, which transitions into open countryside further to the north. Therefore, the position and appearance of the site has aesthetic value in that it forms part of the surrounding natural environment and rural setting of Upper Wanborough. Consequently, it contributes positively to the rural character and appearance of the area and the setting of the CA.
 6. The proposal would introduce two detached single storey dwellings with elongated linear footprints, which although of modest height, would encroach into an area that is generally free from built form. Furthermore, their siting behind, and at some distance from, the prevailing settlement pattern nearer to the road would erode the historic layout of this part of the settlement.
 7. Additionally, the proposal would extend an access drive within the CA further northwards, through an area identified as important green space on the conservation area map. When combined with the proposed notable area of parking and turning³ this would introduce urban characteristics that would be harmful to the rural appearance of the area and elements that contribute towards the significance of the CA.
 8. The appellants highlight that the design incorporates measures including a low profile that would respond to the topography of the site as well as boundary landscaping that would reduce the visual impact of the development, such that it would not be easily seen in public views. I have considered the generated site views⁴ from the north west and the site entrance that illustrate this. Nevertheless, some limited glimpses of parts of the development from Church Road would still be possible and it would be seen in private views from nearby properties along Church Road.
 9. Furthermore, a public right of way runs close to the eastern boundary of the site, with further footpaths to the west and northwest. I was able to observe the site from these footpaths at my site visit. Therefore, some sightings of the development would be possible from these routes, especially at times of the year when the boundary planting was not in full leaf.
 10. Notwithstanding the landscape plan⁵ showing the boundary hedgerow along the north-western boundary to be about 2 metres in height, it is likely that future occupants would wish to benefit from longer views from the extensive windows when sitting within the principal rooms or veranda of the dwellings. As such, the maintenance of the boundary treatment is likely to allow for this, which would in turn reduce its ability to shield the development from wider views.

³ Drawing reference 1360.101-D Site layout

⁴ Existing and proposed views 1 1360.110 & Existing and proposed views 2 1360.111-A

⁵ Drawing reference 3176_L_MP_0_01A

11. Moreover, I am not aware that the requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and its setting is restricted to the impact on the public domain.
12. Taking these factors together, 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. In reaching this view, I have had regard to the general design guidance in the Swindon Residential Design Guide, Supplementary Planning Document, June 2016.
13. 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 two additional family dwellings in a reasonably accessible location which would contribute towards the overall number and mix of the housing supply sought by policy HA1 of the Swindon Borough Local Plan 2026, March 2015 (LP).
14. There is no dispute between the parties that the Council is unable to demonstrate a five year supply of housing and that the shortfall is considerable. Therefore, the development would contribute towards this unmet need which weighs significantly in its favour which is reinforced by the reference in paragraph 68 of the Framework to the important contribution that small and medium sized sites can make to meeting the housing requirement of an area. Nevertheless, the overall benefit that would be accrued by the development is tempered by its limited scale and therefore, attracts moderate weight.
15. The appellant further refers to ecological and landscaping gains as a public benefit. However, these are matters that would be required in any event by other development plan policies and therefore, I am unconvinced that there would be a significant overall improvement in this regard. Furthermore, reference is made to the prestigious nature and contemporary design of the proposals. Nevertheless, given that I have identified concerns in relation to the visual impact of the proposal in this sensitive context, this does not carry weight as a public benefit.
16. Overall, the moderate weight of the public benefits does not surmount the great weight I must give to conserving the significance of designated heritage assets under paragraph 193 of the Framework.
17. My attention is drawn to a previous appeal decision⁶ for four houses which included the appeal site but also part of the paddock area within the CA adjacent. Notwithstanding the differences in the scale and form of the proposal, this is of some relevance. I have some similar concerns to the Inspector, in that the proposal before me would result in the loss of the undeveloped character of the appeal site which would be harmful to the rural setting of the CA. Although, in recognition of the reduced scale and different form of the

⁶ Reference APP/U3935/W/17/3168667

proposal before me, not to the same extent. In any event, I have considered the proposal on its own merits.

18. Reference is also made to extensions undertaken at 58 Church Road, the presence of which I observed in the foreground of some views from the nearby public footpaths at my site visit. I am not aware of the full circumstances of the planning history of the property nor the policies that applied at the time of their consideration. However, my observations confirmed that the location of the development is somewhat removed from the surrounding development pattern and its presence does erode the rural character and appearance of the area. Hence, it does not present a sound basis to permit further development adjacent to it.
19. I am further referred to a potential allocation for up to 20 houses in the Swindon Borough Local Plan Review⁷. However, this potential allocation, unlike the appeal proposal, would allow for a road frontage onto Kite Hill which is likely to result in the closer integration of built form with the surrounding established pattern of development. Moreover, the document is at an early stage in its preparation and therefore, will be subject to consultation and further scrutiny that may result in changes. Accordingly, it is of limited weight and does not lead me to find differently in relation to the merits of the appeal proposal.
20. Accordingly, I find that the proposal would fail to preserve or enhance the character and appearance of the setting of the CA. This would be contrary to policy EN10 of the LP which, amongst other matters, requires development which would affect the setting of conservation areas to conserve those elements which contribute to their special character or appearance. Furthermore, it would conflict with policy DE1 of the LP which requires high standards of design when assessed against specified design principles, including the consideration of the context and character of the area.

Other Matters

21. 46 and 54 Church Road are both Grade II listed detached cottages with thatched roofs, situated closer to Church Road than the appeal proposal. Their significance is principally derived from their aesthetic appearance and is a matter to which I have given special regard. Neither party suggests that the proposal would be harmful to the setting of these heritage assets. Based on the evidence before me, and on the distance the appeal site would be from these dwellings, I have no basis to find otherwise.
22. I have had regard to the representations received in support of the proposal and have considered the main issues raised in my reasoning above.

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

⁷ Policy LA 25 Land west of Kite Hill, Wanborough

- (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 otherwise⁸.
26. There are limited benefits arising from the proposal including the provision of additional dwellings 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 dwellings. Although of moderate weight, the benefits arising from the proposal do not provide sufficient justification to determine the proposal other than in accordance with the development plan and the Framework.
27. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.