



Appeal Decision

Site visit made on 28 January 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 26th February 2020.

Appeal Ref: APP/U3935/W/19/3239358

8 Wildern Square, Swindon, Wiltshire SN3 4RG

- 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 Sweeper against the decision of Swindon Borough Council.
 - The application Ref S/19/0596/CHHO, dated 29 March 2019, was refused by notice dated 29 May 2019.
 - The development proposed is a new dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area and the living conditions of neighbouring occupiers in respect of privacy, light and outlook.

Reasons

Character and appearance

3. Wildern Square has a strongly linear pattern of development, with dwellings arranged in stepped lines around a central square and the side roads branching off from it. The regular spacing, consistent building lines and general uniformity of design give the Square a distinct character which contrasts with the more varied and organic forms of development in surrounding streets.
4. The rear gardens of the host property others in the same row are relatively large compared to those in the surrounding area. Although the existing hedge screens views into the garden from the access road, the boundary fences between the appeal site and other properties in this row are quite low and allow for views across the gardens. This creates a sense of openness at the rear, which is not significantly affected by the presence of small outbuildings.
5. The proposal would introduce a 2-storey dwelling into this area, which does not currently contain any substantial buildings. Although the scale, materials and elevational details of the proposed dwelling would be similar to the surrounding properties, its detached form would be a marked change to the semi-detached and terraced dwellings which characterise the surrounding area. It would be clearly visible from Wildern Square above the hedge, as well as from the footpath to the rear, and would appear as an isolated structure without any clear relationship to the surrounding development. Consequently, the

proposed dwelling would be prominent and incongruous in this backland location and would detract from the openness of the rear gardens and the strong linear character of the Square.

6. There are new dwellings to the rear of 1 and 2 Wildern Square, however they are arranged alongside Ermin Street, with access from that road. As such, they are seen as part of the linear pattern of development along Ermin Street rather than as part of Wildern Square. Consequently, they are not directly comparable to the scheme before me, which I have considered on its own merits.
7. Accordingly, the proposal would result in significant harm to the character and appearance of the area and as such would conflict with Policy DE1 of the Swindon Borough Local Plan 2026 (LP) and the guidance in the Swindon Residential Design Guide Supplementary Planning Document 2016 (SPD) which, amongst other things, require high standards of design that take into account context and character. Furthermore, it would conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which requires, amongst other things, that development add to the overall quality of the area and be sympathetic to the surrounding built environment.

Living conditions

8. The SPD sets out minimum separation distances between dwellings as guidance to help avoid overshadowing and adverse impacts on privacy and outlook. Although the SPD does not specify distances for situations where the front of one dwelling faces the rear or side of another, as in this case, the principles are nevertheless helpful in assessing the impacts of new dwellings on neighbours.
9. The front of the proposed dwelling would be approximately 22 metres from the rear of Nos 7 and 8. This exceeds the 'rear-to-rear' distance between windows considered acceptable in the SPD and is similar to the distance between the neighbouring properties and the bungalows behind. As such, it would not result in a harmful level of overlooking between the windows of the existing and proposed dwellings.
10. The layout would however allow for views down into the rear gardens of Nos 7 and 8. Although some overlooking of neighbouring gardens is common in most residential areas, the sections of garden closest to these dwellings are currently enclosed by fencing and outbuildings. As such, they are not subject to any significant overlooking. The front bedroom of the proposed dwelling would have an elevated view down into these areas, resulting in a loss of privacy compared to the existing situation. As such, it would harm the living conditions of the occupiers of both properties. Although obscure glazing of the bedroom window would prevent this overlooking, it would also restrict the outlook from that bedroom and significantly compromise the living conditions of future occupiers. It would not therefore be an appropriate form of mitigation.
11. The proposed dwelling would be a large and prominent structure when seen from the rear garden of No 7. However, while it would dominate the outlook from the garden to the north the open aspect across the other gardens would remain. Consequently, while there would be some impact on the outlook from No 7, it would be relatively limited.
12. Although it would be approximately 12 metres away from 9 Wildern Square, the proposed dwelling would be sited directly in front of that property,

extending across almost all of its frontage. Consequently, it would be an overbearing structure that would dominate the outlook from the front windows of No 9 and obscure the existing open aspect across the gardens. Accordingly, it would substantially reduce the outlook from the front of No 9 and significantly harm the living conditions of the occupiers.

13. The proposed dwelling would be sited to the south-west of No 9 and would therefore result in shading of the front of that property in the early afternoon. It would however meet the minimum separation distance set out in the SPD which is designed to ensure good solar access for a minimum of 2 hours on the spring equinox. Light to the front of No 9 would only be restricted for a short period of the day and it would still benefit from sunlight in the morning and evening. As such, while there would be some loss of light it would not result in a significant adverse impact on the living conditions of the occupiers of No 9.
14. Furthermore, any potential overlooking from the bathroom windows in the side elevation of the proposed dwelling could be mitigated by obscure glazing, such that there would be no significant adverse impact on the privacy of No 9.
15. Accordingly, while I have found that the proposal would not result in harm to the living conditions of neighbours in respect of light, it would result in significant harm to the living conditions of Nos 7 and 8 in respect of privacy and of No 9 in respect of outlook. It would therefore conflict with LP Policy DE1 insofar as it requires high quality design that protects amenity, and with Framework paragraph 127 which requires development to ensure a high standard of amenity for existing and future users.
16. The appellant contends that the proposed dwelling would have a similar relationship with its neighbours to that of the dwellings behind Nos 1 and 2. I do not however have the details of the circumstances by which those properties came to be built. In any event, I saw at my site visit that the former gardens of Nos 1 and 2 are substantially larger than the appeal site and that there is a degree of communal space between the new and existing dwellings on that site. Consequently, I cannot be certain that they are comparable to the scheme before me, which I have considered on its own merits.

Planning Balance and Conclusion

17. The appeal site is a residential garden in a built-up area, so does not meet the Framework definition of previously developed land. The proposal would provide a family dwelling in a location with good access to services, facilities and public transport. As such it would comply with the Framework objectives to boost housing supply and support small windfall sites. It would not however achieve the objectives of achieving high quality design and a high standard of amenity.
18. Given the modest scale of the development proposed, the benefits of one additional dwelling would be commensurately modest, such that they would be comfortably outweighed by the significant harm identified to the character and appearance of the area, the living conditions of neighbours and the associated development plan conflict. Therefore, the appeal is dismissed.

L McKay

INSPECTOR