
Appeal Decision

Site visit made on 9 September 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/Y3940/W/20/3253549
79 & 81 Station Road, Westbury BA13 3JS

- 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 Christina Swan against the decision of Wiltshire Council.
 - The application Ref 20/01519/FUL, dated 20 February 2020, was refused by notice dated 16 April 2020.
 - The development proposed is one, 3 bed bungalow with parking, EV charging & replacement garaging for No.81 Station Road. Resubmission of 19/07894/FUL.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the appeal address in the banner heading above to reflect that on the appeal form and decision notice, as this more accurately describes the position of the site than detailed on the planning application form.
3. The appellant has raised concern with the manner in which the Council determined the application subject of this appeal and queries whether they have complied with Paragraph 38 of the National Planning Policy Framework (the Framework). They suggest that the Council did not act in a proactive way including not agreeing to an extension of time or undertaking a site visit for this particular application and not notifying the appellant of concerns in a timely manner. However, this is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.

Main Issues

4. The main issues are the effect of the proposed development on i) the character and appearance of the area; and ii) living conditions of occupiers of neighbouring properties with regard to noise and disturbance.

Reasons

Character and appearance

5. The appeal site comprises parts of the rear gardens serving Nos 79 and 81 Station Road, with associated access proposed between the properties. Although there is some difference in the position of dwellings in relation to the road, generally surrounding development maintains a frontage to the public

- domain. The appeal proposal seeks to add a 3 bedroom bungalow within the rear gardens of these properties, with associated garaging and turning facilities for the new property and No 81. As such the dwelling would be in a backland location with an access drive between Nos 79 and 81.
6. The new dwelling would not have a street frontage and to my mind would not respect the established and distinctive pattern of development within Station Road, where the vast majority of dwellings maintain a strong frontage facing the road and public domain. The introduction of the appeal development setback from frontage properties would be evident from neighbouring gardens and would be visible between existing development. Noting this, coupled with the intensity and nature of the proposed use, the appeal development would cause significant harm to the largely undeveloped character enjoyed to the rear of surrounding residential development.
 7. I am not persuaded, in isolation, that the associated alterations to the vehicular access would cause unacceptable detriment to the character of the street scene. However, when considered as a whole, I consider the appeal development would represent a conspicuous addition introducing a dwelling within an established garden environment with little relationship with the public domain. This would be at odds with the predominant character and form of residential development in the surrounding area and would represent discordant built form in its context.
 8. I acknowledge a number of examples have been provided by the appellant where they consider that similar development has previously been allowed. These include bungalows at the immediately neighbouring site of Merlin Court, although despite their setback from the road they maintain a frontage with the shared parking court and with the public domain. On the evidence before me although a dwelling has been allowed within the garden of 85 Station Road, this would be to the side of the host property and address the public domain.
 9. Whilst I acknowledge that some backland development has occurred in the wider area and the subdivided plot sizes would be similar to some nearby plots, I do not find that such development is a predominant or overriding characteristic of the area. From the information before me, a number of the further quoted examples are not within the same street or within the immediate vicinity of the site. In any event, on the evidence before me, I am not satisfied that the circumstances are directly comparable to the site in question, including the pattern or character of development and relationship with the public domain. Notwithstanding this, I have determined the appeal on its individual planning merits and within its particular context. As such the referenced examples do not alter my findings that the proposal would be at odds with the character of existing built form.
 10. I acknowledge that there are existing outbuildings on the site and the contention that further structures could be added under permitted development rights. However, I am not persuaded that the form, characteristics and associated impact of existing or any suggested structures under permitted development rights are, or would be, commensurate to that proposed under this appeal. Whilst I note reference to an application where the Council has considered the relative size of potential structures erected under permitted development rights with proposed development on a different site, I have considered the appeal proposal on its individual merits. Furthermore, I have no

evidence to consider that there is greater than theoretical possibility that such further buildings would be erected. As such I am not persuaded that these matters raised outweigh the harm I have identified above.

11. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area and would be contrary to the provisions of Core Policy 57 of the Wiltshire Core Strategy 2015 (CS), that seeks amongst other things, to ensure that development responds positively to townscape in terms of building line and layout.

Living conditions

12. The proposal would result in the provision of an access road immediately adjacent to the amended boundaries with Nos 79 and 81. The appeal proposal would introduce an independent 3 bedroom property coupled with revised parking facilities serving 81 Station Road. To my mind therefore the appeal proposal would likely result in additional comings and goings, largely out of control of occupiers of the host properties. Owing to the position of the access road, the proposal would result in additional vehicular movements immediately adjacent to, and along much of the depth and rear of, gardens serving these properties. Given its location it would be difficult for users of the revised gardens of Nos 79 and 81 to avoid noise and disturbance arising from the traffic movements that would be introduced. Additionally, the parking and turning areas would also result in additional noise and disturbance from manoeuvring vehicles and people entering and leaving vehicles to the rear of the aforementioned properties and No 83.
13. Although I note that there is an existing drive and garage serving No 81 and the suggestion that occupiers of existing properties could have additional cars or altered parking arrangements, I am not persuaded that these matters would result in a commensurate impact to the introduction of a wholly new dwelling at the site.
14. Whilst I note that existing road noise is experienced within the rear gardens, this does not, to my mind, result in a presumption for development that would result in likely increase in noise and disturbance and detriment to living conditions of occupiers of neighbouring dwellings. I also acknowledge that the proposal would include electric charging points and the suggestion that future occupiers would utilise electric vehicles. However, I am not persuaded that the use of such vehicles could be satisfactorily controlled or that this would adequately alleviate all potential forms of disturbance. As such this does not outweigh the harm I have identified above.
15. For the above reasons, I conclude that the proposal would cause significant harm to living conditions of occupiers of 79 and 81 Station Road. As such it would be at odds with the provisions of Core Policy 57 of the CS which seeks, amongst other things, that proposals will have regard to impact on the amenities of existing occupants including the consideration of noise pollution.

Other Matters

16. Whilst I acknowledge that the revised access arrangements may remove reversing manoeuvres from the site, I have not been provided with any objective evidence that indicates that the existing arrangement results in unacceptable risk to highway safety. Whilst noting this and the suggestion that

the proposal meets relevant highway standards, I am not persuaded that this outweighs or alters my findings on the main issues.

17. Although the appellant indicates that modifications were suggested to the LPA prior to determination of the application, I have determined this appeal on the basis of the submitted plans and their planning merits.

Planning Balance

18. It has been brought to my attention that the Council cannot currently demonstrate a five year supply of land for housing development. It follows by virtue of footnote 7 to paragraph 11 of the Framework that the tilted balance applies.
19. For the reasons detailed above, I have found that the appeal development would be harmful to the character and appearance of the area and living conditions of occupiers of neighbouring properties. This has led to conflict with Core Policy 57 of the CS as detailed previously. I consider that this policy constitutes the most important policy as referred to by paragraph 11(d) of the Framework. I further consider that this policy is consistent with the Framework, including paragraph 127 relating to design and the living conditions aims of chapter 15, and as such is not out of date for the purposes of paragraph 11. It follows that the identified conflict carries full weight.
20. Against the harm and conflict with the development plan outlined above has to be balanced the benefits of the proposal. These would be in the form of one new dwelling that would add to the Council's five year supply and be a positive factor in terms of the social limb of sustainability. There would also be benefits in terms of the economy including during construction, purchase of materials and ongoing household expenditure.
21. However, when assessed against the policies in the Framework taken as a whole, the adverse impacts would, to my mind, significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

Conclusion

22. For all the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR