



Appeal Decision

Site visit made on 4 August 2020 by Alex O'Doherty LLB(Hons) MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/U3935/W/20/3252156

22 Dunley Close, Swindon SN25 2BL

- 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 S Melville against the decision of Swindon Borough Council.
 - The application Ref S/19/0742/SASM, dated 13 May 2019, was refused by notice dated 14 February 2020.
 - The development proposed is the erection of 1 No. dwelling and associated works.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. In addition to visiting the appeal site, the Appeal Planning Officer also viewed the appeal site from the garden of No 32 Dunley Close.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area, including its effect on trees;
 - the effect of the proposal on the living conditions of the occupants of No 32 Dunley Close, with particular reference to light, privacy, and outlook; and
 - whether the proposed development would provide acceptable living conditions for the occupants of No 22 Dunley Close, and future occupants of the appeal property, with regard to the provision of private amenity space.

Reasons for the Recommendation

Character and appearance

5. The appeal site comprises a semi-detached house, its garden, and a driveway which contains a garage and a partially enclosing wall which abuts the road. A pleasant tree-lined pathway lies directly in front of the property. Dunley Close is a high density modern housing estate, where there is some variation in house styles within the vicinity of the appeal site.

6. The tight-knit character of the area surrounding the appeal site is in evidence when viewed from the pathway in front of No 22 Dunley Close ('No 22'), and whilst there is variation in styles, there is a distinct commonality in terms of scale. Although detached, the new dwelling would be sited in close proximity to the host property and would be likely to be viewed as a continuation of the buildings of which No 22 forms part. Moreover, its design would largely replicate No 22, but on a smaller scale. Whilst the plot size is small, it would be similar to both that of the host property and several other nearby properties. Given the existing landscaping within the locality, the removal of a tree from the appeal site would not cause harm. Accordingly, in this context, the proposed new dwelling would not appear cramped within its plot or out-of-keeping with the character and appearance of the area.
7. I therefore conclude that the proposal would respect the character and appearance of the area, in accordance with Policy DE1 of the Swindon Borough Local Plan 2026 (adopted 26 March 2015) ('Local Plan') which provides that proposals for development should address the objectives of sustainable development through high quality design and place-making principles, including the quality of the public realm. The proposal would also comply with the Swindon Residential Design Guide Supplementary Planning Document (2016) ('SPD') which sets out that infill development must respect the existing character of the surroundings, and with the National Planning Policy Framework's ('the Framework') requirement that planning decisions should ensure that developments are sympathetic to local character.

Living conditions: No 32

8. The proposed new dwelling would be positioned in very close proximity to the boundary fence with No 32 Dunley Close ('No 32'). Given the design and proposed orientation of the new dwelling to the rear of No 32 and its rear garden and its design, it is unlikely that it would result in a loss of daylight or sunlight reaching these areas to the degree that would make them less pleasant to spend time in. The garden and rear rooms would be likely to receive acceptable levels of daylight and sunlight for large parts of the day, once the new dwelling had been constructed.
9. The proposed new window in the side elevation of the proposed property would be set at a similar height as the existing window at No 22 facing the garden of No 32, but would be much closer to the garden of No 32. Nevertheless, conditions could be imposed requiring that the window is obscure-glazed and non-opening. Considering this, and the small size of the window, I do not consider that it would cause material harm with respect to any perception of a loss of privacy.
10. However, although the separation distance between the new dwelling and No 32 may comply with the measurements within the SPD, the proposal would result in a tall and wide mass along much of the rear boundary of No 32. The scale of the dwelling and its proximity with the party boundary would result in a tall, imposing structure which would be intrusive and dominant in the outlook from the rear rooms to this property. Moreover, it would have a significant enclosing effect upon the rear garden when combined with the large outbuilding / garage in the garden of No 32. As a consequence of the new dwelling, it would be likely that the rear rooms and rear garden of No 32 would be less pleasant to use.

11. Given my findings, I conclude that the proposal would have an unacceptable and harmful effect on the living conditions of the occupants of No 32 Dunley Close, with particular reference to outlook. The proposal conflicts with the aims of Policy DE1 of the Local Plan which amongst other matters requires that development is of a high quality design which respects the amenity of users of existing development. Moreover, the proposal conflicts with the guidance given in the SPD which sets out that overbearing and bland walls are not acceptable in terms of outlook, and with the Framework's requirement that planning decisions should ensure that developments create places with a high standard of amenity.

Living conditions: No 22 & appeal property

12. It is common ground that the proposal complies with the guidance in the Council's SPD's in relation to the minimum requirements for private amenity space. I observed that the amenity area for No 22 would be of an acceptable size, post-construction, due to the amount of garden space that would remain. The amenity area available at the appeal property would be of similar proportions, and so would also be acceptable.
13. I therefore conclude that the proposal would have an acceptable effect on the living conditions of the occupants of No 22 Dunley Close, and future occupants of the appeal property, with regard to the provision of private amenity space. In this respect, the proposal would comply with Policy DE1 of the Local Plan which provides that proposals for development should address the objectives of sustainable development through high quality design and place-making principles, including amenity, in respect of space. The proposal would also comply with the SPD's guidance that developments must deliver sufficient space to provide comfort and enjoyment, and promote good health and well-being, and with the Framework which has similar objectives in this regard.

Other Matters/Planning Balance

14. The proposal is acceptable in relation to the efficient use of land, matters of density, internal living space, car parking, access, noise and disturbance, flooding, and ecology, however these are neutral factors because they would be expected of any well-designed development.
15. The new dwelling would be in an accessible location and would make a small contribution to the Government's objective of significantly boosting the supply of homes, and to any shortfall in the Council's 5 year supply of housing. This is a matter to which I attach moderate weight.
16. The proposal would create employment opportunities including for construction professionals and may promote increased spending within the local economy with respect to construction materials and other goods and services. Future residents would also contribute to the local economy and to tax revenues. However, such economic benefits would be small given the quantum of development in this case.
17. In terms of future Community Infrastructure Levy payments, the Planning Practice Guidance advises that *'Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for*

*a local authority or other government body.*¹ In this case I find that such a contribution would not make the proposal acceptable because of the harm that would result to nearby occupiers.

18. Although the matters advanced in support of the proposal would be in compliance with some of the Council's development plan policies, and national planning policies, they would not, either individually or collectively, outweigh the harm I have identified to the living conditions of the occupants of No 32 Dunley Close. Therefore, the overall conflict with the development plan would remain.
19. The allegations of bias made against Councillors is not something that can be considered in the context of a planning appeal.

Conclusion and Recommendation

20. Whilst I have found the proposal to be acceptable in relation to matters of character and appearance and the living conditions of the occupants of No 22 Dunley Close and future occupants of the appeal property, this does not overcome the harm caused by the proposal to the living conditions of the occupants of No 32 Dunley Close. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

Alex O'Doherty

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR

¹ Paragraph: 011 Reference ID: 21b-011-20140612