
Appeal Decision

Site visit made on 18 August 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/Y3940/W/20/3254555

19 Milbourne Park, Milbourne, Malmesbury SN16 9JE

- 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 & Mrs Payler against the decision of Wiltshire Council.
 - The application Ref 20/01994/FUL, dated 4 March 2020, was refused by notice dated 27 April 2020.
 - The development proposed is for the subdivision of existing plot and construction of a new two bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development is appropriately located, with particular regard for the settlement strategy for the area and the effect on the character and appearance of the surrounding area; and
 - the effect of the proposed development on the living conditions of neighbouring occupants, with particular regard for privacy.

Reasons

Location of development / Character and appearance

3. The appeal site forms part of the rear garden area for 19 Milbourne Park, which is a detached dwelling located on the south western edge of the settlement of Milbourne. The rear garden area is bordered by open agricultural fields to the west and extends to adjoin an unnamed rural laneway to the south with a verdant tree lined character. Secondary access to the site is currently obtained from the laneway for the parking of a caravan on site.
4. Core Policy 1 of the Wiltshire Core Strategy (CS) (adopted January 2015) sets out the settlement strategy for the county. The strategy identifies the most sustainable locations for development by defining 'limits of development' and categorising them into four tiers of settlement: Principal Settlements; Market Towns; Local Service Centres; and Large and Small Villages. The purpose of the strategy is to ensure each settlement maintains its strategic role and function to support the region. Small Villages are specifically identified as falling outside the defined limits of development and therefore offer limited opportunities for development. Milbourne is categorised as a Small Village.

5. Core Policy 2 of the CS details more specific criteria for development outside the defined limits of development. With regard to Small Villages, the policy states that development will be limited to infill within the existing built area, which for the purposes of this policy is defined as the filling of a small gap within the village. The policy goes on to offer support where proposals seek to meet the housing needs of the settlement. This is subject to certain criteria, of which the most relevant to this appeal are that the development should respect the existing character and form of the settlement and should not elongate the village.
6. The appellants refer to Policy H3 of the North Wiltshire Local Plan (LP) (adopted June 2006) and suggest that it is a saved policy which remains applicable. The policy relates to residential development within defined 'framework boundaries'. Milbourne, including the appeal site, were previously identified within a framework boundary under this policy. The Council have not described Policy H3 as a saved policy and no evidence has been supplied by the appellants to demonstrate that this is the case. Nevertheless, Core Policy 1 of the CS sets out the current settlement strategy for the area and excludes the village of Milbourne outside of any defined limits of development. Therefore, in planning terms, the appeal site would be located within the open countryside and Policy H4 of the North Wiltshire LP would apply as identified by the Council. I have proceeded to determine the appeal on this basis accordingly.
7. Following the criteria set by Core Policy 2, Core Policy 57 more generally relates to the design of development. It seeks, amongst other things, to ensure development achieves a high standard of design which responds positively to the character and appearance of a site and its setting, including surrounding patterns of development and landscape features.
8. The appeal site, along with the rear garden areas immediately to the north, form a contiguous buffer of land which serves as a visual transition between the open characteristics of the agricultural fields to the west and the distinct pattern of dwellings fronting Milbourne Park, including The Bungalow fronting the unnamed laneway. This line of built form naturally defines the built extent of the settlement, with the open characteristics of the rear gardens sharing a closer visual relationship to the adjoining agricultural fields. The verdant character along the unnamed laneway to the south further reinforces the visual transition between the built up parts of the village and the surrounding landscape character of the countryside, notwithstanding the current boundary fence and gate at the appeal site.
9. The proposed development would not comfortably fall within the parameters for infill development as set by Core Policy 2 of the CS. In my view, the location of the proposed dwelling would breach the built extent of the settlement and unduly encroach within the transitional buffer preserved by the appeal site and adjoining open rear garden areas to the north. As such, the proposal would not appear to be located within the existing built area of the settlement, nor fill a small gap within the village.
10. The narrow width of the appeal site is such that although the proposed dwelling would elongate the built extent of the existing village, it would not be to a significant degree. Notwithstanding this, the irregular shape of the appeal site, the location of the proposed dwelling on the shared boundary with No 19 and the scale of the building footprint within this portion of the site would appear

cramped and uncomfortable within this setting. The predominant plot layout for detached dwellings throughout the village, including the existing infill development sites identified by the appellants, maintain a degree of spaciousness and circulation around dwellings and the shared boundaries with neighbouring properties. Conversely, the proposed development would result in a significantly harmful development pattern which would be at odds with the character and appearance of the predominant built form and plot layout throughout the settlement. I note that the appeal before me is a revised scheme which seeks to address previous refusals and appeal dismissals. However, whilst an improvement upon those previous schemes it would still amount to significant harm as described.

11. The Council have also expressed concerns regarding the impact upon existing trees and landscaping on the appeal site as a result of the proposal. However, I am satisfied that the proposal seeks to preserve this vegetation and that the matter could be dealt with by way of suitably worded conditions, along the lines of those suggested by the Council's Tree Officer and the appellants, were planning permission to be granted. This matter is therefore neutral in my overall consideration of this main issue.
12. Accordingly, the appeal proposal would be at odds with the settlement strategy for the area and would harm the character and appearance of the surrounding area. It would conflict with Core Policies 1, 2, 13 and 57 of the Wiltshire CS, saved Policy H4 of the North Wiltshire LP, Tasks 8.1, 8.4 and 8.5 of the Malmesbury Neighbourhood Plan (NP) Volume II – Design Guide (made February 2015), and Paragraphs 127 of the National Planning Policy Framework (the Framework). Collectively, these policies set out the settlement strategy for the county and seek to ensure development is designed to complement the local character and appearance of the surrounding area, amongst other things.

Living conditions

13. The Council have suggested that the proposed dwelling would overlook habitable rooms at both No 19 and The Bungalow to the south, and therefore harm the level of privacy experienced by existing occupants. However, the single storey nature of the appeal proposal means that views between the dwellings would be limited, due to the location of the windows and the boundary treatment between the dwellings and the proposal.
14. I observed during my site visit that the existing boundary fence was tall and close boarded, which along with established landscaping significantly obscured such views between the appeal site and The Bungalow. The proposed plans indicate that this interface would remain as part of the proposed development. As such, the proposal would not in my view result in a harmful loss of privacy for occupants at The Bungalow. Similarly, no windows from the proposed dwelling would face the dwelling at No 19. The dwelling will form part of the boundary separating the appeal site from No 19, with the remainder of the boundary comprised of fencing consistent with that already present on the appeal site. It is therefore unlikely that a harmful degree of overlooking and subsequent loss of privacy for the occupants of No 19 would occur as a result of the proposed development.
15. Interested parties have also suggested that the proposed dwelling would introduce some overshadowing, noise and disturbance for occupants at The Bungalow due to the close proximity of the proposal. However, such proximity

would not be dissimilar to the prevailing development pattern of the settlement and would not in my view be likely to lead to a harmful increase in noise and disturbance. Furthermore, the northern siting of the proposed dwelling as well as its single storey flat roof form means that it would not result in any overshadowing of The Bungalow. As such, I am equally satisfied that no harm would result to the living conditions of neighbouring occupants as a result of these concerns either.

16. Accordingly, the proposed development would not harm the living conditions of neighbouring occupants, with particular regard for privacy. It complies with Core Policy 57 of the CS, Tasks 8.1, 8.4 and 8.5 of the NP, and Paragraphs 127 of the Framework. These policies collectively seek, amongst other things, to ensure development achieves a high quality design which does not harm the living conditions of existing occupants on neighbouring properties.

Other Matters

17. The examples of infill development adjoining the unnamed laneway do not serve as appropriate justification for allowing visually harmful development within the rear garden of No 19 as proposed. The particular circumstances of those cases appear to differ from those under consideration as part of this appeal and were accordingly determined on their own merits. I have done the same with this appeal based on the evidence before me.

Planning Balance

18. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I have assessed the appeal proposal against the policies of the Wiltshire CS, saved parts of the North Wiltshire LP, and the Malmesbury NP which collectively form the development plan. I have identified significant conflict with the settlement strategy for development and substantial harm to the character and appearance of the surrounding area.
19. The parties agree that the Council are unable to demonstrate a five year housing land supply. As such, Paragraph 11(d) of the Framework is engaged as the policies which are most important for determining the appeal, being those that relate to housing supply, are out-of-date. In this regard, I give moderate weight to the small contribution this proposal as a single dwelling would make to the area's housing land supply.
20. The other suggested benefits of the appeal proposal, including its proximity to Malmesbury and revised design compared to the previously proposed schemes, are given limited weight and as such would not outweigh the harm identified. The lack of harm with respect to the living conditions of neighbouring occupants and tree protection are considered to have a neutral effect as it is a matter of policy compliance.
21. When assessed against the policies in the Framework taken as a whole the adverse effects of the proposal would significantly and demonstrably outweigh the benefits. The Framework upholds the need to ensure development is appropriately located to support sustainable settlement patterns and functions and achieves a high standard of design which is sympathetic to local built form patterns and landscape characteristics. It is therefore my judgement, on balance, that the identified harm and conflict with the development plan is not outweighed by the other material considerations.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

J Gibson

INSPECTOR