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## Appeal Decision

Site visit made on 2 February 2021

**by Helen O'Connor LLB MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 February 2021**

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**Appeal Ref: APP/Y3940/W/20/3261340**

**Land at Four Seasons Lodge, 59a Chelworth Road, Cricklade SN6 6HL**

- 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 V Mobey against the decision of Wiltshire Council.
  - The application Ref 20/03931/FUL, dated 12 May 2020, was refused by notice dated 19 August 2020.
  - The development proposed is the erection of 1 No new dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:

- Whether the proposed dwelling would be in a suitable location having regard to local planning policies;
- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the living conditions of existing and future residents having regard to privacy and provision of garden space, and;
- If harm arises, whether this is outweighed by other material considerations.

### Reasons

#### *Location*

3. Core Policies 1 and 2 (CP1 and CP2) of the Wiltshire Core Strategy, January 2015 (CS) respectively set out a settlement and delivery strategy for development in the county. This seeks to direct residential development to settlements at a scale commensurate with their position within the four tier hierarchy described in the CS. Cricklade is identified as a local service centre within the hierarchy and its settlement boundary is confirmed in the Cricklade Neighbourhood Plan 2026, made March 2018 (NP). Both CP2 of the CS and policy H1 of the NP stipulate that residential development is not supported outside of the defined settlement limit save for express exceptions in the development plan.
4. The appeal site lies adjacent to, but outside of the settlement boundary for Cricklade and is therefore, treated as open countryside for the purposes of the

development plan. It is not part of the appellant's case that the proposal would meet any of the express exceptions for dwellings outside of the defined limits of settlements in either the CS or saved policy H4 of the North Wiltshire Local Plan 2011, June 2006 (NWLP).

5. The appellant provides copies of several appeal decisions<sup>1</sup> involving residential development that was permitted. However, amongst other differences, these examples concern other local planning authorities and therefore, the development plan policies in force were different to those which I must consider in this case. It follows that they are of little relevance in this regard and so attract a commensurate level of weight. I shall balance the respective merits of the appeal case later in my decision.
6. Therefore, I find that the appeal site would not provide a suitable location for the proposal having regard to local planning policies as it is located outside of the defined settlement boundary for Cricklade. As such, it would conflict with the settlement and delivery strategy for the county set out in Core Policies 1 and 2 of the CS, as well as the Royal Wootton Bassett and Cricklade Area Strategy in Core Policy 19 of the CS. As it would fall outside of the exceptions permitted by saved policy H4 of the NWLP, it would be contrary to that policy. Furthermore, it would not accord with policy H1 of the NP which states that development will not be supported outside of the settlement boundary unless specifically allowed by policies in the development plan.

#### *Character and appearance*

7. The appeal site is in a peripheral location on the south west side of Cricklade close to agricultural land. Residential properties in the immediate vicinity are mostly detached two storey dwellings set fairly close to the road and within generous grounds with established planting. On the northern side of Chelworth Road and its junction with The Fiddle I was able to glimpse nearby fields in gaps between the dwellings which reinforced its peripheral character. Residential development extends further westwards along the southern side of Chelworth Road but this contrasts with the northern side. My observations on the approach to the settlement were that the bend in the road and prominent position of 59 Chelworth Road signifies the edge of the built-up area on the northern side. Notwithstanding that Four Seasons Lodge (No. 59a) is sited further westwards, its single storey nature and considerable setback from the road reinforces this impression. In combination, these factors give a spacious, verdant, semi-rural character and appearance to the area.
8. The appeal site comprises part of the grounds to No. 59a, a detached single storey dwelling that originated as a domestic outbuilding. The land is predominantly laid to grass and the absence of built form combined with the front boundary hedgerow means that it makes a positive contribution towards the spacious, verdant rural edge of the settlement.
9. The proposal would introduce a detached bungalow, the physical presence of which would erode the open character of the land. Although the site presently forms part of the domestic grounds for No. 59a, an additional house would increase the amount of activity and concentration of associated vehicles and domestic paraphernalia at the site. This would further dilute the verdant spacious qualities of the site. The position of the land at the edge of the

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<sup>1</sup> Referenced APP/U1105/W/18/3195007; APP/B3030/W/17/3169590 & APP/N1350/W/18/3208188

settlement adjacent to agricultural land means its character would be sensitive to such impact which would exacerbate the degree of harm.

10. Furthermore, the information provided fails to show how the proposal would relate positively to its landscape setting and the existing pattern of development as required by Core Policy 57 of the CS (CP57) to ensure high quality design. Its siting and form would not follow the prevailing pattern along this section of Chelworth Road whereby two storey dwellings generally follow its alignment with a limited set back. Moreover, it would have a somewhat functional and ordinary appearance with few distinctive features. Whilst these design cues may be taken from No.59a, unlike that building, the proposal would not convert an existing outbuilding. Neither would it share such inobtrusive siting as by comparison, it would be closer to the road and notwithstanding the front boundary hedgerow, it would be visible from the access.
11. Consequently, the design proposed would lack identity and would fail to be sympathetic to local character and history, including the surrounding built environment and landscape setting as required by paragraph 127 c) of the National Planning Policy Framework (the Framework). Whilst additional planting, boundary treatments and the single storey nature of the proposal would assist in limiting the harm, they would not overcome my concerns entirely.
12. The appellant highlights that the appeal site neither constitutes planned open space nor forms part of a designated landscape. Be that as it may, it does not mean that it does not possess a character that is worthy of protection and I have identified that its peripheral location makes it particularly sensitive. Core Policy 51 (CP51) of the CS requires development to protect, conserve and where possible enhance landscape character and expressly refers to the transition between man-made and natural landscapes at the urban fringe.
13. Accordingly, I find that the proposal would result in unacceptable harm to the character and appearance of the area contrary to CP51 and CP57 of the CS.

#### *Living conditions*

14. The Council raises concerns of overlooking between the proposal and No. 59a. However, the single storey elevation of the proposal that faces towards that property contains a back door serving a utility room and a bathroom window, neither of which are primary rooms. Furthermore, there would be a reasonable separation distance between the respective dwellings, with a detached garage building in the intervening space. The proposed ground floor plan<sup>2</sup> shows both the door and window align with the garage rather than directly facing the large windows<sup>3</sup> in No.59a. In addition, a normal domestic fence along the boundary could be secured. These measures would prevent intrusive views between the dwellings or disturbance from movement and would therefore, reasonably safeguard the privacy of both the existing residents at No. 59a and future residents of the proposal.
15. The proposal would considerably reduce the available garden space to No.59a. Nevertheless, sufficient space would remain within the forecourt and sides of the building and behind the detached garage to reasonably allow for sitting out,

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<sup>2</sup> Drawing no. LPC 1159 PR 03

<sup>3</sup> Photographs Appendix 4, Page 38, Council's Appeal Statement

drying of clothes and a range of gardening or play activity. The Council acknowledge that there is no development plan policy or adopted guidance that establishes a minimum size or other requirements for gardens. CP57 does require a high standard of design and includes reference to development achieving appropriate levels of amenity. However, it does not necessarily follow that because the space provided may be smaller than the generous provision at other nearby dwellings that this would unacceptably compromise the living conditions of the residents at No. 59a. The information before me does not show that it would fall below the requirement of paragraph 127 f) of the Framework to achieve a high standard of amenity for existing and future users.

16. The configuration of the proposed development would retain reasonable separation distance between the driveway and the proposed garden area and dwelling. It would also provide room for planting and screening that would avoid unacceptable overlooking from residents accessing No.59a by foot or vehicle. Moreover, the existing dwelling would be unlikely to generate significant levels of vehicle movement. As such, there is little substantive evidence to show that it would result in unacceptable levels of disturbance from noise or light to occupants of the proposed bungalow.
17. Therefore, I find that the proposal would not result in unacceptable harm to the living conditions of existing or future residents having regard to privacy and provision of garden space. It follows that I find no conflict with the relevant criteria in CP57 of the CS to provide an appropriate level of amenity, nor policy H3 of the NP which, amongst other things, seeks to ensure that new housing safeguards the amenities of surrounding residential properties and provides private outdoor space.

#### *Other considerations*

18. The proposal would provide an additional bungalow which would assist in boosting the supply and mix of housing in the area. Recognition is given to the important contribution small sites can make to meeting housing requirements in paragraph 68 of the Framework. In addition, it would allow good access to a range of services and facilities in Cricklade meaning that occupants would have a genuine choice as to means of travel other than the car. These are important factors that weigh in favour of the proposal. Furthermore, there would be economic benefits associated with the construction and activity of future occupants, and the development would generate some revenue for the Council. Even so, the extent of the benefits accruing from a single dwelling would be limited. Therefore, overall, I attribute moderate weight to these benefits.
19. Reference is made to the absence of harm to designated heritage assets and landscapes, the Green Belt, biodiversity, protected species, trees or arising from flood risk and contamination. These, where relevant to the scheme before me, would be required to make the development policy compliant, and therefore, they are neutral factors in the overall balance.

#### **Planning balance and conclusion**

20. The Council cannot demonstrate a five year supply of deliverable housing sites. The information provided refers to a shortfall in supply of between 4.42 and 4.62 years<sup>4</sup> supply. In these circumstances footnote 7 of paragraph 11 of the

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<sup>4</sup> Council's Case Officer's Report

Framework deems that the policies which are most important for determining the application are out-of-date. There is nothing otherwise before me to show that the Framework policies in footnote 6 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless 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.

21. Although I did not find harm would result to the living conditions of existing or future residents, there would be harm to the character and appearance of the area. The Framework stipulates that good design is a key aspect of sustainable development<sup>5</sup>. Therefore, the conflict with CP51 and CP57 of the CS which are consistent with the Framework in this regard attracts significant weight.
22. Moreover, although the Framework does not preclude development in rural areas, it states that rural housing should be located where it will enhance or maintain the vitality of rural communities<sup>6</sup> which supports the general thrust of the settlement and delivery strategies in the CS. However, the shortfall in housing supply and good accessibility of the site reduces the weight given to the conflict with Core Policies 1, 2, 19 of the CS and policy H1 of the NP, although this is tempered by the relatively modest shortfall in supply. Therefore, overall, the conflict with those development plan policies attracts moderate weight.
23. Taking these factors together, significant weight is given to the harm arising from the conflict with the policies of the development plan taken as a whole.
24. I have had regard to paragraph 14 of the Framework which states that in situations where paragraph 11 d) applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits subject to specific criteria. One of these is that the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made. That is not the case in relation to the NP which was made in March 2018 and therefore, this has not affected the overall planning balance.
25. Nevertheless, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
26. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise<sup>7</sup>. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

*Helen O'Connor*

Inspector

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<sup>5</sup> Paragraph 124 NPPF

<sup>6</sup> Paragraph 78 NPPF

<sup>7</sup> Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.