



Appeal Decision

Site visit made on 9 February 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/U3935/W/20/3260250

Brooklyn Lodge, Broad Bush, Blunsdon, Swindon SN26 7DH

- 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 N Ball against the decision of Swindon Borough Council.
 - The application Ref S/20/0519/RACH, dated 24 April 2020, was refused by notice dated 29 July 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 the effect of the proposal on:
 - The character and appearance of the area, including consideration of the extent to which there may be coalescence with the new mixed-use development at Kingsdown (East of A419) allocated in the development plan;
 - The living conditions of the occupiers of White Cottage having particular regard to the privacy of their garden, and;
 - The living conditions of future occupiers having particular regard to noise arising from the access arrangements.

Reasons

Character and appearance

3. Predominantly detached residential properties in generous plots line the southern side of the B4019 near to the appeal site. Many of the residential plots are long and set at a similar angle to the road giving a particularly distinctive grain to the land. The age and appearance of houses vary with some dwellings presenting their widest elevation towards the road, whereas others are perpendicular to it. The traditional vernacular dwellings amongst them generally have a simple form and attractive appearance that enriches the area. The majority of dwellings have a broadly similar set back from the road transitioning into strips of agricultural or garden land behind. However, there are notable exceptions, including Brooklyn Lodge, whereby some buildings sit deeper into the linear plot which gives an organic informality to the pattern of

development. Nevertheless, the spaces maintained between built form, established planting and strong grain of the land results in a coherent semi-rural character and appearance to the area.

4. The appeal site comprises domestic garden land situated to the rear of Brooklyn (a pair of cottages) and 9 Broad Bush, and in front of Brooklyn Lodge. There is an access route through the land that serves Brooklyn Lodge. The general absence of built form and presence of trees and grass at the site contributes positively towards the spacious semi-rural character of the area.
5. The proposal would introduce a detached dwelling and garage. The footprint of the dwelling would have a depth that would result in a somewhat boxy form. This together with the eaves height and roof pitch would result in proportions reminiscent of generic sub-urban development. The evidence provided does not explain how the glazed central projecting gable feature is derived from the context, nor how it would enhance the semi-rural characteristics identified. It follows that the proposal lacks identity in this context and consequently, would not successfully integrate into its surroundings. On this basis, a condition to ensure the use of suitable materials would not fully address the more fundamental harm arising from the building type proposed.
6. Furthermore, by incorporating land to the rear of No.9 into the proposed residential plot, it would be noticeably wider than the mostly regularly spaced linear strips of land nearby. This would run counter to the established pattern of development thereby harmfully diluting a distinctive part of the local identity. The appellant states that existing trees and landscape features would be retained. However, in the absence of a detailed landscaping scheme this is not clearly shown, and my observations were that the siting of the dwelling would be incompatible with retaining all the existing trees. A condition could require a planting scheme that would assist in softening the impact of the proposal to an extent, but this would not entirely overcome the harm identified.
7. Advice in the Swindon Residential Design Guide, Supplementary Planning Document, June 2016¹ (RDG) confirms that although development of gardens may be hidden from immediate public view, this does not excuse poor quality design. Notwithstanding that the proposal would be set into the site and behind an existing garage, it would not be entirely hidden from public view as some glimpses of the upper storey and roof would be possible from the access onto the main road. It would also be seen from a number of nearby dwellings.
8. The supporting text to policy DE1 of the Swindon Borough Local Plan 2026, March 2015 (LP) states that each place has its own distinctive character and possesses inherent design assets and opportunities and that proposals must respond positively to enhance or create distinctive character and identity. For the reasons already stated the proposal would fail to do this. For similar reasons it would conflict with paragraph 127 d) of the National Planning Policy Framework (the Framework) which states that planning decisions should ensure that developments establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
9. The Council are also concerned that the introduction of additional built form would result in a cramped development. Furthermore, as it would be located in

¹ Paragraph 2.24

a defined area of non-coalescence in the LP, it would undermine the countryside character setting of Blunsdon². However, the proposal would maintain a considerable separation distance between the new dwelling and both Brooklyn Lodge and Brooklyn. The extent of space combined with the opportunities for retained and new planting would prevent the plot from appearing cramped. Moreover, the proposal would be on domestic garden land nearer to the main road than the existing dwelling at Brooklyn Lodge so would avoid encroaching further into the countryside between Broadbush and the strategic allocation for the new mixed-use development at Kingsdown.

10. When this is taken together with its limited scale, the proposal would not result in coalescence between settlements. Nevertheless, for the reasons already outlined, the building type proposed would not be an appropriate response to the context and therefore, would fail to retain or enhance the existing character of the countryside as required by policy NC5(f) of the LP.
11. Reference is made to a pair of semi-detached houses to the rear of Cobley House. However, as few details have been provided this inhibits a direct comparison with the appeal proposal. Nevertheless, both parties refer to that development replacing an existing workshop which differentiates it from the circumstances of the case before me. Consequently, it attracts little weight. In any event, I have determined the proposal on its own merits.
12. Accordingly, I find that the proposal would be harmful to the character and appearance of the area contrary to policies DE1 and NC5 of the LP.

Living conditions of occupiers of White Cottage

13. The proposed dwelling would be orientated so that some upper floor windows serving bedrooms and the stairwell would face northeast towards the garden area of White Cottage. The information provided states that these windows would be approximately 13.5 metres from the boundary. I was able to observe the appeal site from the garden of White Cottage at my visit. The proposed arrangement would result in some overlooking to the garden. Nevertheless, the separation distance maintained would prevent it from amounting to an imposing or intrusive relationship.
14. Furthermore, the area of garden closest to White Cottage, which is more likely to be used for sitting out, would be in oblique views from the windows. Overall, the proposal would not compromise the privacy of the garden at White Cottage to an unacceptable degree. Therefore, it would not unreasonably inhibit the occupant's enjoyment of their garden.
15. The RDG identifies that backland development can often incur problems of overlooking and indicates that proposals must ensure that the amenity and separation distances of existing residents with the host dwelling are not compromised³. The RDG also provides a separation distances checklist⁴ advising minimum distances between built form in certain scenarios. The figurative illustration accompanying that checklist envisages the direct alignment of buildings. As such, it would not be applicable to the situation before me whereby the front elevation of a dwelling faces towards the garden

² Paragraph 22 & 25 of Council's Delegated Report

³ Paragraph 2.33, RDG

⁴ Page 54 RDG, Fig 98

of another property. Hence, the proposal would not conflict with this RDG advice on separation distances and I have not been made aware of any others.

16. Accordingly, I find that the proposal would maintain reasonable levels of privacy for the occupants of White Cottage when seeking to use their garden. Therefore, it would not cause unacceptable harm to their living conditions. It follows that, in this regard, I find no conflict with policy DE1 of the LP which, amongst other things, has a design principle to safeguard amenity in respect of privacy.

Living conditions of future residents

17. The Council are concerned that the shared access with Brooklyn Lodge would result in noise and disturbance to future occupants of the proposed dwelling. The orientation of the dwelling would present its principal elevation onto the access lane. This would be similar to many conventional housing layouts where the more formal elevation of the dwelling has most interface with areas of increased activity. Consequently, the main living and dining accommodation at ground floor and majority of the garden area at the back of the house would be separated from the access route and therefore, unlikely to be disturbed by vehicular noise or activity. Moreover, there is little before me to show that the degree of traffic noise arising from the use of the access drive would be harmful to the internal environment of those rooms nearest to the access route.
18. In addition, Brooklyn Lodge as a single dwelling would generate a limited amount of traffic movement, which would be likely to be travelling at slower speeds. Taking these factors together there is little substantive evidence to show that the proposed access arrangement would cause unacceptable levels of noise or disturbance to future occupants of the proposal.
19. I have had regard to the advice in the RDG that states that backland developments should not share the same access as existing dwellings. However, this is general guidance and as Figure 17 illustrates, envisages a tandem arrangement with the front of the new dwelling behind the rear garden of the host dwelling. The case before me differs from that scenario given that the access route already exists to serve Brooklyn Lodge. Moreover, for the reasons outlined, the orientation of the proposed dwelling would avoid most of the difficulties highlighted by the RDG. As such, it carries limited weight in this instance.
20. Accordingly, I find that the proposal would not result in harm to the living conditions of future residents due to noise and disturbance arising from the access arrangements. Therefore, in relation to this main issue, the proposal would comply with policy DE1 of the LP which, amongst other things, has a design principle to safeguard amenity in respect of noise and disturbance.

Planning balance and conclusion

21. There is no dispute between the parties that the Council cannot demonstrate a 5-year supply of deliverable housing sites. Footnote 7 to paragraph 11 of the Framework states that in these circumstances the most important development plan policies for determining the application are deemed out-of-date.
22. It is not suggested by either party that any of the policies in Footnote 6 to paragraph 11 provides a clear reason for refusing the development. In these

- circumstances, the presumption in favour of sustainable development means that planning 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.
23. There would be benefits arising from the proposal including the provision of an additional dwelling to the overall supply and mix of accommodation. It would make more efficient use of previously developed land as defined in the Framework and future residents would have reasonable access to local facilities. Economic benefit would derive as a result of the construction, and there would be social and economic benefits associated with future occupants supporting local services. The development would also generate some revenue for the Council. However, the extent of these benefits would be limited given the modest scale of the proposal.
24. Nevertheless, paragraph 68 of the Framework states that small and medium sites can make an important contribution to meeting the housing requirement. The limited evidence provided in relation to housing land supply suggests the shortfall is significant and I have not seen evidence to show otherwise. In recognition of this, these benefits attract moderate weight.
25. The appellant also refers to the retention of landscape features, provision of drainage and lack of harm to protected species. However, these are matters that would be required to make the development policy compliant, and therefore, I consider that these are neutral factors in the overall balance. For similar reasons my findings that the living conditions of both existing and future residents would be acceptable are also neutral factors.
26. Even so, I have found there would be harm to the character and appearance of the area. Paragraph 124 of the Framework states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Moreover, good design is a key aspect of sustainable development. Paragraph 130 stipulates, amongst other things, that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. In seeking high quality design, policy DE1 of the LP broadly aligns with the Framework in this respect.
27. Accordingly, this harm and conflict with national and local design policies attracts significant weight and represents an adverse impact that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply in this case.
28. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁵. The benefits of the proposal would not justify my determining the development other than in accordance with the adopted development plan. Hence, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor Inspector

⁵ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.