



Appeal Decision

Site Visit made on 4 May 2021

by Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

Appeal Ref: APP/Y3940/W/21/3266887

The Bungalow, Stone Lane, Lydiard Millicent, Wiltshire SN5 3LD

- 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 and Mrs Jason Bird against the decision of Wiltshire Council.
 - The application Ref 20/04335/FUL, dated 21 May 2020, was refused by notice dated 10 August 2020.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Revised plans, removing side elevation windows, were sent to the Council following the determination of the application. A neighbouring property was informally consulted by the Council on the changes prior to the appeal being made.
3. Nevertheless, I cannot be certain that all interested parties were specifically notified or that they would have been aware that the revised plans formed part of the appeal submission. Therefore, to avoid potential prejudice to interested parties, I have assessed the appeal on the same plans that were before the Council at the time of their decision and upon which notification took place.
4. The National Planning Policy Framework (Framework) states that the weight given to relevant policies in emerging plans should be according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the plan with the Framework.
5. The NP¹ is at an advanced stage with objections dealt with in the examination. The plan has not been subject to referendum. However, Policies LM1 and LM4 of the NP, that are referred to in relation to the main issues, are generally consistent with the Framework and I give them significant weight.

Main Issues

6. The main issues of the appeal are;
 - The effect of the proposed development on the living conditions of the occupiers of Long Acre, with particular regard to privacy;
 - Whether the proposal would be a suitable form of development having regard to development plan policy in respect of replacement dwellings; and

¹ Lydiard Millicent Neighbourhood Plan 2018-2036 Referendum Version

- The effect of the proposed development on the character and appearance of the area.

Reasons

Living Conditions

7. There is some mutual overlooking at present between the appeal site and Long Acre at ground floor level and from within their plots. However, boundary fencing means the garden of Long Acre remains relatively private. The proposed first-floor element is set back from the boundary and Long Acre has a large garden. Nonetheless, the two first-floor side elevation windows for the proposed master bedroom would be orientated directly towards Long Acre. I saw that there was a patio and seating area close to its rear elevation adjacent to the glazed conservatory indicating this is a well-used area.
8. Although there are other windows for the master bedroom, those facing Long Acre would afford direct views at a relatively close range into the conservatory and rear garden area of Long Acre. The windows would be large and serve a bedroom. These windows would give elevated internal views that are currently not experienced and considerably reduce the levels of privacy that occupiers of Long Acre currently experience in this area. Obscure glazing would reduce the outlook from this room, while the perception of overlooking would remain. I am not convinced that the use of the bedroom and gardens would occur at different times and no method of restricting the times of use has been put before me.
9. Views from the proposed first-floor rear elevation bedroom windows would give more angled views of the garden of Long Acre. In addition, many would be over a greater distance than the side windows. A condition could be imposed to ensure the first-floor side elevation bathroom window was fitted with obscure glazing to prevent overlooking into the window opposite at Long Acre, as well as the glazing of the dressing room window closest to the boundary as these are not habitable rooms.
10. Nonetheless, the proposed development would result in significant harm to the living conditions of the occupiers of Long Acre with regard to privacy. The scheme would fail to accord with Core Policy 57 of the Wiltshire Core Strategy (CS) where it requires development to consider the impact on the amenities of existing occupiers. It would also be contrary to the Framework where it seeks to achieve a high standard of amenity for existing users.

Replacement Dwelling Policy

11. Being outside a settlement boundary the appeal site is in the open countryside as defined in the CS. Saved Policy H4 of the North Wiltshire Local Plan 2011 (Local Plan) sets out the criteria against which such schemes should be considered. This includes that the existing dwelling is incapable of retention in its current state, is unsightly or is out of character with its surroundings.
12. Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Weight should be given to policies adopted prior to its publication according to their degree of consistency with it. Replacement dwellings in rural areas are not specifically mentioned in the Framework.

Notwithstanding this, it does not state that development plan policy on this matter is prohibited. Therefore, I find no conflict in this regard.

13. The existing modest bungalow, while not of particular architectural merit, is discrete in the streetscene. Although substantial dwellings are not uncommon nearby, there is varied built form along Stone Lane including other single storey buildings. The external materials are typical of nearby properties, the proportions of the building not uncommon and the roof is not overbearing. These factors, along with the low height of the property mean it does not stand out or appear as an anomaly. As such, the external appearance is not unsightly or out of character.
14. The Condition Appraisal indicates that there are maintenance concerns and upgrading needed to achieve modern standards at the property. Notwithstanding this, while it is stated that the works are cost prohibitive, there is no breakdown of the costs involved. Moreover, although said to be beyond its useful life, the Condition Appraisal also states it was in a satisfactory condition. Therefore, I have not been convinced that the dwelling is incapable of retention.
15. Consequently, the proposal would not be a suitable form of development having regard to development plan policy in respect of replacement dwellings. The scheme would be contrary to Saved Policy H4 of the Local Plan where it requires such proposals to demonstrate that the existing dwelling is incapable of retention in its current state, is unsightly or is out of character with its surroundings.

Character and Appearance

16. There is no consistent scale or appearance to the dwellings along Stone Lane. There are some substantial ones nearby, often prominent when travelling along Stone Lane. As such, the presence of a dwelling the size of that proposed would not be unexpected or disproportionate to the existing built form of the area.
17. The front garage element and rear projection would be on opposite sides of the dwelling. This along with the front gable projection and the varying heights of the different parts of the building would prevent it being seen as one single mass. The bulk of the roof would be broken up with dormer windows and hipped.
18. The proposed dwelling would come forward of the current front building line and the garage would extend further forward. Nonetheless, the proposed dwelling would be partly on the footprint of the existing property and the garage would be single storey. It would also be set back a comparable distance to that of the pair of semi-detached properties the other side of Long Acre. Furthermore, there is a varied building line along Stone Lane, and I saw examples of ancillary buildings with largely blank elevations facing the road being forward of the main dwelling.
19. That side elevation windows would not be of a uniform size or design and without detailing would not be distracting or out of keeping with the dwellings the property would be seen with. The adjacent property and curve of the road would prevent the proposed dwelling being overly visible in longer range views along Stone Lane.

20. Strategic and important views identified in the NP includes across and near the appeal site. The proposed dwelling would be a greater visual presence in these views than the bungalow. However, there is already a dwelling on the site as well as further ones adjacent to it. The proposal would not extend the built form outside of the existing plot and the rural setting beyond the site would be retained. Therefore, the context of the open space to one side and beyond the property would not be harmed.
21. The proposal would not harm the character and appearance of the area. It would accord with Core Policy 57 of the CS as well as Policies LM1 and LM4 of the NP where they, in part, state that proposals should draw on, compliment and reflect local context and vernacular. This would be a neutral factor.

Other Matters

22. My attention has been drawn to other appeal decisions in the Council area. The Lyvers Farm appeal², while relating to a replacement dwelling, is said to be in an area where Policy H4 of the Local Plan is not applicable. The Purton Road appeal³ was for a scheme of considerably greater scale. Unlike this appeal where replacement dwellings are referred to in Policy H4 of the Local Plan, the Inspector stated that none of the specified circumstances for development in the countryside applied to the scheme before them.
23. The Swillbrook Farm Cottages appeal⁴ related to a scheme for 1 dwelling replacing 4 units. While the Brockhurst Farm Stables appeal⁵ related to a replacement dwelling, the criterion regarding the condition of the existing building was not a specific point of dispute between the parties.
24. Therefore, the circumstances of those appeals are materially different to the one before me that I have assessed on its own merits.
25. I appreciate that the appellant has sought to address issues raised in previous applications at the site and amended the scale, position and appearance of the dwelling. Nonetheless, I have found that harm would arise from the scheme before me.

Planning Balance

26. As the scheme is a replacement dwelling there would be no additional contribution towards housing supply. Nevertheless, the proposal would provide a larger home. There would be benefits associated with the construction and occupation of the property and it would be built to more modern standards. Given the scale of the scheme, I give each of these matters, and any biodiversity benefits from additional landscaping, limited weight.
27. The proposal would conflict with policies in the development plan that align with the approach to living conditions in the Framework. As such, I give this conflict significant weight. It would also be contrary to development plan policy regarding replacement dwellings. Due to my findings regarding character and appearance, in the absence of other specific harm arising from the conflict with development plan policy for replacement dwellings, I give that conflict

² APP/Y3940/A/14/2221924

³ APP/Y3940/W/18/3202551

⁴ APP/Y3940/W/20/3261033

⁵ APP/Y3940/W/20/3261179

- moderate weight. The proposal would conflict with the development plan as a whole.
28. The Council has acknowledged that it cannot demonstrate a 5-year housing land supply. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, as outlined in paragraph 11d)i. Therefore, the presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is engaged.
29. The proposal would align with the Framework with contributions towards the local economy, community, biodiversity and energy efficiency. These though, along with the proposal being a more efficient use of the land, attract limited weight due to the scale of the scheme.
30. I give significant weight to the harm that would occur to the living conditions of adjacent occupiers and this would be contrary to the Framework where it seeks to provide a high standard of amenity for existing users. In the absence of other specific harm, that the scheme would be contrary to local plan policy regarding replacement dwellings attracts moderate weight.
31. Having considered the above factors, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
33. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

Conclusion

34. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR