



Appeal Decision

Site visit made on 18 January 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 16 February 2022

Appeal Ref: APP/U3935/W/21/3282474

16 Maidstone Road, Swindon, SN1 3NN

- 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 Mrs Yaddehige against the decision of Swindon Borough Council.
 - The application Ref S/20/1224, dated 16 September 2020, was refused by notice dated 8 March 2021.
 - The development proposed is erection of two storey building to accommodate a studio flat and cycle and bin store area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the application, the description of development was changed from that stated on the application form, as agreed with the Local Planning Authority. The description in the banner heading has been taken from the appeal form.
3. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant was not present when I arrived at the appeal site during the pre-arranged period. I was able to see all I needed to from public land and have determined the appeal on this basis.

Main Issues

4. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposals upon the living conditions of Nos. 15 and 16 Maidstone Road, in respect of privacy, outlook and light, and;
 - whether the proposal would provide satisfactory living conditions for future occupants.

Reasons

Character and appearance

5. No.16 Maidstone Road is an end of terrace property, situated on a corner plot with Ashford Road. There is a single storey, flat roofed garage associated with No.16 situated to the rear, which would be demolished under the proposed development. Owing to its corner position, the garage is currently accessed

from Ashford Road. The amenity space associated with No.16 currently wraps around the side and the rear of the property and the rear amenity space would be sub-divided to accommodate the proposals.

6. The terrace of Nos. 23-26 Ashford Road runs to the south of the appeal site. This row of terraces, as a result of their consistent design and discernible building line, contributes positively to the character and appearance of the area. Presently, whilst the existing garage is positioned forward of the Ashford Road properties, due to it being flat roofed and single storey, it sits relatively unobtrusively in the streetscene. The properties of Ashford Road and Maidstone Road also have a consistency in their plot size, albeit it is appreciated that due to its corner position, No.16 is within a slightly larger plot.
7. The proposed two storey studio flat which would replace the existing garage has been designed as an extension of the Ashford Road terrace with a design that incorporates a similar ground floor bay window, a stone archway over the door and stone heads over the first floor windows. However, most notably, it would not respect the building line of the Ashford Road terrace that it would sit alongside. The proposals would sit forward of Nos.23-26, representing an incongruous addition to the area, causing harm to the character and appearance of the area. Whilst there are some variations to the building line along Ashford Road as illustrated by the appellant, as the proposed development relates so closely to the terrace of Nos.23-36, it would be read in the context of this row of properties.
8. It is also considered that as the proposals have sub-divided the plot of No.16, the plot size of both the proposed development and the reduced plot size of No.16 would be uncharacteristically small for the area. The proposals would result in a cramped development, harming the established plot configuration in the area.
9. It is a point of disagreement between the appellant and the Council as to whether the site would be considered as a backland or infill site. However, the Swindon Residential Design Guide Supplementary Planning Document (SPD) (adopted June 2016) requires both infill and backland developments to be respectful of the existing character of the surroundings. Therefore, regardless of how the proposals would be assessed, I have found the proposals to be harmful to the character and appearance of the area, which would conflict with the Design Guide SPD.
10. The appeal scheme would therefore cause harm to the character and appearance of the area. It would conflict with the overriding objective of Policy DE1 of the Swindon Borough Local Plan 2026 (Local Plan) (adopted 2015), which is to achieve high standards of design, including respecting existing built characteristics and street patterns. It would also be contrary to advice in the SPD which states that developments that fail to complement the characteristics of the local area will be resisted, and that new development should reflect building lines and plot size. The proposals would also be contrary to the principles within Chapter 12 of the National Planning Policy Framework (the Framework) 2021 which seek good design sympathetic to the local area.

Living conditions of No.15 and No.16 Maidstone Road

11. The proposed development would be positioned on the boundary with No.15 Maidstone Road, replacing the existing flat roofed, single storey garage with

the proposed two storey building. A predominately blank rear elevation would face No.15. The gable end of No.23 Ashford Road already lies along the rear boundary of No.15. There is a ground floor kitchen window and a first floor obscure glazed bathroom window along the rear elevation of No.15 which sits close to the shared boundary with No.16. There is also a ground floor dining room window albeit this is situated close to the boundary with No.14 Maidstone Road and is enclosed by the existing ground floor rear projection of No.15.

12. I appreciate that the outlook of No.15 is already partially dominated by the gable end of No.23, and that the property lies within a relatively higher density area. However, the proposals would not only bring the development closer than the existing garage, but the proposals would be of a much greater height and scale. It would enclose the rear garden of No.15 on a side which is currently open at first floor level. The proposals would be overbearing to the outlook of the occupants of No.15 when viewed from their ground floor kitchen window and their rear garden.
13. The gable side elevation of the proposals would be situated close to the new shared boundary with No.16. I appreciate that No.16 currently have an outlook of No.23's gable end and that there are no windows on the rear elevation of No.16. However, it is considered due to the height and position of the proposed development, being much closer to No.16 than No.23, it would be overbearing to the outlook of the occupants of No.16 when viewed from their side and rear garden.
14. While I note that the Council's reason for refusal No.2 does not refer to privacy concerns, the Officer report considers that overlooking would be an issue. Both of the first floor windows facing No.15 and No.16 would be situated very close to the shared boundaries with No.15 and 16. Whilst the windows would be obscure glazed, they would still be openable so a degree of overlooking to the private amenity space associated with No.15 and No.16 would still be possible. Furthermore, the proximity of these windows would lead to the perception of being overlooked.
15. With regards to light, the appellants have provided a shadow analysis which demonstrates that both No.15 and No.16 would receive at 2 least hours of sunshine to 50% of the gardens on the spring equinox with the appeal proposals in situ. Based on the evidence before me, I consider that the proposals would not be significantly overshadowing to either No.15 or No.16.
16. The proposals would also result in a smaller garden for No.16. The appellant has provided a plan demonstrating that the remaining garden of No.16 would still be comparable with the size of the neighbouring gardens. However, the amenity space that No.16 would be left with would consist of strips of land to the side and rear of the property. Much of the amenity space would be adjacent to the highway and would be poor quality, lacking in an adequate level of privacy.
17. For the reasons given above, whilst I have found that the proposals would not be harmful to the light enjoyed by either No.15 or No.16, I consider that the proposed development would harm the living conditions of the occupants of No.15 and No.16 Maidstone Road, in respect of privacy and outlook. It would be contrary to Policy DE1 of the Local Plan which requires development to not adversely impact users of existing or proposed development. It would also be contrary to the advice set out in the SPD which states that development

proposals must ensure adequate levels of outlook and that they must deliver sufficient space to provide comfort and enjoyment, and with paragraph 130 (f) of the Framework which states that development should have a high standard of amenity for existing and future users.

Living conditions for the future occupants

18. The SPD states that the Council intend on using the National Described Space Standards (NDSS) as a guide until they are adopted. The proposed development would consist of a 1 bedroom 2 persons studio flat, spread over 2 floors. It is considered that the proposals would fall short of the minimum floor areas expected on both a 1 storey and 2 storey dwellings.
19. I note that the appellant considers that as the NDSS has not been adopted by the Council that each proposal should be assessed on its own merits. While I consider that the NDSS can only be currently used as a guide in these circumstances, given the shortfall in floorspace it is considered that the proposals would fail to provide a suitable level of living accommodation for the future occupants. The appellant notes that the proposal would accord with the standards for a one person single storey flat. However, this is not necessarily relevant to a two storey property where a percentage of the floor space would be taken up by stairs. I also consider that the narrow strip of amenity space provided to the side of the proposed studio flat would also be insufficient for the future occupiers of the unit, and would likely be of poor quality, for the reasons given above.
20. The appellants have referred to a number of other appeal decisions in relation to the application of the NDSS where there isn't currently an adopted policy to support it. An appeal decision supporting the provision of a small garden has also been provided. The circumstances in each appeal are likely to be different, and each appeal is considered on its own merits. In these circumstances, I have concluded that due to the shortfall on both the floor area and amenity space, insufficient living accommodation would be provided for the future occupants of the proposed development.
21. Therefore, due to the proposals failing to provide a suitable level of living accommodation, I conclude that the proposals would be harmful to the living conditions of the future occupants of the proposed development. This would be contrary to Policy DE1 of the Local Plan, the SPD and paragraph 130 (f) of the Framework. I note the reason for refusal also refers to Policy HA1 of the Local Plan however the relevance of this policy is unclear in relation to this issue.

Other Matters

22. I note that the Council are unable to demonstrate a five-year supply of deliverable housing sites. However, while the scheme would generate certain social and economic benefits through the provision of one dwelling, I consider that the adverse impacts of the proposal would significantly and demonstrably outweigh such benefits.

Conclusion

23. The development conflicts with the development plan. Material considerations that I have identified are of insufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR