



Appeal Decision

Site visit made on 22 June 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2022

Appeal Ref: APP/C1760/W/21/3284908

Osmaston, Salisbury Road, Abbots Ann SP11 7NX

- 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 David Kitson against the decision of Test Valley Borough Council.
 - The application Ref 21/00906/FULLN, dated 23 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is additional dwelling at Osmaston.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of occupiers of neighbouring properties, with regard to noise and disturbance, whether it would be overbearing, outlook and overshadowing;
 - highway safety, with particular regard to visibility splays; and
 - protected habitats sites.

Reasons

Character and appearance

3. The appeal site is part of the rear garden to Osmaston, a detached one and a half storey house. It is located in a linear stretch of development on the west side Salisbury Road with open fields behind and on the opposite side of the road. Houses are detached, most are one to one and half storey and set back from the road behind generous driveways. Plot sizes are varied but are relatively wide. This contributes to the spacious character of the area.
4. Osmaston is one of the larger plots in the area. To the north-east of the appeal site and beyond the garden of Lancaster, there is a substantial one and a half storey detached dwelling, Copper Beeches, which sits in a larger plot. This dwelling is backland development and does not form part of the linear development fronting Salisbury Road. Within the context of surrounding development it appears anomalous and out of character with the prevailing pattern of development.

5. The proposed development is for the construction of a detached four bedroom dwelling and garage within the rear garden of Osmaston, in a similar backland position to Copper Beeches, and with a new access and driveway along the south-west boundary of the plot.
6. Due to its position to the rear of the main linear development fronting Salisbury Road, the proposed house would not be widely visible from Salisbury Road. However, it would be glimpsed through the gap between Osmaston and Lancaster, and the new driveway extending to the rear of the plot would draw attention to the presence of a property set back behind development along the road. This would be out of character with the established pattern of development, having a very limited relationship with the street, appearing anomalous in much the same way as Copper Beeches does.
7. A public right of way (PROW) runs along the rear garden boundaries to properties along Salisbury Road, to which many, including Osmaston, have a gated access. The PROW is relatively narrow, separated from open fields beyond by a low fence which only exists in part. A high fence separates the garden of Osmaston from the PROW. Due to the narrowness of the path and the height of this fence, it would not be easy to see the proposed house from the PROW immediately to the rear of the appeal site. It would nevertheless be visible in views looking towards the site from further along the PROW.
8. Due to the height of fences and boundary vegetation the proposed house would not be unduly prominent. It would be less so than other development, notably Copper Beeches to the north-east and the recently constructed two-storey houses at the Andover Gas Works site. These are located at the far end of the linear development and very close to and not screened from the PROW. Nevertheless it would extend built development closer to the PROW and open countryside which would detract from the rural character of the area.
9. Within the adjacent field, there is a further informal pathway, which appears to be regularly used. At the time of my site visit, I observed several dog walkers using this. The proposed house would be more visible in views from this field and pathway, however, this is private land and carries less weight in terms of harm.
10. The resultant plot size would be comparable to surrounding plots, although substantially smaller and narrower than the plot on which Copper Beeches sits, which due to its backland position, is the most comparable property. However, as Copper Beeches does not form part of an established pattern of development, the proposal being dissimilar to this is not particularly harmful.
11. The proposed dwelling would be wide, extending across most of the plot with the flank walls set in approximately 2m from the side boundaries. This gap would be reduced where a proposed integral gazebo would be positioned adjacent to the boundary with Lancaster, to the north-east. Whilst the gap would not be dissimilar to the gap that exists between the side elevation of Lancaster and the boundary fence or other properties in the area, it would leave limited space for effective planting and landscaping to soften the appearance of the development, particularly on the shared boundary with Lancaster. With the proposed house being set back in a position out of character with surrounding development, the need for effective landscaping would be more critical.

12. The ridge height of the proposed dwelling would be lower than both Osmaston and Lancaster. Nevertheless, the roof form of the proposed dwelling would be complex with a substantial L-shaped section of the rear roof set down from the main ridge height and formed of a series of sections of pitched roofs as it turns the corner. This would be bulky, unduly complex and uncharacteristic of the more simple and traditional roof forms of nearby dwellings. This element of the proposed building would be the most prominent when viewed from the PROW.
13. I recognise that within the immediate vicinity of the appeal site, Copper Beeches takes an unusual form with two single storey structures with mono-pitched roofs facing into the site, effectively presenting a two-storey wall to its boundaries. This is visually prominent from the PROW and detracts from the open character of the area. Nevertheless, despite its unusual form, Copper Beeches is not unduly bulky with space between the different sections of the building. It therefore does not justify the substantial and bulky structure proposed here.
14. I have been referred to Kindersley Static Home Park as an example of other backland development along Salisbury Road and close to the appeal site. This does occupy a backland position but is of a different character, being a static caravan park comprising single-storey structures and of an entirely different character to a bricks and mortar construction. As such, it is not comparable to the proposed development and does not justify deviating from the established pattern of housing development along the road.
15. The appellant has referred to the development at the Andover Gas Works site to the south-west of the appeal site. Planning permission was granted for two houses on this plot plus a replacement workshop. These are on much smaller plots than the appeal site, where there is a much narrower gap between the road and open fields beyond. These properties have a direct relationship with the street and follow the established pattern of development. The context is therefore not directly comparable. Nevertheless, I agree that these two properties are visually prominent from the PROW that runs behind them but this does not justify the appeal proposal.
16. I conclude that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policy E1 of the Test Valley Borough Local Plan 2016 (the Local Plan) which permits development of a high quality of design that integrates, respects and complements the character of the area in which it is located.

Living conditions

17. The proposed dwelling would be located between the rear gardens of Lancaster and Cotswold. These rear gardens, are set away from the busy main road and back onto open fields and the countryside. Whilst noise from the road can be heard, they are quieter and more tranquil in nature than the front gardens and driveway areas to these properties. The proposed access would run adjacent to the boundary with Cotswold, opening out into a large area of hardstanding providing an area of parking for up to nine vehicles and vehicle manoeuvring.
18. With vehicles regularly accessing this area including occupants, visitors and deliveries, there would be additional noise and disturbance to these adjoining occupiers than currently occurs. This would be particularly harmful during

summer months when adjoining occupants are more regularly using their rear gardens or have their windows open.

19. The appellant has submitted noise calculations. On the basis of these calculations, he has argued that the sound level from the road is 15 decibels louder than the proposed driveway and parking area. Therefore the noise associated with the proposed dwelling would not be harmful.
20. However, no surveys of existing noise levels have been undertaken. Furthermore, whilst theoretically the overall noise levels may be quieter than the road, there is no evidence that the assessed noise levels arising from the proposal take into account the nature of noise that may occur within this area, such as car doors being slammed or any difference between daytime and night-time use of the area. The noise calculations do not lead me to conclude that there would be no harm to these neighbouring occupiers.
21. As part of the appeal, the appellant has proposed the use of 'non-migratory' surface material rather than gravel. This would provide some reduction in noise from vehicles. Nevertheless, vehicle engines, manoeuvring and people opening and closing doors, would still give rise to some noise and disturbance.
22. The appellant has additionally suggested that the area of hardstanding could be reduced to provide more soft landscaping. However, I have limited details of this and it is not evident how this would reduce noise and disturbance.
23. The area would be enclosed by fences and there would be no direct headlights shining into neighbouring properties. However, the light emitted from headlights would be visible from the adjacent properties where this currently does not exist. This would result in some limited visual intrusion and disturbance.
24. The flank wall of the proposed house would be set in from the boundary with Lancaster by some 1.9m. It would have a substantial gable end at first floor level and a partial hip, with a rearwards projection set in slightly from this gable end. The length and height of this building would appear as a bulky, dominating and overbearing structure when viewed from the adjoining property. Together with the gazebo at the rear of the proposed house, which is positioned even closer to the boundary, it would lead to an increased sense of enclosure of this garden. Since this adjacent garden is relatively narrow, the proposed would appear oppressive which would be harmful to the living conditions of occupants of Lancaster.
25. The proposed dwelling would be separated from Copper Beeches by the garden of Lancaster. However, due to the narrowness of this garden, the gap between the proposed dwelling and Copper Beeches would not be significant. There is a first floor window, serving a study, and a balcony within the side gable of Copper Beeches. The proximity and scale of the proposed dwelling would significantly reduce outlook, appearing as a visually intrusive and dominant feature in what has been a previously undeveloped outlook. This would be overbearing to these occupants and harmful to their living conditions.
26. The appellant argued that outlook from neighbouring properties, notably Lancaster and Copper Beeches, would not be adversely affected. He has attempted to quantify the loss of outlook based on a measure of a human's field of view and how much of this is reduced by the building being in place.

However, this fails to take into account that occupants will be moving around within their home and garden and the experience of outlook is not static.

27. Due to its position to the south-west of Lancaster and its height close to the boundary, the proposed house would lead to some overshadowing of this garden. I appreciate that the existing boundary fence, indicated to be some 2m high, already casts a shadow over the garden. However, despite being designed to reduce its overall height, the proposed house and gazebo would be taller and relatively close to the shared boundary and would therefore cast a greater shadow on the garden.
28. In terms of its effect on light, the appellant has undertaken an assessment based on the British Research Establishment guidance¹ as well as drawing on Action Hedge Height. On the basis of this, he has calculated that there could be overshadowing of about 15% of the rear garden for a few hours in the afternoon. During summer months, when the sun is higher in the sky, the degree of overshadowing would be less. However, it would affect the garden at other times of year, this would be harmful to the occupiers of this property and their enjoyment of their garden for sitting out in and growing plants. Given the narrowness and overall small size of this garden, this would be noticeable to occupants and it would be harmful.
29. There are a number of trees to the south-west of Lancaster and its garden, positioned along the rear boundary of Cotswold. These are reasonably tall, but some distance from Lancaster. Whilst these trees may cause some overshadowing of neighbouring gardens during the late afternoon, particularly in winter months when the sun is lower in the sky, they are deciduous. The impact of these would not be the same as that caused by a solid structure, as proposed here, in much closer proximity to this neighbour.
30. My attention has been drawn to other developments within the area where housing development has been permitted where neighbouring properties cause some overshadowing of their neighbours. However, there will inevitably be circumstances where some overshadowing of neighbouring properties will be unavoidable. This does not justify the appeal proposal before me.
31. I accept that new development often results in some degree of change for neighbouring occupiers. However, in this case, the effect of that change is unacceptable in terms of the living conditions. For this reason, I conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers, through noise and disturbance, its overbearing impact, loss of outlook and overshadowing. It would therefore conflict with Policy LHW4 of the Local Plan which requires development to provide for the amenity of neighbouring properties and does not reduce sunlight reaching private open space to below acceptable levels.

Highway safety

32. Salisbury Road is the A343 which is subject to a 50 miles per hour (mph) speed limit, roughly equivalent to 85 kilometres per hour (kph). The proposal includes the formation of a new access onto the road.

¹ Site Layout Planning for Daylight and Sunlight: a guide to good practice (BRE Report BRE209)

33. Hampshire County Council, the local highway authority (LHA), has published Technical Guidance Note 3 (TG3)² which is based on visibility standards set out in the Design Manual for Roads and Bridges (DMRB) and the Manual for Streets (MfS). This sets out that for vehicle crossovers, the visibility requirements for roads subject to a 50mph speed limit should be set back 2.4m from the kerb (the x distance) with a 160m visibility in each direction (the y distance). Notwithstanding this requirement, based on the LHA's Stopping Site Distance (SSD) Calculator, it has advised that the required visibility splay in respect of the proposed access should be 2.4m x 147m.
34. The original submissions indicated a visibility splay of 2m x 104m. This would fall significantly short of the required visibility splay as sought by the LHA. However, the appellant disputes that the visibility splay required by the LHA is correct on the basis of traffic speeds and permitted relaxations to DMRB standards. On the basis of these, the appellant has submitted a revised drawing indicating a visibility splay of 2.4m x 90m.
35. TG3 sets out that the Design Speed shall be the 85th percentile speed derived from the measured speeds regardless of the posted speed limit. However, this requires a survey of vehicle speeds along the road which has not been undertaken. Whilst I am told that speed surveys were carried out in 2015, that is some 7 years ago and, in my view, given its age, could not be relied on as an assessment of current speeds. Given that no recent speed survey data has been collected, it is therefore reasonable to base the requirement on the posted speed limit, as indicated by the LHA.
36. The appellant has also argued that the speed would be lower based on wet weather speed calculations. However, to my knowledge, the adjustment for wet weather conditions is no longer applicable. I therefore have no reason to assess the scheme on anything but the posted speed limit.
37. In certain circumstances, both TG3 and MfS allow for a reduced x distance, with a measurement of just 2m from the kerbline. However, such a reduction is only appropriate in lightly trafficked or slow speed situations. I have no information about traffic volumes along this road. However, at the time of my site visit I observed that the road was reasonably busy and traffic was moving quickly. On the basis of the 50mph speed limit and my own observations, I find that this is not a slow speed location. Therefore, the requirement for an x distance of 2.4m is both reasonable and appropriate.
38. TG3 explains that SSDs shall be based on the design speed in accordance with Table 2.10 of DMRB document CD109 – Highway link design, published in 2020. This sets out the SSD desirable minimum and a relaxation to allow steps below desirable minimum. For an all-purpose road at Band A, up to a two step relaxation is permitted. Where this would be appropriate, this could allow a relaxation of the SSD from 160m to 90m.
39. DMRB document CD123 Geometric design of at-grade priority and signal-controlled junction (August 2019). This sets out that the minimum for the x distance for a direct access shall be 2m. The proposed access would be a direct access as it would serve a single dwelling.

² Hampshire County Council – Technical Guidance Note TG3 – Stopping Sight Distances and Visibility Splays (Revision 2, 7/9/21)

40. On the basis of the relaxations to DMRB standards and the minimum requirements, the appellant considers that a visibility splay of 2m x 90m could be acceptable.
41. I appreciate that DMRB standard allows for certain relaxations, including two steps below on roads like Salisbury Road. However, a relaxation of the standards would need to be justified, whether on the basis of actual traffic volumes, observed speeds or the geometry of the road or for some other reason. There is nothing before me to suggest why a relaxation would be appropriate in the circumstances of the appeal site. Indeed, I observed that the road bends away to the right, therefore restricting intervisibility between vehicles emerging from the proposed access and approaching from the right. Given the circumstances, I do not find that a relaxation of DMRB standards would be appropriate in this case.
42. In accordance with the DMRB standards set out in CD123, the visibility splay should be measured to the nearside edge of the running carriageway as demarked by a hard strip and white lines. In certain circumstances, TG3 advises that the y distance may be relaxed by measuring to the major road centreline where double white line markings exist for the length of the y distance.
43. There are solid white lines directly outside Osmaston which prevent overtaking, however, to the left, the centrelines are hatched as far as the entrance to Strathfield and Copper Beeches. The visibility splay to the left would extend beyond these properties and into this hatched section of road. Therefore, since traffic could technically be overtaking, a measurement to the centreline would be inappropriate in this case.
44. The appellant has relied on the variables used to calculate the visibility splay required for the permitted scheme³ for the conversion of the garage at Osmaston into a dwelling, now Lancaster. In that case it is stated that MfS2, rather than DMRB or TG3, was used for the sightline calculation and required a 2m x 104m requirement based on absolute minimum deceleration rates and 2m x 135m as a desirable minimum. However, as that related to use of an existing access it would not apply here where an entirely new access would be formed. Furthermore, since that application, the local highway authority has published its technical guidance.
45. The appellant has stated that the sightlines are in excess of 160m in both directions from a set back of 2.4m. I have no drawings to confirm this. Nevertheless, these visibility splays would be across privately owned land and there is nothing before me to suggest that these sightlines could be maintained free of obstruction.
46. I recognise that four different visibility splay requirements in relation to both the 2015 applications⁴ for a new dwelling as well as the application that is the subject of this appeal have been quoted by the highway authority. I have already found that the 2015 application requirements are not applicable here. The discrepancy between the two figures quoted in relation to the current proposal arose from the need to take into account bonnet length.

³ Council Ref: 15/02089/FULLN

⁴ Council Ref: 15/01458/FULLN and 15/02089/FULLN

47. I appreciate that the proposed access may provide better visibility than a number of existing accesses onto the road. However, these are pre-existing and do not justify the provision of a substandard access for a new one.
48. I conclude that the proposed development would have inadequate visibility. Consequently, the proposal would lead to an increased risk of collisions between users of Salisbury Road and would significantly harm highway safety. It would therefore conflict with Policy T1 of the Local Plan which only permits development that does not have an adverse impact on the safety of the highway network.

Nutrients

49. The appeal site is located within the Solent region which includes the habitats sites of the Solent and Southampton Waters Special Protection Area (SPA) and Ramsar site, the Solent Maritime Special Area of Conservation, Portsmouth Harbour SPA and Ramsar site and the Solent and Dorset Coast SPA.
50. These sites are protected as European Sites of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.
51. There is evidence that high levels of nitrates entering the Solent is contributing towards eutrophication of these protected habitats sites. Causes of these nitrates include waste water from housing development. In these circumstances, Natural England has advised that any development proposal resulting in a net increase in overnight accommodation is required to demonstrate nutrient neutrality.
52. The Council does not currently have a solution for nutrient neutrality that can be required of applicants. In the absence of this, the appellant has proposed that a Grampian planning condition be imposed which would prevent occupation until nutrient neutrality has been solved. This approach has been taken by other local planning authorities. The Council does not agree with this approach and considers that a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) would be required to secure the necessary mitigation.
53. Had I been minded to allow the appeal, I would have sought further information on this. However, as I am dismissing for other reasons I do not need to pursue this matter further.

Other Matter

54. In response to a concern raised by the occupants of Copper Beeches about potential overlooking of their swimming pool, the appellant has offered to make the windows in the side elevation facing this direction to be obscured glazing and non-openable. However, this would not overcome the harms arising from the development as I have set out.

Conclusion

55. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR