
Appeal Decision

Site visit made on 17 August 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 21 September 2022

Appeal Ref: APP/U3935/W/22/3291808

10 Melbourne Close, Lawn, Swindon SN3 1JB

- 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 Arron Wood against the decision of Swindon Borough Council.
 - The application Ref S/21/1054/RACH, dated 16 June 2021, was refused by notice dated 23 September 2021.
 - The development proposed is erection of 1 No detached dwelling (C3) and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 1 No detached dwelling (C3) and associated works at 10 Melbourne Close, Lawn, Swindon SN3 1JB in accordance with the terms of the application, Ref S/21/1054/RACH, dated 16 June 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The appellant submitted new evidence at the start of the appeal in relation to a solar shading and overshadowing assessment. The Council and other interested parties will have had an opportunity to comment on this new evidence under standard appeal procedures. It has been accepted on this basis.

Main Issues

3. The main issues are the effect of the proposal on the:
 - (a) character and appearance of the area; and
 - (b) living conditions of neighbouring occupiers in relation to light and outlook.

Reasons

Character and Appearance

4. The site is located at 10 Melbourne Close, within a cul-de-sac of several dwellings built around the 1950's. The dwellings have a degree of variation in terms of scale and proportions. For example, there are two storey terraced dwellings and detached and semidetached bungalows. This creates a degree of flexibility when considering new development.

5. The terrace of dwellings on the end of which 10 Melbourne Close is located enjoys substantial rear garden areas. Due to the angle of a public footpath to the south, the depth of these rear garden areas becomes tapered when moving from east to west.
6. Consequently, the depth of rear garden at 10 Melbourne Close is limited in comparison to other dwellings in the terrace. However, it is still somewhat comparable and not completely dissimilar to other dwellings in the cul-de-sac. Furthermore, it is significantly wider than most other garden areas and retains an appreciable degree of spaciousness in this context.
7. The Swindon Residential Design Guide Supplementary Planning Document 2016 requires that subdivided plots should be of similar scale and order to that prevailing in the street.
8. In this context, the proposal would erect a dwelling in the form of a detached bungalow. It would conform with the variation of other dwellings in the area and would bookend the terrace in conjunction with the detached bungalow at 3A Melbourne Close. This would create a degree of pleasing symmetry to the terrace insofar as there would be a bungalow either side.
9. The proposal would subdivide the plot at 10 Melbourne Close, but due to the significant width of the existing rear garden area, the end result would be a new plot with a width that is comparable to the width of other rear garden areas in the terrace.
10. Whilst the depth of the new plot would be limited, it would not be excessively below the depth of the rear garden areas of other dwellings on the cul-de-sac, such as those at 11 and 12 Melbourne Close.
11. Furthermore, the depth of the new plot's rear garden area would present as a natural continuation of the tapering effect imposed by the public footpath on the other rear garden areas within the terrace. The gradual nature of this taper would mitigate any perceived discordance in depth, and there would be no jarring differences.
12. In addition, despite the limited depth of the new plot's rear garden area, it is clear that the total garden area created by the proposal would not make it the smallest on the cul-de-sac.
13. Lastly, the appellant sets out that the new plot would result in a density that is compatible with the suburban context and would be of an appropriate proportion relative to the footprint of the dwelling.
14. Altogether, whilst I can appreciate that this is a balanced issue, these considerations when taken cumulatively lead me to the conclusion that the new plot and rear garden area would not be cramped and would retain an appropriate degree of spaciousness.
15. The foregoing assessment also applies to the spaciousness of the remaining rear garden area at 10 Melbourne Close, which would be of a similar size to that created by the new plot.

16. In terms of how the proposal addresses the street, it is clear from the site plan submitted by the appellant that the forward building line of the terrace is respected. Therefore, whilst acknowledging that some elements of the proposal's built form would step in away from the forward building line, other elements of it would suitably address the street.
17. Whilst the proposal would extend beyond the rear building line of the existing terrace of dwellings, this would mirror the bungalow at the other end of the terrace at 3A Melbourne Close. Consequently, it would not be harmful.
18. It is not clear that the hard standing proposed as part of the proposal has a significant effect on the street scene. Indeed, the amount of hardstanding outside of 3A Melbourne Close appears similar and does not overly detract from the character and appearance of the area.
19. Overall, the proposal would not harm the character and appearance of the area and would comply with Policies SD1 and DE1 of the Swindon Borough Local Plan 2015. Among other things, these policies seek to manage development so that it responds to existing built characteristics and site conditions.

Living Conditions

20. The site is directly adjacent to 10 Melbourne Close and the proposal would extend beyond the rear building line and breach the 45 degree angle of view as set out in the Swindon Residential Design Guide Supplementary Planning Document 2016. Whilst this is a good starting point for considering potential impacts on the living conditions of neighbouring occupiers, it is not clear from the arguments presented that it should be definitive in and of itself.
21. The appellant has provided a detailed solar shading and overshadowing assessment as part of the appeal. It is based on the Building Research Establishment Guide, Site Layout Planning for Sunlight and Daylight: A Guide to Good Practice 2011. It concludes that the proposal would not have a negative impact on the facades of the neighbouring properties.
22. Other than reference to the 45 degree angle of view, the Council has not elaborated how the proposal would have an overbearing effect on the outlook of 10 Melbourne Close. As such, I am satisfied that the findings of the solar and overshadowing assessment can be extrapolated to conclude that the proposal would also be acceptable in this regard.
23. For example, in my mind, it follows that if there is a sufficient degree of openness and spaciousness to foster acceptable levels of light, then in the absence of countervailing evidence it is not unreasonable to conclude that such a degree of openness and spaciousness would also foster acceptable levels of outlook.
24. Indeed, from looking at the plans it is clear that neighbouring occupiers would still enjoy substantial degrees of outlook from the rear of their dwelling and garden area to the south and south east, and the arrangement would not be out of keeping with the density and proximity of other dwellings in the area.
25. In relation to other potential impacts on the living conditions of neighbouring dwellings other than at 10 Melbourne Close, I am satisfied by the Council's assessment in their planning officer's report that the separation distances involved would be sufficient to prevent harmful effects elsewhere.

26. Overall, the proposal would not harm the living conditions of neighbouring occupiers in relation to light or outlook. Consequently, it would accord with Policy DE1 of the Swindon Borough Local Plan 2015, which among other things requires high standards of design for all types of development, including in relation to amenity.

Planning Balance

27. I have found that the proposal would accord with the development plan as a whole under the main issues. However, for the purposes of Paragraph 11(d) of the National Planning Policy Framework, the development plan is out of date because the Council cannot demonstrate a five year housing land supply. Consequently, Paragraph 11(d)(ii) is engaged.
28. The implications of my findings under the main issues are that there are no adverse impacts capable of significantly and demonstrably outweighing the benefits of providing additional housing, even if the benefits derived from additional housing are deemed to be limited. Consequently, the presumption in favour of sustainable development under Paragraph 11(d)(ii) is engaged in favour of the proposal.

Other Matters

29. I note reference to the relevant appeal¹ at 3 Melbourne Close. The inspector was clear that their decision was not precedent setting and future proposals would fall to be considered on their individual merits.
30. Whilst the inspector dealt briefly with the site in this case, suggesting that it differed significantly in a number of respects, they did not elaborate, and it would not be right for me to speculate.
31. They did refer to potential difficulties in providing vehicular access, but it is clear from the evidence before me, including the lack of objection from the highway authority and the Council, that such matters are now acceptable in this case.
32. Altogether, the relevant appeal at 3 Melbourne Close carries limited weight in my decision and I have assessed the proposal based on its existing context, which does include the dwelling built out at 3A Melbourne Close, and the evidence presented.
33. There have been interested party objections in relation to flooding but I note the proposal includes a full drainage scheme to deal with water run-off in accordance with appropriate standards. Consequently, I am satisfied that the proposal would not be harmful in this regard.
34. Evidence before me suggests that there are no land ownership impediments that would cast the delivery of the access arrangements into doubt. Consequently, I am satisfied that the proposal would not be harmful in this regard.
35. I acknowledge the planning history on the site, and the refusals previously issued for overdevelopment. However, I have not found this to be the case in considering the appeal and proposal before me now.

¹ APP/U3935/A/04/1136886

Conditions

36. The appellant objected to a number of the Council's suggested conditions, and I asked for further comments in this context. The appellant raised no objection to the pre commencement conditions suggested by the Council. These have been deemed necessary to avoid the adverse effects that may arise if development was permitted to proceed without prior controls. All conditions in the attached schedule have been considered against the National Planning Policy Framework and Planning Practice Guidance and are necessary to make the proposal acceptable in planning terms.
37. Standard conditions setting out time limits and securing compliance with the approved plans² are necessary to provide certainty. Materials details are necessary to ensure the proposal conforms with the appearance of other dwellings in the area. Restricting permitted development rights and requiring windows on the side elevations to be fitted with obscure glazing is necessary to preserve the living conditions of occupiers and neighbouring occupiers. Whilst I note the appellant's contention that two of the windows provide natural light into non-habitable rooms, there would still be a perception of overlooking and the coverage of the condition is reasonable in this context.
38. Electric vehicle charging and cycle store provision is necessary in the interests of promoting more sustainable forms of travel. A construction management plan is necessary to preserve highway safety during construction. Whilst I note the appellant's contention about whether this is necessary, details pursuant to construction management plans can be tailored so that they are proportionate to the scale of the development and the condition is reasonable in this context. Compliance with the arboricultural and tree report is necessary to prevent the loss or damage to trees in the interests of character and appearance.

Conclusion

39. For the reasons given, the proposal accords with the development plan as a whole and also benefits from the presumption in favour of sustainable development. Consequently, the appeal is allowed and planning permission is granted subject to conditions in the attached schedule.

Liam Page

INSPECTOR

² where references have been corrected in accordance with comments from the parties.

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. This approval shall be in respect of the following plans and supporting information received by the Local Planning Authority:
 - Drawing No. MC-LP-01 Location;
 - Drawing No. MC-CP-01 Context Plan;
 - Drawing No. MC-HT-EV-01 Proposed Floor Plans;
 - Drawing No. MC-HT-FP-01 Proposed Elevation Plans;
 - Drawing No. MC-PR-SS-01 Proposed Site Section Plans;
 - Drawing No. MC-SP-01 Swept Path Analysis;
 - Drawing No. MC-PL-01 Rev A Revised Proposed Site Plan;
 - Drawing No. MC-DL-01 Rev A Drainage and Levels Layout (1:200);
 - Drawing No. MC-CS-01 Proposed Cycle Store (1:50)
3. Prior to the commencement of works on site in connection with the development hereby permitted, details of all external facing materials shall have first been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with these approved details.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and re-enacting that Order, the window/s on the side elevation/s shall be fitted with obscure glass and shall be fixed shut below a height of 1.7 metres as measured from the corresponding internal finished floor level. The window/s shall be permanently retained and maintained in this form for as long as the development remains on site.
5. Prior to the development being brought into use, details for the provision, installation and future management and maintenance of at least one electric vehicle charging point for each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved details have been installed, made available for use and thereafter maintained in accordance with the approved scheme.
6. The development hereby permitted shall not be occupied until a cycle store is provided for each dwelling in accordance with drawings MC-PL-01 Rev A and MC-CS-01. The stores shall be maintained thereafter.
7. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in

writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall:

- a. set out arrangements for the loading and unloading of plant and materials;
 - b. set out arrangements for the storage of plant and materials used in constructing the development;
 - c. set out arrangements for wheel washing facilities;
 - d. specify the intended delivery hours, taking account of road network and other local traffic peaks such as schools
8. The development hereby permitted shall be implemented in accordance with the submitted Arboricultural Trees Report prepared by Sharples Tree Services, dated May 2021.

End of Schedule