

Appeal Decision

Site visit made on 5 October 2022

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref. APP/Y3940/D/22/3299672

13 The Beeches, Lydiard Millicent, Swindon SN5 3LT

- 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 Carl Law against the decision of Wiltshire Council.
 - The application ref. PL/2021/09418, dated 1 October 2021, was refused by notice dated 3 March 2022.
 - The development proposed is described on the application form as "Erection of single storey front, rear and first floor extensions and replacement roofs with roof lights".
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Decision

1. The appeal is dismissed.

Preliminary matters

2. An application for a full award of costs has been made by Mr Carl Law against Wiltshire Council. This application will be the subject of a separate decision.
 3. The Council, in its Questionnaire, asked that in addition to visiting the appeal property, I should also assess the appeal proposal from the adjacent residential properties to the east and north, those being 11 and 15 The Beeches respectively, to fully understand the site and its constraints. Although the appellant said on the appeal form that I could see the relevant parts of the appeal site sufficiently to judge the proposal from public land, it was also suggested on the same form that I should enter the front and rear gardens of the appeal property to consider the reasons for refusal. As things transpired on the day of my visit, there was nobody at the appeal property or at no. 15 to permit access. Given the low height of the roadside boundary features at those 2 dwellings, I could comfortably assess the proposal from the public road. I was also able to gain access to no. 11.
 4. The application was refused contrary to the officer's recommendation. For whatever reason, the Council's minutes from the relevant Committee meeting do not quite tally with the information on the decision notice. The resolution to refuse planning permission claimed, amongst other things, that the proposal would not retain accommodation suitable for elderly and vulnerable persons contrary to paragraph 6.55 of the Wiltshire Core Strategy (WCS), adopted in January 2015. This objection did not find its way into the decision notice which must be taken to represent the settled position of the Council. I shall, however, cover this point under other matters later in my decision.
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Main issues

5. The main issues are the effect of the proposed development upon the character, appearance and visual amenity of the locality and its effect upon the amenities of neighbouring residential occupiers with particular regard to the potential for a loss of privacy, light or outlook through an overbearing impact.

Reasons

6. The determination of this appeal is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the WCS and the Lydiard Millicent Neighbourhood Plan 2018-2036 (NP), made in May 2021.
7. The appeal concerns a detached bungalow within The Beeches, a wholly residential cul-de-sac of about 30 dwellings set apart from and to the west of the main settlement area of Lydiard Millicent. As such, the cul-de-sac forges its own identity separate from any other townscape influences.
8. The cul-de-sac essentially follows a G-shape. The Parish Council, some of the third party objectors and some of the members of the Planning Committee drew attention to how the development would disrupt the cul-de-sac's inner or central ring of bungalows. I consider that they were right to do so.
9. As I saw on my site visit, the locality is given a strong sense of place and local distinctiveness on account of the inner horseshoe of the G-shape being purposely arranged with various detached bungalows (10 in total from nos 5 to 23) set within fairly spacious plots. Even though no. 7 has a high-level, front-facing window and no. 23 has various dormers, those 2 properties, which are well set back from the road, still really read as bungalows with rooms in the roof spaces. This layout of low-rise properties provides for a pleasant and open residential character within the inner ring of the cul-de-sac where the gardens and planting tend to draw the eye in views across as much as the buildings. This well-established environment is no doubt appreciated by local residents.
10. No. 13 is on a fairly open corner plot inside a 90-degree bend in the road and is very prominent from various public vantage points along The Beeches, from where it is seen to be one of the bungalows that make up the inner ring. Whilst the 2½-storey house that would result from adding the proposed new first floor and a new hipped roof with 2 bedrooms in the roof space may resemble some of the houses on the southern (opposite) side of The Beeches and there are buildings of different height in the outer ring of the cul-de-sac, I agree with the Council that it is the properties in the same inner ring as no. 13 which provide the relevant context in which the appeal site is experienced.
11. Given the lack of other similar abrupt changes in height within this inner ring and the coherence of the range of bungalows which the site forms part of, the proposed development, in adding considerable bulk and mass at a high level, would appear incongruous and visibly at odds with the scale and height of the adjacent bungalows. That the development would be seen to somewhat visually overpower the adjacent bungalow at no. 11 would be emphasized by the inclusion of roof lights (4 on the second floor plan, 5 on the side elevation) in the opposing roof plane giving visual effect to the 3 floors of accommodation.

12. The scheme would not be visually compatible with the immediate context and surroundings of the site. The use of matching materials is noted but this would not overcome the adverse visual effects of the scheme I have identified.
13. I find on the **first main issue** that the proposed development would harm the character, appearance and visual amenity of the locality. As the development proposed would not be an example of a high standard of design and layout that sustains and enhances the local distinctiveness of the village and would have a scale, height, bulk, mass, built form, positioning and design that would not respond positively to the existing pattern of development, townscape and setting of the site, there would be conflict with the aims of WCS Core Policy 57 and NP Policy LM1.
14. The principle of extending the property and adapting it to meet the needs of the owners is not at issue and I accept that householder extension schemes will inevitably make more efficient use of land. However, the National Planning Policy Framework (the Framework) also advises that good design is a key aspect of sustainable development; so, development should add to the overall quality of the area and be visually attractive as a result of good architecture and sympathetic to local character. The appeal proposal would fail to achieve a well-designed place that is sympathetic to local character.
15. It is almost inevitable that an upward extension of a bungalow in the manner proposed in this sort of residential environment is likely to lead to concerns from neighbouring occupiers about the potential for a loss of outlook, privacy and light. WCS Core Policy 57 requires applications for new development to have regard to the impact on the amenities of existing occupants. Nos 11, 15, 14 and 16 The Beeches are the 4 dwellings most likely to be affected.
16. Having regard to the shadow analysis produced by the appellant at Appendices B and C of his statement, the orientation and location of the proposed development in relation to those 4 dwellings, the separation distances from them and in the case of no. 11 (the closest dwelling) the presence of just 2 bathroom windows with frosted glass in its opposing western side elevation, I consider that any overbearing or overshadowing impacts caused by the proposal would be minimal and would not lead to such serious changes in outlook and light respectively as to warrant the refusal of planning permission.
17. As the front gardens and front elevations of nos 14 and 16 are already clearly visible and overlooked from the street, the 4 proposed first floor windows (only 2 of which are to habitable rooms) in the west-facing elevation of no. 13 would not result in a material loss of privacy at those dwellings.
18. The rear elevation and back garden of no. 15 are also visible from The Beeches and the common boundary with this property is in excess of 20 m away. This and the fact that only 2 very narrow first floor windows are proposed in the opposing north elevation suggests to me that those neighbouring occupiers would not suffer a material loss of privacy.
19. The impact on the privacy of the occupiers of no. 11 is rather more finely balanced. The rear garden there is very private and not overlooked owing to the single-storey form of the surrounding development. It would be possible to gain a view across the far end of the back garden of no. 11 from the 2 very narrow first floor windows in the rear elevation but of more concern is the

views that could be gained of the back garden closer to the dwelling from the first floor bedroom 3 window in the opposing east elevation of the appeal dwelling as enlarged. This is not a true secondary window, like the narrow north-facing window to bedroom 1 for instance, and the views from it would not be just across the front amenity space of no. 11 as claimed by the Council's officer. Given the size of the other proposed window for bedroom 3 to the front, there is really no need for the window in the eastern side elevation. To make the development acceptable and protect the privacy of the occupiers of no. 11, a planning condition could be imposed which would omit this window and prevent the future insertion of windows above ground floor level in the east-facing elevation.

20. Subject to the aforementioned planning condition, I find on the **second main issue** that the proposed development would not materially harm the amenities of neighbouring residential occupiers with particular regard to the potential for a loss of privacy, light or outlook through an overbearing impact. It would not conflict with the aims of WCS Core Policy 57 in that respect.

Other matters

21. Permitted development rights available under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended can represent a fallback and a material consideration when considering the planning merits of the scheme. However, the enlargement of a dwelling consisting of the construction of one additional storey above bungalows of this type can only be pursued as permitted development if the prior notification and neighbour consultation procedures have been properly followed. The outcome of such procedures cannot and should not be predicted at this stage. Moreover, the construction of 2 additional storeys over a bungalow, as proposed here, may well fall outside of the available permitted development rights altogether.
22. To house an ageing population and those with impaired mobility or specific needs, one can often come across development plan policies which set a presumption against proposals that would result in the loss of a bungalow via its demolition or extension to 2 or more storeys. However, like the appellant, I do not read paragraph 6.55 or Core Policy 46 of the WCS in a way that seeks to require the retention of existing bungalows.

Conclusion

23. My finding on the first main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm arising from that main issue cannot be mitigated by the imposition of planning conditions and it is not outweighed by my finding on the second main issue or by other material considerations. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR