



Appeal Decision

Site visit made on 7 March 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/U3935/W/22/3309416

1-5 Winifred Street, Old Town, Swindon SN3 1RT

- 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 Paul Mabberley against the decision of Swindon Borough Council.
 - The application Ref S/22/0149/LZWI, dated 17 January 2022, was refused by notice dated 4 August 2022.
 - The development proposed is a new dwelling to replace existing garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Appeal Form as it provides a more concise description than that outlined on the original planning application form.
3. The Council's third reason for refusal was with respect to the failure of the scheme to provide adequate parking, cycle storage and an electric charging point. The appellant has submitted an amended drawing reference 'A1 21/28 A revision B' indicating cycle storage and an electric charging point in the garage accommodation to address the Council's concerns.
4. I have considered the amended drawing under the principles established by the Courts in *Wheatcroft*.¹ The amendments are internal minor changes and would not substantially alter the nature of the development. In my judgement, it would not be necessary to reconsult on the changes. I am, therefore, satisfied that no party, including the Council who have viewed the additional information, would be prejudiced by my assessing the scheme with regard to it.

Main Issues

5. The main issues in this appeal are the effect of the proposed development on: -
 - The character and appearance of the area.
 - the living conditions of the neighbouring occupants, with regard to outlook and overshadowing to the private garden of 32 St. Margaret's Road.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

- Whether the proposed development would provide adequate accommodation for future occupants, with regard to outlook.
- parking and highway safety.
- flooding and drainage.

Reasons

Character and Appearance

6. The site is to the rear of 31 St Margaret's Road, adjoining a rear vehicle lane and Winifred Street. The area is residential and characterised by terraced properties. The dwellings on Winifred Street and St Margaret's Road are mostly uniform in appearance, set back behind a small front garden, with long rear private gardens. The dwellings have a simple pitched roof, some include bay windows features and most are finished in brick. The consistency in the orientation and size of the dwellings and plot layouts, together with coherent features and materials provides a pleasant character and uniformity to the street scene.
7. The appeal site is a single storey outbuilding to the rear of No 31. However, it is used for commercial storage and is separated from the parking area of No 31 by a wall. Detached garages and outbuildings are a typical feature along the rear vehicle lane, but the single storey nature means there is an appreciable gap at first floor, adding to a sense of space to the area. The appeal site and street scene are appreciable from Winifred Street and wider vantage points at the junction with St. Margaret's Road.
8. The proposed development would be one of the only detached properties within the immediate vicinity. Due to the constraints of the site, the dwelling would be adjoining the road and the neighbour's garden with a private garden space to the side. The size and orientation of the dwelling produces a smaller and less spacious plot, with a greater emphasis on the width and a considerably shallower depth than is present within this context. As such, although the dwelling would have a broadly similar scale and height to the adjoining terrace, the orientation, plot size and layout would fail to respect the established pattern of development along Winifred Street.
9. Furthermore, the scale, design and two storey height of the proposed building means it would not appear as an annex or mews type development, which is subservient to the terrace properties on St. Margaret's Road. It would also be at odds with the single storey height of the outbuildings to the rear of St. Margaret's Road, and the resultant two storey building would diminish the gap that provides a sense of space to the area. This harm would also be exacerbated by the prominence of the proposed dwelling from localised views, resulting in a discordant feature within the street scene.
10. Accordingly, in this context, the proposed development would appear cramped and contrived, at odds with the established pattern of development and damaging to the character and appearance of the area. The proposed development would be contrary to Policies SD1 and DE1 of the Swindon Local Plan 2015 (LP) and the Swindon Design Guide Supplementary Planning Document 2016 (Design Guide SPD). These policies, and guidance, amongst other things, require development to have high standards of design with due regard to the surrounding built form. The proposed development would also be

contrary to the design policies included in section 12 of the National Planning Policy Framework (the Framework).

Living Conditions of Neighbours

11. The private garden area of 32 St Margaret's Road is long with a single storey outbuilding and greenhouse close to the rear vehicle lane. With respect to outlook, the neighbouring garden sits at a higher level, reducing the height of the rear elevation of the garage from the garden and providing a more open outlook from the garden and patio area.
12. The rear elevation of the proposed dwelling would be positioned on the shared boundary with the garden of No 32, extending approximately 8.6m in depth at two storeys. The proposed rear elevation would be mitigated to some degree by being adjacent to the existing outbuildings. However, the rear wall, gable elevation and lean to would be clearly read and understood from the patio area. The scale, height and massing of the rear elevation coupled with the proximity to the end elevation and lean-to would result in an oppressive structure that would significantly impact upon the existing outlook from the garden and patio area.
13. Whilst no technical evidence was provided, it appears to me that the overshadowing from the proposed development would be limited to the morning period. Most of the garden space would receive sufficient light throughout extended periods of the day, which would not adversely impact on the neighbour's enjoyment of the private garden space.
14. Consequently, although there is no significant loss of light or overshadowing, the proposed development would unacceptably affect the living conditions of the occupants of No 32, having regard to outlook from the occupants' private garden. As such, the proposed scheme would fail to accord with Policies DE1 of the Swindon LP, and the advice and guidance set out in the Design Guide SPD. This policy and guidance seek, amongst other things, to ensure new development does not prejudice the living conditions of neighbours with respect to outlook.
15. The proposal would also be contrary to paragraph 130 of the Framework, which requires development to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Living Conditions of Future Occupants

16. At ground floor the proposed dwelling would include bi fold windows and doors serving the living/kitchen area that face the private outdoor space. Roof lights are also proposed in the ground floor lean to section. At first floor, five windows would face Winifred Street accommodating the bedroom and living space.
17. I have had regard to the Council's concerns in respect of the size of the external space and the lack of dual aspect outlook. However, the proposed windows are a good size and the larger living space at first floor would receive an open outlook onto Winifred Street, similar to neighbouring properties. The ground floor bi folds would also be large and together with the outdoor space the outlook for future occupiers would be acceptable.

18. I, therefore, conclude that the proposed development would result in acceptable living conditions for future occupants, with specific regard to outlook. This would comply with the aims of Policy DE1 of the LP, which seeks to ensure that all new residential units have an acceptable outlook. In regard to future occupants, the scheme would, therefore, comply with paragraph 130 of the Framework.

Parking and Highway Safety

19. I have noted the Council's concerns and agree that the orientation of the proposed parking space means it would be awkward and difficult to access. Also, the dimensions of the space would not comply with the dimensions set out in the Council's Technical Guidance on Parking Standards 2021 (Parking Standards) for internal garage spaces.
20. Notwithstanding the above, the Parking Standards indicates that a commercial storage use of this size would generate a demand for a single parking space, or a general business use would create a parking demand for 2 to 3 spaces. As such, the parking requirements for the existing use would be comparable or greater than the parking demand for a single bedroom property (1 space). Furthermore, from what I saw during my site visit, no off-street parking is currently being provided and the demand for parking is accommodated in the street.
21. As such, despite the lack of an adequate off-street parking space and the limited capacity in Winifred Street, the proposed development would not increase the demand for parking. The site is also situated in an accessible location within walking distance to general shops, services, facilities and frequent public transport. The amended plan submitted with the appeal also shows that there is sufficient space within the garage area for cycle storage and an electric charging point.
22. Accordingly, the proposed development would not materially add to or create any localised parking stress or highway safety issues. Furthermore, cycle storage and an electric charging point, as proposed on the amended plan, could be made available to any future occupants. Therefore, despite a technical conflict with part H of Policy TR2 of the LP, which requires parking to be provided in accordance with the Council's adopted standards, I find that no harm would arise, and there would be no conflict with paragraph 111 of the Framework relating to highway safety.

Drainage

23. Paragraph 167 of the Framework requires local planning authorities to ensure that flood risk is not increased elsewhere. It outlines that where appropriate; applications should be supported by a site-specific flood-risk assessment². Policy EN6 of the LP requires a similar approach to the Framework, but part (e) requires all development to provide a drainage strategy, and to incorporate sustainable drainage systems.
24. The appeal site relates to an area of brownfield land used for commercial storage. The site is within Flood Zone 1 and is not more than 1 hectare. I have

² A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

not been provided with evidence to suggest that it has critical drainage problems or that the land might be subject to other sources of flooding. In terms of surface water drainage, the application form states that it would be discharged to the main sewer. However, no specific drainage strategy has been submitted with the appeal.

25. The site is small and not vulnerable to flooding, as such, a site-specific flood risk assessment would not be needed. Furthermore, the site is already covered by a building and no additional hard surfacing is proposed as part of the scheme. Accordingly, the proposed development is unlikely to materially add to or create any localised flooding or increase surface water run off on the site or to adjacent areas. In the context of this appeal, I am of the view that a condition requiring drainage details to be submitted and agreed with the Council prior to the commencement of the development would be sufficient to address this matter.
26. Therefore, despite a technical conflict with part (e) of Policy EN6 of the LP, which requires a drainage strategy with all development proposals, I find that no harm would arise, and there would be no conflict with the objectives of the policies set out within the development plan or Framework relating to flooding and drainage.

Other Matters

27. The appellant has highlighted cases in support of his proposal, with specific regard to proposals where no garden space, or a very small garden space has been approved.³ Although the Council does outline that the external space is small, the reason for refusal is with specific regard to outlook rather than the small size of the proposed outdoor space. As such, these schemes are not directly comparable, and do not weigh in favour of the proposed development.
28. The appellant indicates that the garages are in a poor condition, and the appearance of the proposal would be enhanced by the development. However, for the reasons set out in the main issues I am of the view that the proposal would be harmful to the character and appearance of the area, and the removal of the garages would not be a sufficient reason to mitigate this harm.

Planning Balance and Conclusion

29. To allow housing on the appeal site would run contrary to the policies of the development plan, which encourage new development to be a high-quality design, respect the character of the local area and protect the living conditions of neighbours. I therefore give significant weight to the conflict with Policies SD1 and DE1 of the LP, which are generally consistent with the Framework.
30. In terms of benefits, the provision of a new dwelling in an accessible location would make a contribution towards the supply of housing, in an area with an under supply. It would be the redevelopment of brownfield land and there would be social and economic benefits arising from the construction period and the future spending of occupants. However, the shortfall in housing supply is small and the construction benefits would be short term. The proposal is also for a single dwelling, which would only provide a small uplift in the supply of housing and support to services in the area. I give these benefits limited weight.

³ Council references S/18/1688 and S/18/0971

31. The Framework supports the provision of a range of dwelling sizes, with paragraph 69 noting the contribution that can be made by small and medium sized sites, and windfall developments in accessible locations. This is a positive aspect of the scheme, however, neither the Framework, nor the support in the development plan for new housing is at the expense of ensuring that development proposals integrate appropriately with its surroundings or have adverse impacts upon the living conditions of neighbours.
32. The Council is currently unable to demonstrate the supply of housing sites as required by the Framework and therefore paragraph 11(d) is engaged. There are no relevant protected areas or assets that provides a clear reason for refusing the development proposed. However, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, as set out in paragraph 11(d)ii the presumption in favour of sustainable development does not apply.
33. The appeal scheme would conflict with the development plan when considered as a whole. There are no material considerations, individually or cumulatively, worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

M. P. Howell

INSPECTOR