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## Appeal Decision

Site visit made on 3 January 2023

**by J J Evans BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 May 2023**

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**Appeal Ref: APP/Y3940/W/22/3302367**

**1 Bourne View, Allington, Wiltshire SP4 0AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Bill Baxter against the decision of Wiltshire Council.
  - The application Ref PL/2021/08473, dated 26 August 2021, was refused by notice dated 1 April 2022.
  - The development proposed is the erection of single 2 storey 3 bed dwelling on land to east of 1 Bourne View, Allington, SP4 0AA.
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### Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of a single 2 storey 3 bed dwelling on land to east of 1 Bourne View, Allington, Wiltshire SP4 0AA, in accordance with the terms of the application Ref PL/2021/08473, dated 26 August 2021, and subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The original application was submitted for outline planning permission, with consideration of access at that stage, and a description of development as referred to above. The submitted plans (ref Location Plan 21/3348/LOC1 E and Site plan, plans, section and front elevation 21/3348/SK01G) show details that are reserved for future consideration as they depict the location, layout, footprint, elevations, and floorplans of the proposed dwelling. The appellant's appeal submission makes it clear that the only matter for consideration at the outline stage is access, and that all other matters are reserved with the details that have been provided at the outline stage being indicative. For the avoidance of doubt, I am considering the appeal on the basis of all matters apart from access being reserved, whilst noting that certain details have been submitted for indicative purposes.
3. The site is within the catchment of the River Avon Special Area of Conservation, an internationally important habitat. The Conservation of Species and Habitats Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with other

plans and projects. This responsibility falls to me in the context of this appeal and I have therefore considered this matter as a main issue.

## **Main Issues**

4. The main issues in this case are: firstly, the effect of the proposal on the character and appearance of the area; secondly, the effect of the proposal upon the safety and convenience of other highway users having particular regard to parking; thirdly, the effect of the proposal on the living conditions of nearby and future residents, having particular regard to privacy, pollution, noise and garden space; and fourthly, the effect of the proposal upon the integrity of the River Avon Special Area of Conservation.

## **Reasons**

### *Character and Appearance*

5. The appeal site is a plot of land positioned to the eastern side of 1 Bourne View (No 1). The plot was part of the garden of this property, albeit tall timber fencing has been erected to separate the garden from the appeal site. To the north and eastern boundaries there are a mix of trees and shrubs, some being evergreen, and there is a steep grass bank that drops down to the A338. The site is level, and there is a gravelled track along the southern boundary that provides off-road parking. This track shares an access onto the cul-de-sac with the parking spaces that are located to the side of No 1.
6. Although matters of location and appearance are reserved, the description of the development is that it would be for a two-storey three bedroom dwelling. The dwelling would be positioned to one end of the row of semi-detached two-storey houses that are to the northern side of Bourne View. The dwelling would be in an elevated position above the level of the A338, and this positioning would make it visible within the surrounding area, particularly when approaching from the south. However, there are a variety of ages and styles of dwellings nearby, some of which are also close to the highway. There are fields to the east of the A338, but the appeal site would form part of the large cluster of mostly residential properties that are found to either side of Bourne View. The dwelling would be seen as a continuation of the existing row of houses along the cul-de-sac. Given this, the dwelling would not appear unduly discordant within this residential context.
7. The site has a somewhat contrived shape due to a section being retained as garden for No 1, and the retention of boundary trees and the sloping bank would be further constraints upon the developable area. Some local residents value the contribution the trees and shrubs make to the area, but at the time of my inspection I saw that those to the rear of the site had been heavily pruned, and that other trees and shrubs had already been felled. There would be an opportunity to supplement the

existing planting on the site with the reserved matters, including on the site boundaries.

8. Whilst indicative details have been provided showing that a house and its parking could be accommodated on the site, the size of the house and its positioning would be for consideration at the reserved matters stage. No 1 and 2 Bourne View have shallow rear gardens, and given the size of the appeal site, a similar sized dwelling with a similar sized rear garden could be accommodated within the site. As such the principle of a two-storey, three bedroom house within the plot would be achievable.
9. For these reasons a two storey house within the site would be in keeping with the character and appearance of the area, and would accord with Core Policies 2 and 57 of the Wiltshire Core Strategy (2015) (CS). These policies seek, amongst other things, that development draws on the local context and is complementary to the locality, thereby reflecting objectives of the National Planning Policy Framework (the Framework) and of the National Design Guide.

#### *Highways and Parking*

10. There is an existing gravel track within the appeal site that could accommodate two parked cars. Local residents and the Council are concerned that there is already insufficient car parking provision in the area, referring to double parking occurring. Whilst noting these concerns and that the cul-de-sac to the appeal site is a single lane width road, there are a variety of parking options available to local residents. The cul-de-sac provides access not only to the nearby houses and bungalows but also to an area of communal parking spaces. In addition to these spaces, most of the nearby houses and bungalows have off-road parking provision, and there is also unrestricted on-street parking along Bourne View.
11. The proposed dwelling would share the existing access onto the cul-de-sac with No 1. This property would retain off-road parking provision, with additional spaces being provided for the proposed dwelling. The illustrative drawings show that two parking spaces could be provided and that the existing two spaces for No 1 would be retained. Given this and the level of existing provision that exists, including the communal area and that unrestricted on-street parking could occur elsewhere in Bourne View, the additional dwelling would not significantly increase parking pressure within the area. If it is the case that anti-social and inconsiderate parking is already occurring, this would be a matter for the relevant individuals and legislative bodies to resolve.
12. Following my findings, the dwelling could be provided with adequate parking provision at the level required by the Council's Local Transport Plan (2011), and would not cause highway safety issues, as required by objectives of the Framework and by CS Policy 57.

### *Living Conditions*

13. Future occupiers would be close to the A338 and would experience traffic noise and some degree of pollution from passing vehicles. The dwelling would be elevated above the carriageway, and there would be a degree of separation for future residents which would mitigate the effects of the immediacy of passing traffic. There have been no concerns raised by the Council's Environmental Health team, and the site is not in an Air Quality Management Area. The impact of the road upon the living conditions of future occupiers would not be so unacceptable as to warrant refusal.
14. Although dependant to some degree upon the size of the footprint of the dwelling, the site is of sufficient size to provide a similar amount of garden space as the neighbouring properties. Those trees and hedges that are to remain on site could be managed, and additional planting would provide landscaped edges to the property.
15. The flank wall of No 1 has no window openings within it, and the rear garden of this property has been enclosed by a high timber fence. The proposed dwelling would be two storey and there would be some overlooking into nearby gardens, albeit at an oblique angle into No 1. However, the residential nature of the area is such that there would already be a degree of mutual overlooking experienced by existing residents. In addition, the size of the site would allow an opportunity to achieve the sensitive positioning of the house and its windows at the reserved matters stage so as to maintain the living conditions of nearby residents.
16. Given these findings, the proposed dwelling would not significantly harm the living conditions of existing residents, nor would it provide future occupiers of the house with unacceptable accommodation. The proposal would thereby accord with CS Policy 57, which seeks amongst other things appropriate levels of amenity for future and existing residents, thereby reflecting objectives of the Framework.

### *River Avon SAC*

17. The site is within the catchment of the River Avon Special Area of Conservation (SAC), an internationally important site that is protected for it being a pristine chalk river system that supports a diverse variety of species, including plants, fish, and snails species. The SAC is subject to statutory protection under the Conservation of Species and Habitats Regulations 2017 (the Regulations), and these require the Competent Authority to consider whether or not a proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
18. The SAC is particularly vulnerable to the effects of pollutants which may enter the river, particularly phosphates. New residential development

has the potential to increase nutrients within the catchment, and the impact of such development upon the SAC needs to be appraised by an Appropriate Assessment (AA). The AA needs to establish that the effects of the proposal, including in combination with other development, does not impact upon the integrity of the protected site.

19. Natural England have informed the Council about the unfavourably high levels of phosphates recorded in the SAC. The Council has worked with Natural England to produce a Strategic Appropriate Assessment of Development in Wiltshire. This includes an agreement by the Council to provide for in-perpetuity mitigation and the ongoing monitoring of the mitigation delivery. In addition to strategic measures to optimise sewage treatment works and provide offsetting in the form of new wetlands and woodlands, new residential development would be subject to conditions to restrict water usage, with the expectation that phosphorous burdens will be avoided and mitigated on the development site as far as possible. Such measures, including conditions regarding water usage, construction, and drainage arrangements, along with the Council's strategic measures and offsetting, would mean that the dwelling would achieve phosphate neutrality.
20. Furthermore, Natural England has been consulted for their views with regard to the appeal scheme, and have raised no objection, being of the opinion that the Council's phosphorous mitigation strategy is acceptable. In view of all the above, and as the Competent Authority for the purposes of the Regulations, I am satisfied that the proposal, alone or in combination with other projects, would not have an adverse effect upon the integrity of the SAC. The proposal would therefore accord with objectives of the Framework with this regard, and with the requirements of CS Policy 69, which seeks amongst other things, to avoid and reduce potential environmental effects upon the SAC.

### **Other Matters**

21. Local residents have raised a variety of concerns, including the number of applications that can be made to develop the plot, and bank stabilisation. There is no restriction on the number of applications that can be made. As regards bank destabilisation, the positioning of the house would be for consideration at the design stage given that layout is a reserved matter. I note that the Council's highways section has raised no concerns with regards to bank stabilisation, and I have no compelling evidence to conclude otherwise. Furthermore, the Framework makes it clear that the responsibility for securing a safe development rests with the developer and landowner.

### **Planning Balance**

22. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, whereby planning permission should be granted

unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.

23. The provision of an additional dwelling within the village would provide a small boost to the supply of housing, and this would be a social benefit that carries weight. There would also be a small, time-limited economic benefit arising from the construction phase of building an additional home. Conditions and strategic mitigation measures would protect the integrity of the SAC, and additional landscaping could also be provided, which would bring environmental benefits. There would be a small increase in traffic movements within the area, but the impact arising from the provision of a single dwelling would be unlikely to result in significant highway safety impacts.
24. The adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits that arise from the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development applies in this case.

## **Conditions**

25. The conditions suggested by the Council have been considered against paragraph 56 of the Framework. Where necessary and in the interests of clarity and precision they have been altered to better reflect these requirements.
26. Conditions specifying development time scales and the reserved matters have been imposed, as well as one requiring the development to be carried out in accordance with the approved plans, albeit disregarding the indicative details that are depicted, so as to avoid doubt and in the interests of proper planning.
27. Tree protection measures are necessary to protect the remaining trees on site and the contribution they make to the character and appearance of the area.
28. A condition regarding a construction management and method statement has been imposed, in order to protect the living conditions of local residents and highway safety. This condition would also ensure that measures are in place to protect the integrity of the River Avon SAC. Similarly, conditions regarding levels of water consumption and details of the proposed sustainable urban drainage have been imposed, with the intention of minimising nutrient pollution. The removal of permitted development rights for extensions would also ensure that the dwelling remains nutrient neutral, as well as protecting the amenity of nearby residents and the character and appearance of the area.
29. Conditions requiring the details and provision of the parking and access have been imposed in the interests of highway safety.

## **Conclusion**

30. Thus, for the reasons given above and having considered all other matters raised, the appeal is allowed.

*J J Evans*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

2. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development; and
- (d) The landscaping of the site.

The development shall be carried out in accordance with the approved details.

4. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan 21-3348-LOC1 E dated 17.12.2021 (indicative other than in respect of means of access)
- Site Plan, Plans, Section and Front Elevation 21-3348-SK01 G dated 08.03.2022 (indicative other than in respect of means of access)
- Topographical Survey BV14/06/21 Rev B March 2022
- Tree Survey and Arboricultural Impact Assessment HELLIS March 2022 V2.0

5. No demolition, site clearance or development shall commence on site, and no equipment, machinery or materials shall be brought on to site for the purpose of development, until tree protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction -Recommendations" has been erected in accordance with a Tree Protection Plan showing the exact position of each tree, identified as H4 in the Tree Survey and Arboricultural Impact Assessment HELLIS March 2022 V2.0, together with details of the protective fencing which shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site and shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance with British Standard 3998: 2010 "Tree Work – Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practice. If any retained tree is removed, uprooted, destroyed, or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority. No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later.

6. No development shall commence on site (including any works of demolition), until a Construction Management Plan, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) wheel washing facilities;
- e) measures to control the emission of dust and dirt during construction;
- f) a scheme for recycling/disposing of waste resulting from construction works; and
- g) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved Construction Management Plan. The approved Construction Management Plan shall be complied with in full throughout the construction period.

7. The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

8. The dwelling shall not be occupied until parking spaces together with the access thereto, have been provided in accordance with the approved plans.

9. The dwelling shall not be occupied until the Building Regulations Optional requirement of a maximum water use of 110 litres per person per day (to include external water usage) has been complied with. A post construction stage certificate certifying that this standard has been achieved shall be submitted to and approved in writing by the local planning authority. The development shall be thereafter managed and maintained in accordance with the approved details.

10. No development shall take place until details of the implementation, adoption, maintenance, and management of the sustainable drainage system shall have been submitted to and approved in writing by the local planning authority. The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, B, C and E shall take place on the dwellinghouse hereby permitted or within its curtilage.

**\*\*\*END OF SCHEDULE\*\*\***