



Appeal Decision

Site visit made on 15 December 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/U3935/W/23/3325074

11 Wilkins Close, Swindon SN2 7XL

- 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 Miss Tokarski against the decision of Swindon Borough Council.
 - The application Ref S/22/0679/SASM, dated 26 April 2022, was refused by notice dated 17 March 2023.
 - The development proposed is construction of an attached dwelling on land adjacent to 11 Wilkins Close and demolition of existing garage and replacement roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the Council have raised an additional issue relating to the effects of the proposal on the North Meadows and Clattinger Farm Special Area of Conservation (SAC). The Council have progressed a mitigation strategy which has been adopted since the determination of the planning application. The appellant has had the opportunity to comment on this matter and to provide details of any relevant measures. Consequently, a Unilateral Undertaking has been submitted with the appeal, dated 11 January 2024 (the UU). This has been taken into account in the determination of the appeal and given the dispute surrounding the UU, I have elevated the matter of the SAC to a main issue.
3. During the consideration of this appeal the revised National Planning Policy Framework (the Framework) has been published. The main parties have had the opportunity to comment on the relevance of the Framework to this appeal.

Main Issues

4. The main issues are: (i) the effects of the proposal on the North Meadow and Clattinger Farm SAC (ii) the effects on the character and appearance of the area, and (iii) whether the proposal would provide an acceptable standard of accommodation for the future occupiers of the dwellings in terms of their outdoor space.

Reasons

North Meadow and Clattinger Farm SAC

5. The appeal site lies within the 'outer zone' of influence of the North Meadow and Clattinger Farm SAC. This is internationally important for its biodiversity

and its population of Snake's Head Fritillary, which is a rare plant characteristic of damp low level meadows.

6. Natural England have advised that recreational pressures from visitors to the SAC are causing damage to its wildlife value. The proposal lies in an area where survey work has identified that 75% of those who come to view the fritillaries during the summer flowering season originate. The proposal would introduce new permanent residents close to the SAC who may therefore access it for recreational purposes. As such, there is a pathway for effects of the proposal on the SAC. Given these factors, and adopting the necessary precautionary approach, the proposal would have a likely significant effect, either alone or in combination with other projects, on the qualifying features of the SAC and could lead to an adverse effect on the integrity of the site.
7. The proposal would not include any on site mitigation for these effects. During the course of the appeal the Council have adopted an interim recreation mitigation strategy for the SAC, prepared with other authorities and in partnership with Natural England. The document sets out a package of mitigation measures to be delivered via a financial contribution per new house. The Council have set out that a contribution of £323 would need to be secured to contribute to Strategic Access Management and Monitoring at the SAC. Based on the evidence, I have no strong reason to doubt that this would provide the mitigation necessary to avoid adverse effects from the proposal on the SAC.
8. The UU seeks to secure the required contribution. However, there are a number of shortfalls with the UU, some significant, which would result in the obligation not taking effect if the appeal were allowed. Most notably there are concerns that all relevant parties have not entered into the agreement and that it refers to planning permission granted by the Council, which would not be the case here if the appeal were allowed. In addition, I note the Council's concerns that the description of the contribution would dictate that it could not be used for significant parts of the Interim Recreation Mitigation Strategy.
9. Given the concerns for the UU which create a high level of uncertainty, together with the nature of the Habitat Regulations and in the absence of evidence of exceptional circumstances here, the imposition of a condition to this effect would not be reasonable.
10. Overall, for the reasons given, it cannot be established with the necessary level of certainty that the proposal would not adversely affect the integrity of the SAC. The proposal would be contrary to paragraph 186 of the Framework which seeks to protect habitats of international importance and prevent significant harm to biodiversity from development, as well as the Habitats Regulations. My attention has not been drawn to any relevant local plan policies in this regard and I return to this matter below.

Character and Appearance

11. The appeal site lies within a residential area which is comprised predominately of groups of semi-detached and terraced properties set around a series of short cul-de-sacs. The properties have varying building lines and different relationships to the street, many having their front doors within different elevations and varied off street parking arrangements. This variety in the

- configuration of the buildings, together with the pockets of soft landscaping, contributes positively to the overall character and appearance of the area.
12. The proposal would introduce another property alongside no. 11. Despite being wider than the other properties in this terrace, its height, design and staggered front building line would match those other properties nearby. Adequate space for some soft landscaping would continue to exist at the side and front of the site, which would contribute to the verdant character of the area.
 13. The proposed parking areas would extend very close to the front elevations. However, based on the plans, parked vehicles would not obstruct access to the properties and a defined pathway would be retained to no.11. Given the varied arrangements of parking areas and property entrances in the surrounding area, this arrangement would not cause visual harm.
 14. The altered garage to the north of the site would be very close to the rear elevation of the new house and obscure part of the rear elevation. However, I do not consider this arrangement to be incongruous in this context, given the varied appearance and positioning of garages across the area. A gap would nonetheless exist between the two buildings, and the sloped roof of the garage would assist in providing the appearance of space between them.
 15. For the reasons given, the proposal would not cause harm to the character or appearance of the area. It would comply with Policy DE1 of the Swindon Borough Local Plan (the LP) as well as the Swindon Residential Design Guide 2016 (the SRDG) insofar as they require high quality design which is appropriate to its context and that proposals consider design principles including accessibility. The proposal would also comply with the design objectives of the Framework including where it requires development to be sympathetic to local character.

Living Conditions

16. The SRDG states that, as a rule of thumb, the main external private garden space should be at least the same area as the footprint of the host dwelling. It is unclear whether this is the case for the existing dwelling of no.11 where the garden is small and hard surfaced. However, I observed that it contains adequate space for outdoor seating, some play equipment, as well as hanging plants and biodiversity features.
17. The proposal would result in the existing garden being narrowed further. However it would still be of a size that it could accommodate paraphernalia as may be required by future occupants, in a similar arrangement to the existing. The size of the outdoor space would also be improved by the removal of the conservatory, which occupies a significant portion of the garden area. The garden of the new house would be a similar size and together the gardens would be adequately sized for the scale of the dwellings which they serve, which are both shown to have one bedroom. The proximity of the altered garage to the garden of the new house would not adversely affect the quality of outdoor space, particularly given its orientation and scale.
18. In conclusion on this main issue, the proposal would provide acceptable outdoor spaces for future occupants. While not achieving the standard set out in the SRDG, that document nonetheless acknowledges this as a general rule of thumb and that infill plot subdivisions should be a similar scale and order to

that prevailing in the street, which would be the case for the plot sizes here. The proposal would comply with LP Policy DE1 and the provisions of the Framework insofar as they relate to amenity and healthy living conditions.

Other Matters

19. The Council comment that the layout of the new dwelling could easily be adapted to provide two bedrooms, which would create the need for an additional parking space. However, I have determined the appeal on the basis of the plans before me.
20. The completion of the UU would give rise to monitoring by the Council which would not otherwise exist. However there is not evidence of the extent of the monitoring fee sought by the Council and I cannot be satisfied, based on the evidence here, that such an obligation would meet the tests set out in the CIL Regulations and the Framework.

Planning Balance and Conclusion

21. The Council have not identified any development plan policies relevant to the issue of the SAC effects. It therefore follows that paragraph 11d) of the Framework is relevant to the appeal. However, as the application of policies in the Framework which protect habitat sites provide a clear reason for refusing the development proposed, the proposal would not benefit from the presumption in favour of sustainable development.
22. The proposal would nonetheless provide a new house, which would contribute to the national objective to boost the supply of homes. This would be within an existing built up area with good accessibility to services and facilities. As a single house this contribution would be limited, and this benefit would not outweigh the harm to the designated habitat site.
23. While conflict has not been found with the development plan, material considerations, namely the Framework, indicate that the appeal should be determined other than in accordance with it. As a consequence, the appeal is dismissed.

C Shearing

INSPECTOR