



Appeal Decision

Site visit made on 9 April 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal Ref: APP/U3935/W/23/3332547

Littlefield Cottage, Broad Bush, Blunsdon, Swindon, Wiltshire, SN26 7DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Malcolm Sheppard against the decision of Swindon Borough Council.
 - The application Ref is S/OUT/23/0614.
 - The development proposed is described as "this proposed bungalow is to allow Mr and Mrs Sheppard to continue to live independently and safely in Blunsdon, close to friends and family by providing single storey living with wheelchair access to the dwelling and gardens. Mr and Mrs Sheppard have lived in Blunsdon for over 75 years. The proposed bungalow will replace the existing arrangement of buildings (stable(s), tack room, office area and barn) and provide a 2 bedroom single storey dwelling with an open plan living and kitchen area."
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The application is in outline, but with access, landscaping, layout and scale all to be considered at this stage. As such, only appearance is reserved for future application. I have determined the appeal on this basis.
3. The appeal results from the failure of the Council to determine the application within the prescribed period. Therefore, there is no formal decision notice. However, the Council's Statement of Case sets out the reasons why it would have refused planning permission, had it been empowered to do so.
4. Since the appeal was made, a revised National Planning Policy Framework (the Framework) has been published. The parties have had the opportunity to comments on this and I have made my decision against the most up-to-date planning policy position.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - whether the proposal would comply with the spatial strategy of the Development Plan for the distribution of housing, and
 - the effect of the proposal on protected species.

Reasons

Character and Appearance

6. The appeal site consists of the long rear garden of the existing property, one of a row of dwellings fronting onto the B4019. The site has a collection of stables and outbuildings at the end of the garden, together with a small orchard. The long gardens and adjoining open countryside give the area an attractive, semi-rural character. The proposal seeks to sub-divide the garden to create a new plot, and to replace the outbuildings with a single-storey dwelling.
7. A few dwellings locally are positioned behind others, such as at Upper and Lower Barn or Brooklyn Lodge. Others, such as Combe Rise, are set deep into their plots, whilst Portquin has extensive sheds and parking areas that extend well beyond the site of the proposal. Nevertheless, most dwellings along this part of the B4019 have a broadly linear pattern. The proposal would be in a backland location, behind the host dwelling. As such, it would not have the direct frontage access or linear alignment of many dwellings hereabouts.
8. The position of the proposal would extend deep into the site and the dwelling would cover much of the width and depth of the proposed plot. This would result in little separate space for the occupiers of the proposal. Moreover, it would necessitate the removal of existing trees within the plot. Layout and scale are considerations at this stage and the proposal would replace the existing structures with a building of larger footprint, consolidating and adding to the extent of built development here. A greater number of replacement trees are proposed, but the limited space available means that they would generally be smaller than those lost.
9. As a result, the proposal would overdevelop the plot, undermining the semi-rural appearance of its surroundings and would conflict with the prevailing pattern of development. It would thus appear out of place within its context. Views of the proposal and its harmful effects would be obtainable from the nearby footpath, and from Viewpoint 6 of the Views of Local Importance identified in the Blunsdon East Neighbourhood Plan (NP), made June 2021.
10. For the above reasons, I conclude that the proposal would harm the character and appearance of the area. It would therefore conflict with policies DE1, HA1 and EN5 of the Swindon Borough Local Plan (SBLP), adopted March 2015, and NP policies 3, 10 and 11. These require that proposals reflect the built and landscape character of the area, do not adversely affect Views of Local Importance and retain existing trees unless sufficient compensatory trees are provided.
11. The proposal would similarly conflict with the Swindon Residential Design Guide Supplementary Planning Document, adopted June 2016, which discourages backland development. It would also conflict with the aim of the Framework for development to be sympathetic to its surroundings. I therefore give this conflict substantial weight. However, no particular breach of the Village Design Statement has been identified and so I find no conflict with NP Policy 5.

Spatial Strategy

12. SBLP Policy SD2 sets out the Council's strategy to meet the need for development whilst protecting the most important assets of the Borough. As such, it identifies Rural Settlement Boundaries (RSBs) which are the focus for

new development. NP Policy 2 makes clear that housing will not normally be permitted on non-allocated sites outside of the RSBs, unless complying with policies not relevant to this proposal. NP Policy 3 requires strict control over new development outside of defined settlement boundaries.

13. Although disputed, the evidence before me is that the site lies outside of an RSB, and so the proposal would not accord with these policies. Furthermore, the site lies within the SBLP Kingsdown Zone of Non-coalescence. This strategic zone is intended to protect the character and identity of the area and to prevent coalescence between the settlements, including the Kingsdown development.
14. SBLP Policy NC5 requires that this area shall remain part of the countryside. Relevant to the proposal, it supports small-scale development only where it involves the re-use, conversion or extension of existing buildings, or is essential to the economic or social needs of the rural community. The proposal would not constitute any of these forms of development. Furthermore, for the reasons I have already given, it would consolidate the existing development at the site, diminishing its semi-rural character. As such, it would conflict with SBLP Policy NC5 and its aim of non-coalescence.
15. Consequently, the proposal would not comply with the spatial strategy of the Development Plan for the distribution of housing, conflicting with SBLP policies SD2 and NC5, as well as NP policies 2 and 3. It would similarly conflict with the requirement of the Framework to recognise the intrinsic character and beauty of the countryside. Accordingly, I give substantial weight to this conflict. However, NP Policy 1 relates to the allocation of sites for housing. As the site is not allocated, I find no conflict with this policy.

Protected Species

16. The buildings and trees affected by the proposal have been identified as being likely to provide a habitat for bats, barn owls and other protected species. An ecological survey will be undertaken before development commences, and mitigation measures, such as bird nesting boxes are intended to be provided. However, little substantive ecological information is before me now to demonstrate the extent of any impact on protected species, or the suitability of any scheme to mitigate such effects.
17. Consequently, on the evidence submitted, I cannot be satisfied that the proposal would have an acceptable effect on protected species. Taking a precautionary approach, it would therefore be inappropriate to grant planning permission, even for outline consent. Accordingly, the proposal would conflict with SBLP Policy EN4, which seeks to protect and enhance biodiversity. It would also conflict with the similar aim of the Framework, to which I give significant weight.

Other Considerations

18. The Council cannot currently demonstrate an adequate supply of housing land and so Paragraph 11(d) of the Framework is engaged. As such, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling, to assist the Council in addressing its undersupply. However, there is no dispute that Framework Paragraph 14 is also engaged.

This makes clear that where development conflicts with a NP, this conflict is likely to significantly and demonstrably outweigh its benefits. This therefore weighs heavily against the proposal.

19. I am mindful that the proposal would provide improved accommodation for the appellant and his family. In reaching my decision, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, including the protected characteristic of disability. Article 8 of the Human Rights Act 1998 requires that decisions should ensure respect for private and family life and the home. I have kept these interests at the forefront of my mind, but they are qualified rights and interference may be justified where in the public interest.
20. Dismissal of the appeal may well result in a continuation of the current living arrangements, adversely affecting those with a protected characteristic. I have given due regard to the need to eliminate discrimination and promote equality of opportunity, and to the benefits to the appellant and his family. However, the permanent effects of the proposal would remain long after such personal circumstances may have changed. I therefore give these benefits moderate weight.
21. The proposal would have economic benefits, for example to the building industry, and would make more efficient use of the land. However, given the small size of the proposal, I give this only limited positive weight. It would contribute to the supply of housing, including as a single-storey self-build dwelling, and would allow the existing property to become available. It would also be built to high environmental standards. However, due to the proposal being for only a single dwelling, such benefits would be limited.

Planning Balance and Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. For the reasons given, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
23. The Council has referred to the effect of the proposal on the North Meadow and Clattinger Farm Special Area of Conservation (SAC), protected pursuant to the Conservation of Habitats Regulations 2017. Had I found no harm in respect of the other issues, as competent authority I would have carried out an Appropriate Assessment in respect of the undisputed potential effects from the proposal on the SAC. However, in light of my findings on the other substantive grounds, this matter need not be considered further.
24. I have found conflict with the Development Plan as a whole, for the reasons set out above. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR