



Appeal Decision

Site visit made on 24 February 2025

by **N Robinson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th March 2025

Appeal Ref: APP/U3935/W/24/3352204

13 Pembroke Gardens, Swindon SN25 3EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Rehnsi against the decision of Swindon Borough Council.
 - The application Ref is S/24/0192/JP.
 - The development proposed is construction of a detached dwelling on land adjacent to 13 Pembroke Gardens and replacement porch to existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revision to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties were given an opportunity to comment on the effect of these changes. This decision is based on the current Framework and has taken account of the representations made on this.
3. A Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal in relation to a contribution towards the mitigation of likely significant effects on the North Meadow and Clattinger Farm Special Area of Conservation (SAC). The Council has been given the opportunity to comment on this UU. Thus, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to this in my decision. I shall return to this matter later in my decision.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the integrity of the SAC; and
 - the living conditions of the occupiers of 13 Pembroke Gardens.

Reasons

Character and appearance

5. The appeal site comprises a semi-detached dwelling and associated garden located on the north side of Pembroke Gardens where dwellings predominantly comprise 2-storey hipped roof semi-detached dwellings. Properties are typically set within spacious plots with sizeable gaps between buildings. This pattern of

development creates a spacious character and appearance to the area to which the appeal site makes a positive contribution. Whilst there is a detached dwelling at the western end of Pembroke Gardens, I observed at my site visit that this dwelling contrasts with the form and siting of dwellings in the surrounding area.

6. The proposed detached 2-storey dwelling would be set back in line with other dwellings in the row and would be similar in width to nearby dwellings. It would be constructed using materials to match those used in the surrounding area and the parking area to the front of the dwelling would not appear out of keeping within the street scene in which similar parking layouts are found.
7. However, the dwelling's detached form would contrast markedly with the form of dwellings which characterise the surrounding area. The dwelling would be positioned tight to the site's western boundary within a small plot and would erode the characteristic gap between dwellings. The size and layout of gardens serving the proposed dwelling and No 13, in addition to the incorporation of a parking and turning area within the rear garden, would contrast markedly with the layout of dwellings in the surrounding area. In light of this, the proposal would appear cramped and contrived and at odds with the current sense of spaciousness within the surrounding area. The proposal would read as an incongruous addition to the site resulting in a form of development which would unacceptably detract from the established character of the area. That the site is not subject to any ecological, landscape or heritage designations does not overcome this harm.
8. The effect of the scheme would be to harm the established character and appearance of the area. Conflict therefore arises with those aims of policy DE1 of the Swindon Borough Local Plan (2015) (LP) which seek to ensure a high standard of design.

SAC

9. Whilst not forming a reason for refusal, the Council set out that the site is within the Outer Zone of Influence for the SAC, a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) in which proposals including a net gain in residential development have the potential to give rise to significant effects (either alone, or in combination with other proposals).
10. The SAC was designated due to its rich diversity of meadow plants, which includes 95% of the UK's surviving population of Snake's Head Fritillary. The evidence indicates that the primary causes of site degradation include walking, and in particular dog walking. There is a reasonable likelihood that the SAC would be accessed for recreational purposes by future occupiers of the dwelling which may lead to the disturbance of the habitat, resulting in a significant adverse effect on the integrity of the SAC when considered in combination with other residential development in the area. Mitigation is required to ensure that such pressure is avoided or limited to such a degree that it would preserve the integrity of the SAC.
11. A UU has been submitted and the appellant is thus obviously aware of the requirement to secure mitigation to avoid any likely significant effects on the SAC. However, the submitted UU has not been signed by the mortgagee, is not dated, does not clearly define the appeal site with a site plan or provide evidence of the signatory's title to the land. Given this, I cannot be satisfied that all persons with an interest in the site are a signatory to the UU. Thus, the UU before me is incomplete

and its implementation would be uncertain. Without that certainty, I cannot conclude that the proposal would not have an adverse effect on the integrity of the SAC. Given my responsibilities under the Habitats Regulations, the absence of a mechanism to secure mitigation against the proposal's impacts on the SAC would result in the scheme having a significant adverse effect on the integrity of the SAC.

Living conditions

12. The Swindon Residential Design Guide Supplementary Planning Document (2016) (SPD) states that all dwellings suitable for families should provide a sunlit area of private garden, of a size and shape capable to support household recreational use. The garden area for No 13 Pembroke Gardens would be located at the rear of the site, separated from the dwelling by a turning area. This garden would be roughly the same size as the host dwelling and would be of sufficient size to support household recreational use for activities such as children's play and drying washing. The dwelling and garden would be connected by a path and the amount of separation would not be significant. There is no evidence that the layout would discourage the occupiers of No 13 from using this garden or render it unusable for household recreational activities.
13. In light of the above, I find that the proposal would not harm the living conditions of the occupiers of No 13. I therefore find no conflict with those aims of LP policy DE1 which seek to ensure that proposals respect amenity. I also find no conflict with the SPD which has similar aims.

Other Matters

14. The proposed dwelling would be provided with policy-compliant levels of amenity space and future occupiers would be provided with adequate bin and cycle storage. The proposal would not result in opportunities for overlooking of neighbouring properties and the Council raised no objections to the proposal on grounds of the effect on highway safety. Nonetheless, compliance with the relevant development plan policies on these matters would be required in any case. Thus, these matters weigh neutrally, rather than in favour of the proposal.

Planning Balance

15. The Council accepts that it is unable to demonstrate a 5-year housing land supply. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 of the Framework lists habitat sites as one such asset of importance.
16. The proposal would make a small contribution towards the borough's housing supply on a site at low risk of flooding with good access to facilities, services and public transport, contributing to the Government's objective to significantly boost the supply of homes. However, I have found harm in relation to the effect of the development on the SAC, which, in accordance with Footnote 7 of the Framework, provides a clear reason for refusing the development proposed. Thus, the proposal does not benefit from the presumption in favour of sustainable development

outlined at Paragraph 11 and, as a material consideration, the Framework would not indicate that permission should be granted.

Conclusion

17. I find in favour of the appeal in relation to the issue of the effect on the living conditions of the occupiers of 13 Pembroke Gardens. However, the proposal would have an adverse impact upon the character and appearance of the area and the integrity of the SAC. Consequently, it fails to accord with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

N Robinson

INSPECTOR