



Appeal Decision

Site visit made on 24 June 2025

by **M Wiltshire CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 17TH July 2025

Appeal Ref: APP/U3935/W/25/3363294

Land adjacent to 14 Matley Moor, Liden, Swindon SN3 6NL

- 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 Regeneration Southern Ltd against the decision of Swindon Borough Council.
 - The application Ref is S/24/0914/JP.
 - The development proposed is erection of a single detached dwelling, additional landscaping and enhancements to open space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the development on:
 - the defined public open space assets;
 - the character and appearance of the area;
 - the living conditions of the occupiers of 30 and 32 Matley Moor with regards to light and outlook; and
 - the living conditions of the future occupiers of the proposed dwelling with regards to the rear garden area.

Reasons

Defined Public Open Space

3. The area of the proposed development is defined as public open space in Policy EN3 of the Swindon Borough Local Plan 2026, adopted 26 March 2015 (the LP) and this is not in dispute.
4. Referring to the Council's Open Space Audit and Assessment, the appellant contends that there is an oversupply of open space (grassed informal play) in the area and an under supply of children's (equipped) play space. The appellant's proposal is to provide some play equipment and seating, suggesting this is secured through a condition, although it is unclear whether ongoing maintenance, and the inevitable replacement would be secured. The appellant also notes that only a very small area of informal play space would be lost in the ward and there are other areas available nearby.

5. The appellant concludes that, the proposals comply with one of the exceptions in Policy EN3 (part b., bullet 4), where the scheme '... provides community benefit which outweighs the loss of open space.'
6. I consider that the provision of some play equipment and seating provides a limited benefit given the small-scale nature of these facilities, with associated ongoing maintenance and periodic renovation/replacement issues, and does not outweigh the loss of open space which Policy EN3 aims to protect.
7. For these reasons, I conclude that the development would not protect Public Open Space assets, and would therefore fail to accord with Policy EN3 of the LP.

Character and appearance

8. The appeal site consists of grassed open space adjacent to a detached house, located at the end of a cul-de-sac, abutting an established tree area. The wider area also contains these pockets of open space, the appeal site is one such area. The street scene in this residential estate is characterised by evenly spaced detached properties. Indeed, this sense of spaciousness culminating in the open space of the appeal site, with its bordering mature area of woodland providing a sylvan backdrop, contribute significantly to the pleasant, verdant and spacious suburban character of the area.
9. Whilst the proposed dwelling includes additional landscaping and enhancements to open space, the detached house will occupy a considerable proportion of what is currently grassed open space in front of mature woodland resulting in a discordant form of development that fails to reflect the spatial characteristics of the surrounding area. Furthermore, the loss of this area of open space would erode the spacious and verdant character I have mentioned above.
10. There are no long views of the site, and it is only glimpsed when approaching the entrance to the cul-de-sac which is terminated by the public open space and parking bays to its front. However, from within this cul-de-sac, in the immediate environs of the site, the open area forms an important reprieve to the built development. This is characteristic of the wider estate. A scheme which would result in the parking bays replaced by landscaping has not been submitted. However, even if this could be appropriately secured, the benefits of this would be minor and they would not outweigh the overall significant reduction in open area.
11. Additionally, I note the appellant has sought to: design the proposed development to enhance the character of the area; match the building type; and consider the position of the dwelling on the appeal site. However, these benefits would be minor and would not outweigh the overall significant reduction in open area.
12. For these reasons, I conclude that the development would be harmful to the character and appearance of the area. It would fail to accord with Policy DE1 of the LP which seeks to ensure high standards of design and placemaking in respect of the existing built characteristics and acknowledged features of importance.

Living conditions on neighbours with regard to light and outlook

13. The proposed dwelling would be positioned to the rear of No 30 Matley Moor (No 30) and No 32 Matley Moor (No 32), and to the front of No 14 Matley Moor (No 14).

14. No 30 and 32 have first-floor windows that overlook the application site, as such their outlook is limited to views over the open space and sunlight during limited periods during the day. The occupiers of No 30 would perceive the proposed development as a solid boundary wall formed by its side elevations, which in overall context would appear overbearing. The siting of the proposed development is likely to cause overshadowing No 32 and a garden area that receives little sunlight.
15. I note the appellant's contention that the proposed development has been designed to minimise its impact on the neighbouring properties while complying with Building Research Establishment (BRE) criteria. I have also noted the Daylight and Sunlight Impact Assessment prepared by the appellant and the contention of no harmful impact on neighbours. However, I consider that the proposal, by reason of its height and proximity to neighbouring properties is likely to have a harmful impact in terms of light and overshadowing.
16. Therefore, the development would result in harm to the living conditions of the occupiers of 30 and 32 Matley Moor with regards to light and outlook. It would fail to comply with Policy DE1 of the LP which, amongst other matters, seeks to ensure development is appropriate in terms of light and outlook.

Living conditions of future occupiers with regard to overshadowing

17. The proposed dwelling would be positioned to the rear of No 30 and No 32, and to the front of No 14; the rear garden would abut the bordering mature area of woodland.
18. The proposed dwelling's rear garden would be in close proximity to the established tall tree-belt bordering the application site. Combined with the two-storey residential development at No 32 adjacent to the new dwelling could constrain natural light levels and hence result in overshadowing.
19. I note the appellant's contention that the proposed development has been designed to minimise the impact of neighbouring properties on it. I have noted the findings of the Daylight and Sunlight Impact Assessment prepared by the appellant, in particular the findings in relation to amenity of the proposed development. These include findings which suggest that the proposed garden will receive sunlight marginally short of the BRE threshold. The appellant also suggests that the effect of trees should not be part of the consideration referring to BRE guidance and the concept of 'caveat emptor'. However, I consider that the proposal, by reason of its proximity to No 32 and to the tree-belt is likely to have a harmful impact in terms of overshadowing the garden.
20. Therefore, the development would result in harm to the living conditions of future occupiers with regards to overshadowing. It would fail to comply with Policy DE1 of the LP which, amongst other matters, seeks to ensure development is appropriate in terms of light.

Conclusion

21. The evidence indicates that the Council's current housing land supply falls marginally below the housing requirement for the five-year period (at 4.87 years). Paragraph 11 d) of the National Planning Policy Framework (the Framework) explains that in these circumstances, planning 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.

22. The benefits of the provision of a single dwelling to the supply of housing, even taking account of the location where the need to travel would be minimised, would be very modest.
23. The development would result in biodiversity net gain, however given the modest scale of the proposal, the associated benefits would be very modest. Securing the landscaping of the parking bay area would also provide only very modest benefits. There is little evidence to demonstrate how the proposed children's play equipment and the seating could be secured in the long term, including the associated ongoing maintenance and periodic renovation/replacement. However, assuming this could be secured, the benefits of this would be limited given the small-scale nature of these facilities. Taking account of the suggested under-provision of equipped play space, these benefits have modest weight.
24. When considered in the round, the adverse impacts of the development in terms of open space provision, the effects on the character and appearance and the living conditions of the neighbouring residents and future occupiers would significantly and demonstrably outweigh the benefits of the development. The development would not accord with the policies in the Framework taken as a whole.
25. For the reasons given above the appeal should be dismissed.

M Wiltshire

INSPECTOR