



# Appeal Decision

Site visit made on 22 November 2022

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

an Inspector appointed by the Secretary of State

**Decision date: 19 December 2022**

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**Appeal Ref: APP/Y3940/W/22/3301509**

**1 Orchard Road, Trowbridge, Wiltshire BA14 7AR**

- 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 Mr James Knight against the decision of Wiltshire Council.
  - The application Ref PL/2021/10779, dated 4 November 2021, was refused by notice dated 23 February 2022.
  - The development proposed is proposed two bedroom detached house located in western part of existing garden.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the proposed development upon (i) the character and appearance of the area, (ii) the living conditions of occupiers of 1 Orchard Road, with particular regard to privacy, outlook, daylight and the provision of garden space, and whether the proposed development would provide acceptable living conditions for future occupiers of the proposed dwelling, with particular regard to the provision of garden space; and, (iii) highway safety.

## Reasons

### *Character and appearance*

3. The site is a triangular shaped parcel of land within the garden to the side of 1 Orchard Road (No 1). It occupies a corner plot next to the road junction of Brown Street with Orchard Road, between No 1 and 2 Brown Street. The surrounding area has an established residential character and appearance, with dwellings within the vicinity of the site predominately comprising semi-detached and terraced houses. The dwellings are typically set back from the street behind modest front gardens and are predominantly two storey, evenly spaced and follow strong building lines. Most have even proportions and simple roof forms, and there is consistency in the form and appearance of houses. This consistency contributes strongly to the character and appearance of the area.
4. The appeal proposal, whilst of materials that would reflect the local vernacular, would occupy the majority of the site, although a parking space would be provided, along with a small area of garden around the dwelling.

5. The dwelling would have a stepped elevation facing the road and a varying roof form which would not be sympathetic to or in keeping with the established character and appearance of its neighbours. Whilst I note the appellant's explanation that the design of the building would be similar in scale and appearance to the existing dwellings, it would still be apparent that it is a house of a contrasting form and appearance to those around it.
6. Further, the position of the proposed dwelling closer to the road in comparison with neighbouring properties would be noticeable and, together with the form and appearance of the dwelling, serves to exacerbate its presence and appearance as an obtrusive development in what is a mature and generally homogenous residential street scene.
7. At my site visit I noted other nearby examples of more recent housing development provided within side garden areas, notably 3A Orchard Road and 4A Brown Street. However, whilst these are detached dwellings, they appear to have a similar relationship to the road and are of a form and appearance that reflects the neighbouring buildings. They are therefore more in keeping with the character and appearance of the street scene.
8. Taking the above matters into consideration, I conclude on this issue that the proposal would cause harm to the character and appearance of the area. As such, it would conflict with Core Policy 57 of the Wiltshire Core Strategy (the WCS) which, amongst other things, requires development to respond to the existing townscape features including in terms of building layouts, built form, plot size and elevational design. It would also be contrary to the National Planning Policy Framework (the Framework), which in paragraph 126 sets out that good design is a key aspect of sustainable development, and in paragraph 130 sets out, amongst other things, that planning policies and decisions should ensure that developments are sympathetic to local character.

#### *Living conditions*

9. No 1 has a ground floor window and two glazed doors in the side elevation facing towards the appeal site. Whilst there may be some loss of light and additional overshadowing to the side elevation and rear garden of No 1, this would not be significant given the position of the proposed dwelling to the side and the apparent secondary nature of windows within the affected elevation of that property.
10. I note that the proposal would reduce the garden area of No 1. The large proportion of the rear garden would however be unaffected, and I consider it would be suitable for use in the context of garden areas available to neighbouring properties.
11. Notwithstanding that, the proposed dwelling would be orientated with ground and first floor windows facing the rear garden of No 1. In particular there would be a bedroom window at first floor, which would closely and directly overlook that rear garden and give rise to a greater degree of overlooking than at present. The proposal would, therefore, have a harmful impact on the privacy of the occupiers of No 1.
12. The appeal scheme allows for a limited area of garden space for the new dwelling. Core Policy 57 of the WCS does not set any prescriptive requirements for amenity space but sets out that development should ensure appropriate

levels of amenity are achievable. The development because of the shape of the site would result in only a small rear garden, which would not be as deep as the neighbouring properties and would have a triangular shape. Due to its northeast orientation the resultant garden would be overshadowed by the house and its neighbouring buildings for periods of time. The rear elevation of the dwelling would be close to the site boundaries, which together with the limited size of the garden and proximity of the neighbouring two storey buildings would give the rear space an enclosed quality which would be likely to feel oppressive.

13. Whilst there is room for a parking space to the side of the property and an area of garden space wrapping around the side to the front, this provides a limited area of additional amenity space. This area would be likely to lack the privacy necessary for garden use. As a result of the above factors, the proposal would fail to provide acceptable living conditions at the new dwelling with regard to the provision of garden space.
14. Taking the above matters into consideration, whilst I find that the proposal would not cause harm with regard to outlook, daylight and the provision of garden space for No 1, I conclude that there would be a harmful impact upon the living conditions of the occupiers of No 1 with particular regard to privacy. The proposal would also fail to provide acceptable living conditions for future occupiers of the proposed dwelling, with particular regard to the provision of garden space. As such, on this issue, the proposal would conflict with Core Policy 57 of the WCS which, amongst other things, requires development to ensure appropriate levels of amenity are achievable. It would also be contrary to paragraph 130 of the Framework which, amongst other things, sets out that decisions should ensure that developments promote health and well-being, with a high standard of amenity for existing and future users.

#### *Highway safety*

15. The speed limit in the area is 20 mph. A vehicle access is currently provided off Orchard Road which allows access to parking in front of No 1 and its garage. The proposal would extend the dropped kerb for this access at the junction of Brown Street with Orchard Road and provide a single parking space for the proposed dwelling, which would be accessed over the existing pavement. Brown Street curves to its junction with Orchard Road and, as a result, forward visibility along the street is limited.
16. There are other accesses to dwellings fronting Orchard Road and Brown Street within the vicinity of the road junction. I observed during mid-morning on a weekday a low but regular flow of vehicular traffic through the junction and the speed of traffic was not excessive.
17. However, in this case an access serving a further dwelling with the likelihood of vehicles manoeuvring on the highway and over the pavement so close to the junction would likely concentrate conflicting road and footway movements, increasing the likelihood of accidents to the detriment of highway safety.
18. Even acknowledging the proposal to lower the height of the boundary fence, the layout of the new access and the proximity of a utility box and lamp post would result in a tight manoeuvre for drivers entering from the Brown Street direction or exiting the same way. The proposed driveway would not include a turning area and drivers reversing onto the driveway would be performing a

hazardous manoeuvre, which would not be immediately obvious or expected by other highway users, including pedestrians and cyclists.

19. Therefore, I conclude that the proposed development would have a harmful effect upon highway safety. As such, on this issue, the proposal would conflict with Core Policy 61 of the WCS which requires that, amongst other things, development is capable of being served by safe access to the highway network. It would also be contrary to paragraphs 110 and 111 of the Framework, which together and amongst other things seeks to ensure safe and suitable access to the site can be achieved for all users and says development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

#### *Planning balance*

20. The proposal is in conflict with the development plan. There is no dispute that the Council cannot demonstrate a five-year housing supply at present. Paragraph 11 (d) ii. of the Framework therefore applies. This states that 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.
21. The adverse impacts are set out above. Set against that is the benefit of providing an additional unit. However, due to the small quantum of development, this is a small benefit and so carries only limited weight.
22. The appellant refers to a want to develop the site for a family member to achieve an ambition of homeownership. However, this would be a personal benefit and, as such, would seldom outweigh general planning considerations.
23. The Framework advises that developments should be sympathetic to local character, provide a high standard of amenity for existing and future users and have acceptable highway safety impacts. As such, even taking account of the Framework's objective of significantly boosting the supply of housing and the Council's housing land supply position, the failure to respect the character of the area, provide satisfactory living conditions for future and neighbouring occupiers and provide an acceptable impact on highway safety would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

#### **Conclusion**

24. The proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

*J White*

INSPECTOR