

AGENDA SUPPLEMENT (1)

Meeting: Western Area Planning Committee

Place: Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 14 December 2022

Time: 3.00 pm

The Agenda for the above meeting was published on 6 December 2022. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Stuart Figini, Senior Democratic Services Officer, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718221 or email stuart.figini@wiltshire.gov.uk

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This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

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- Appeal Decision Notices

DATE OF PUBLICATION: 6 December 2022

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Appeal Decision

Site visit made on 29 July 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2022

Appeal Ref: APP/Y3940/W/22/3293999

37A Monkton Farleigh, Bradford-on-Avon, Wiltshire BA15 2QD

- 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 J Stone against the decision of Wiltshire Council.
 - The application Ref 20/10353/FUL, dated 18 November 2020, was refused by notice dated 29 September 2021.
 - The development proposed is 'Erection of replacement dwelling'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by the appellant and is subject to a separate decision.

Preliminary Matters

3. Various amended plans were submitted during the course of the planning application. Clarification was sought as to the final plans/drawings for the scheme against which the Council made its decision, with conflicting responses received from the appellant and the Council.
4. The Council has provided a copy of an email from the appellant (dated 22 July 2021) that indicates the latest set of revised drawings that were submitted for the Council's determination were as follows: Location Plan (scale 1:1250); Amended Proposed Block Plan (dwg no. LPC 4788 SD6 001A); Amended Proposed Ground Floor Plan scale (dwg no. LPC 4788 SD6 002A); Amended Proposed First and Second Floor Plans (dwg no. LPC 4788 SD6 003A); Amended Proposed Elevations (dwg no. LPC 4788 SD6 004A); Amended Proposed Cross Sections (dwg no. LPC 4788 SD6 005A).
5. The reference numbers of the above drawings suggest that they are later versions than those referred to by the appellant. Furthermore, details contained within the Council's committee report appear to corroborate that the Council's decision was based on the above specified drawings. The appeal has therefore been determined on this basis.

Main Issues

6. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the living conditions of neighbouring occupiers; and
- If the proposal is inappropriate development, whether the harm to the Green Belt by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development

7. The appeal site lies within the Green Belt. The Council's committee report indicates that there are no relevant development plan policies relating to the Green Belt and I have not been referred to any local level Green Belt Policy by the parties. The Council's reason for refusal, insofar as it relates to Green Belt implications, refers solely to paragraph 149(d) of the Framework. Under these circumstances and given that the Framework provides the Government's up-to-date policy intentions for Green Belt, I give it significant weight in my determination of this appeal.
8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149.
9. Paragraph 149 d) of the Framework is of most relevance to the proposal. It provides an exception for the replacement of a building provided that it is in the same use and is not materially larger than the one it replaces. The Framework provides no definition of what constitutes 'materially larger'. The Council states that the volume of the proposed dwelling would be approximately 50% larger than the one it would replace, a figure not disputed by the appellant. Despite being narrower in width and of a comparable floorspace, the proposed dwelling is also markedly taller in height and greater in depth than the existing dwelling. As such, having regard to its overall scale and massing relative to the existing dwelling, the proposal would result in a materially larger building.
10. For these reasons, the proposal would be inappropriate development in the Green Belt which is, by definition, harmful.

Openness

11. Openness is an essential characteristic of the Green Belt that has a spatial as well as a visual dimension. The proposed dwelling would have an increased volume, height and massing compared to the existing dwelling and would therefore reduce the openness of the Green Belt in spatial terms. Although the

proposed dwelling would be repositioned within the site and therefore be less prominent from public vantage points, this would not alleviate its spatial impact on openness.

12. Therefore, whilst the harm to the visual aspect of openness would be negligible, the harm to the spatial aspect would be moderate. In any case, the Framework establishes that any harm to the Green Belt should be given substantial weight.

Living Conditions

13. The Council's reason for refusal cites unacceptable impacts on amenities of neighbouring properties, especially No. 37B Monkton Farleigh (No. 37B). From my observations on site, the most acute effects in terms of living conditions would be experienced by the adjacent occupiers at No. 37B. This is due to its siting in relation to the appeal site.
14. The proposed dwelling would be set further back within its plot and be of greater depth and height than the existing dwelling, resulting in a two-storey element projecting beyond the rear elevation of No. 37B. The side elevation of the proposed dwelling facing onto No. 37B would be blank. Together, these factors would result in a greater sense of enclosure to the occupiers of the neighbouring property. However, the level of enclosure would be somewhat limited due to the proposed dwelling not projecting significantly beyond the building line of the neighbouring property.
15. Furthermore, the proposal is located some distance from the shared boundary. No. 37B also has a fairly long rear garden, with the topography falling away from the rear of the dwelling, providing expansive views over the surrounding countryside beyond. As such, it has a rather open aspect.
16. Overall, the scale of the proposal, its position to the south of and relative to the shared boundary with the neighbouring property means that the proposal would not result in any harmful loss of outlook or light to the occupiers of No. 37B.
17. The lack of first floor windows within the side elevation of the proposed dwelling, and the partially enclosed nature of the proposed first floor balcony, mean that the proposal would not result in any harmful overlooking of neighbouring properties. Whilst the proposal may allow for views over the rear gardens of 37B and 37C Monkton Farleigh, it would not include the more sensitive areas immediately to the rear of these dwellings. Additionally, I observed at my site visit that there was already some mutual overlooking of rear gardens between these properties, given their linear arrangement.
18. Turning to the remaining adjacent neighbouring properties, a substantial amount of trees and vegetation is positioned between the appeal site and the neighbouring dwellings to the rear and south. Even if the vegetation were to be lost, the proposal would not result in any materially harmful effect on the living conditions of the occupiers of those properties. This is due to the scale of the proposal, the separation distances involved, the orientation of those neighbouring dwellings alongside the large size of their gardens.
19. I have noted the concerns of other interested parties, including the occupiers of 37C Monkton Farleigh. However, from my observations on site, I am satisfied

that the proposal would not result in any significant harmful impacts on the occupiers of other nearby properties.

20. For the reasons outlined above, I conclude that the proposal would not have a harmful effect on the living conditions of neighbouring occupiers. The proposal would therefore comply with Core Policy 57 of the Wiltshire Core Strategy, Adopted January 2015. The policy, amongst other matters, requires that new developments have regard to their compatibility with adjoining uses and to the impact on the amenities of existing occupants.

Other Considerations

21. The appellant has indicated that the existing dwelling has unexpended permitted development rights (PDR) for extensions. The maximum scale of extensions that could be built using PDR has been indicated, which it is argued should be considered when assessing whether the proposal is materially larger than the building it seeks to replace. However, no detailed plans or drawings have been provided to demonstrate the precise nature and scale of any such extensions and how they would relate to the existing dwelling.
22. Paragraph 149 d) of the Framework is specific in that the baseline position that proposals must be determined against is the existing building that is to be replaced. As such, it is not considered that unbuilt permitted development should be included in the assessment against Paragraph 149 d). However, I have had regard to the fallback position of PDR as part of the wider deliberation as to whether there are other considerations to outweigh the harm identified.
23. The limited details of the fallback position, cast doubt on the likelihood of whether the PDR extensions would be pursued. In addition, it is unclear from the evidence as to what the difference in overall scale and volume would be between the existing dwelling, as could be extended, and the proposed dwelling. As such, it has not been demonstrated that the fallback position would be materially comparable or more harmful than the proposal.
24. I also note that the appellant's statement of case sets out the need of the existing dwelling to undergo substantial renovation, with a replacement dwelling being deemed the only viable option. I am therefore not convinced that there is a realistic prospect of the fallback position being implemented. Consequently, I give only limited weight to the unexpended PDR.
25. The appellant refers to a previous decision of the Council in allowing an extension to No. 37C that increased the volume of that property by over 50%. Whilst I do not have the full details of that planning application, it seems that the policy test which that extension would have been considered against is different to the proposal before me. I also appreciate that extensions to existing dwellings at this order of size are sometimes considered to comply with the exception at paragraph 149 c) of the Framework. However, this exception requires such extensions do not result in 'disproportionate additions' over and above the size of the original building. I consider this to be a very different test from a replacement building not being 'materially larger', as required under 149 d) of the Framework. Little weight is therefore given to this line of argument from the appellant.
26. The site is located within the Monkton Farleigh Conservation Area (CA). The significance of the CA appears to derive from the tranquil rural village character

and general consistency in built form, particularly in the use of materials. Notably, many of the buildings within the CA are constructed from stone under tiled roofs, are of a broadly comparable scale, and they often share similar detailing. The existing dwelling is a more modern addition to the village. Except for its stone boundary wall, the existing dwelling does not positively contribute to the character or significance of the CA.

27. It is suggested by the appellant that the design of the proposed dwelling more effectively harmonises with its surrounding context through its proposed scale and use of materials. As such, it is put forward that the proposal would provide enhancements to the CA. The proposed materials incorporating stone, subject to its precise detailing, may more closely reflect the local surroundings. Nevertheless, I find that the proposed dwelling would not result in a significant uplift in design quality that would offer a material enhancement to the CA. Consequently, the proposal is deemed to have a neutral impact on the character and significance of the CA and I have afforded limited weight to it in the planning balance.
28. The appellant highlights that No. 37B has previously been extended to the side, towards the appeal property, thus removing a significant area of open space between the houses. Notwithstanding the overall impacts on the openness of the Green Belt, the proposed dwelling would result in an increase in open space between the two dwellings as viewed in the street-scene. This is a matter that I find would have a modest positive impact, accordingly it is also afforded modest weight.
29. I recognise that the re-use of the site as a family home would help to support local facilities and services. However, given the scale of the proposal, such benefits would be modest and are not necessarily dependent on the form of development that is being pursued. As such, I also give this matter limited weight.

Green Belt Balance

30. The proposal is inappropriate development in the Green Belt and it would result in moderate harm to openness. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
31. Overall, I find that together the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, very special circumstances do not exist which justify the proposal.

Other Matters

32. The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). The Council does not allege that the proposal would cause harm to the AONB. From my own observations, I concur that given the scale of the proposal and the context of the site, the AONB's landscape and scenic beauty would be conserved.

Conclusion

33. The proposal is contrary to policies in the Framework relating to the Green Belt. There are no further material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the Framework policy. Accordingly, the appeal should be dismissed.

Lewis Condé

INSPECTOR



Costs Decision

Site visit made on 29 July 2022

By Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2022

Costs application in relation to Appeal Ref: APP/Y3940/W/22/3293999 37A Monkton Farleigh, Bradford-on-Avon, Wiltshire BA15 2QD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J Stone for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for development described as 'Erection of replacement dwelling'.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application essentially relies on the fact that the Council Members went against the advice of its professional officers and failed to provide adequate reasons for refusing planning permission.
4. The PPG also indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. Although I did not agree with the Council in respect of the effect of the proposal on the living conditions of the occupiers of the neighbouring properties, I am nevertheless satisfied that the Council produced sufficient evidence to substantiate its concerns in this regard. It will also be seen from my decision that I concur with Council Members and that there were sufficient grounds for refusing planning permission in relation to harm to the Green Belt. I am therefore satisfied that the Council has shown that it was able to substantiate its reason for refusal.
7. For the reasons set out above, I consider that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

Consequently, having regard to all matters raised, an award for costs is not justified.

Lewis Condé

INSPECTOR



Appeal Decision

Site visit made on 6 September 2022

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/Y3940/Y/22/3293185

3 Market Place, Warminster, Wiltshire BA12 9AY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs B Fitchett against the decision of Wiltshire Council.
 - The application Ref PL/2021/06613, dated 30 June 2021, was refused by notice dated 30 August 2021.
 - The works proposed are described as the "Replacement upper storey windows (retrospective) and replacement shopfront".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. 3 Market Place is a listed building in the Warminster Conservation Area and so I have had special regard to Sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The original application proposed replacement upper storey windows and shopfront. It was apparent from my visit that although the windows had been installed, the shopfront had not been changed. Notwithstanding this, I have confined myself to the consideration of the appeal proposal before me, rather than what has occurred on site.

Main Issue

4. The main issue is whether the windows and shopfront would preserve a listed building and any of the features of special architectural or historic interest that it possesses, and linked to that whether it would preserve or enhance the character or appearance of the conservation area.

Reasons

5. The appeal property is part of a terrace that forms a long and tall line that frames the northern edge of the footway. Positioned on a busy road in the town centre, 3 Market Place (No 3) is one of a number of historic buildings that occupies a prominent position within the town, being close to the Town Hall and the junction of Market Place with Weymouth Street. The straight and wide nature of the roads provides

long views of No 3, and the property contributes positively to the rich variety of high quality historic buildings that flank the footway. The presence of so many historic buildings, their close relationship to the road, along with the diversity of their public and private uses, creates an attractive, bustling dynamic to the area, all of which forms part of the significance of the conservation area.

6. No 3 contributes positively to the vibrant, historic character and appearance of the town centre. The property has a ground floor commercial use and shopfront, with residential above, and this division of uses is a distinct and repeated aspect of the town centre and a characteristic of the conservation area. The presence of ashlar stone walls, the neo-classical style and hierarchy of the upper floor and its windows, as well as the cornice and parapet detailing that even extends around the side of the building, are all part of the special architectural interest of this listed building. The politely mannered form of this elegant, high status building reflects its prominent position within the town centre, and is part of the historic interest of this listed building.
7. Externally the building shows evidence of change. The shopfront and entrance doors are modern additions, and prior to their replacement, the upper floor windows were four pane sashes. Such windows had a style consistent with Victorian period detailing, with their four pane arrangement, fine glazing bars, and horns. These windows maintained the elegant appearance of the upper floors of the building, as well as being evidence of the layering of external alterations that have occurred to the property over time. Similarly, the works to the ground floor provide evidence of more recent changes that have occurred both to the building and to the area. Many of the nearby historic buildings have modern shopfronts, and that within the ground floor of No 3 has some consistency of appearance with those nearby. The modern shopfront contrasts with the elegant, ordered appearance of the upper floors of No 3, as the shop window arrangements of mullions and transom rails have randomly positioned large glazing panes.
8. The provision of white upvc double glazed windows has an incongruous appearance with the traditional materials and elegant detailing of the upper floors of the listed building. Glass within historic windows can be replaced over time, but in this case, the use of plate glass in every pane creates a flat and monotonous surface, and one that is repeated in every window. This and the double reflection that results from the double-glazing makes the windows appear unduly prominent. The frames have a bulky appearance in part to accommodate the double glazing but also through the use of upvc. The windows have a clumsy dominance that is at harmful odds with the elegant manners of the upper floors of this building. Not only do the windows form a harsh juxtaposition with the high quality form, detailing and traditional materials of the host, but they have a discordant prominence with the timber windows in the buildings either side. The windows harmfully draw the eye, and they not

only harm the special interest of the listed building, but they also detract from the historic upper floor cohesion that is part of the character and appearance of the conservation area.

9. The windows also have horns, and although the windows came from a heritage range, the presence of horns is a Victorian characteristic, rather than a neo-classical feature. The presence of horns on Georgian style sashes serves to exaggerate the incongruous appearance of the windows. Whilst the appellants suggest the horns could be removed, the detail of how this could be achieved has not been provided.
10. Furthermore, the top floor windows are six over six panes. Given the depth of the upvc frames the provision of such windows on the upper floor has a clumsy and squashed appearance that is at harmful odds with the carefully ordered style of neo-classical fenestration. The external, public face of Georgian buildings is deliberately ordered with a diminishing hierarchical status of the floors which is reflected externally in the size of a building's windows. Whilst there are a variety of styles of windows present in nearby buildings, including some with a mix of period styles of windows, in most they have a historic appearance that complements the host building, as well as providing legible evidence of historic change. Whatever the reason for the style and form of the windows chosen by the appellants, the windows are at harmful odds with the appearance of the host and with those within the adjoining buildings.
11. A further consideration of the appellants was to reduce maintenance and noise levels for occupiers of the building. However, even upvc windows require maintaining, whilst noise mitigation and draft proofing can be achieved through measures other than the installation of double glazed units.
12. As regards the replacement shopfront, the existing aluminium one would be replaced by one with a bespoke timber frame with projecting cill and triple mullioned windows. The Council has raised no objection in principle to the shopfront, considering the proposal would be more sympathetic to the character and appearance of the conservation area than the existing shopfront.
13. Notwithstanding this, very few details of the shopfront have been provided to enable an assessment of the works upon both the conservation area and particularly upon the listed building. No cross section drawings have been provided, and consequently the detail of the shopfront, including its glazing, mullions, cill, and relationship to the fabric of the building cannot be assessed. Given the absence of detail, including how it is to be fitted, the impact of the shopfront on the listed building in particular cannot be robustly assessed. Moreover, in the absence of such information conditions could not be relied upon to ensure that the special interest of the building is maintained.
14. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of

designated heritage assets, great weight should be given to their conservation. This is irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance. Given my findings, the works would fail to preserve the special interest of a listed building, nor preserve or enhance the character or appearance of the conservation area. The harms would be less than substantial as the works would affect only part of the building and the conservation area, although these harms would be of considerable importance and weight.

15. Under such circumstances, the Framework advises that where development would lead to less than substantial harm that this harm should be weighed against the public benefits of the proposal. Acoustic and thermal benefits arising from the windows would provide both public and personal benefits, including for the occupiers of the property. In the absence of the detailing of the shopfront whether it would have a public benefit through improving the conservation area and the listed building has not been demonstrated with any degree of certainty. Nevertheless, the public benefits would not outweigh the harms that I have identified, and the continued viable use of the appeal property is not dependent on the works as the building has an ongoing residential and commercial use.
16. On balance the works would neither preserve the special interest of the listed building, nor preserve or enhance the character or appearance of the conservation area. The works would be contrary to the requirements of the Act and objectives of the Framework. Although not determinative in listed building cases, the Council has drawn my attention to the requirements of Core Policy 58 of the Wiltshire Core Strategy (2015). As this policy seeks, amongst other things that development protects, conserves and where possible enhances the historic environment, the works would fail to accord with these objectives.

Conclusion

17. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR



Appeal Decision

Site visit made on 20 September 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/Y3940/W/22/3299231

Land to the rear of 39 Woodrow Road, Melksham SN12 7AY

- 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 L Thompson against the decision of Wiltshire Council.
 - The application Ref PL/2021/09635, dated 6 October 2021, was refused by notice dated 11 February 2022.
 - The development proposed is erection of new dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 39 Woodrow Road, and the future occupiers of the proposal, with respect to the provision of private amenity space.

Reasons

3. The appeal site comprises the rear garden of 39 Woodrow Road (No 39), a mid-terrace 2-storey dwelling situated within a residential area in Melksham.
4. Following the grant of planning permission for an outline consent¹, reserved matters approval was given for a 2-bedroom detached bungalow at the site², in 2007. However, the bungalow was not built.
5. The appellant has provided copies of some of the planning policies which were taken into account by the Council in 2007. Of these, Policy C38 of the West Wiltshire District Plan 1st Alteration (2004) is the most relevant policy to this main issue. Policy C38 was replaced by Core Policy 57 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy). Whilst the language used is different, in substance part vii. of Core Policy 57 is similar to Policy C38.
6. The National Planning Policy Framework (the Framework) was not in existence in 2007, and the version of the Framework at the time the Core Strategy was adopted referred to 'a good standard of amenity', rather than 'a high standard of amenity', as now found at paragraph 130 f) of the current version of the Framework. Nevertheless, taking account of this slight change in emphasis in the Framework, it is fair to say that with respect to the focus of this main issue, the planning policy context is broadly the same now as it was in 2007.

¹ W/05/01311/OUT

² W/07/01037/REM

Additionally, the evidence indicates that there has been no material physical changes to the site since 2007.

7. Consistency is important in the planning system for a number of reasons, including that it provides a measure of certainty for all parties, but ultimately my decision constitutes an independent and impartial assessment of the merits of the proposal. In this respect, for the reasons which I explain in detail below, and taking account of the policy context referred to above, I consider that it is necessary to depart from the previous decisions.
8. The proposal for a new dwelling at the site is almost identical to the 2007 scheme. The Council have referred to Building for Life 12 (2015), and have asserted that the size of the rear garden for the proposed new dwelling would not be equal to the ground floor footprint of the dwelling, which has not been disputed by the appellant. Whilst in no way conclusive of itself, this conflict with the guidance found in Building for Life 12 indicates that the proposal deviates from a recognised industry standard.
9. Although the Officer's Report for the 2007 reserved matters approval mentioned that the bungalow would be served by a small but adequate rear garden, for the proposal before me I take issue with the adequacy of the private amenity space that would be provided. This is because, whilst the rear garden area would be approximately 17 metres long, it would be narrow and the presence of the long west elevation of the proposed new dwelling and the boundary treatments to the gardens of properties on Bowden Crescent would result in a near-tunnelling effect for its users. This would likely make the space unattractive and less than functional to use, particularly for families with children.
10. The proposed new dwelling would retain space at the front of the property. However, much of this would be given over to parking and given its small size in my view its presence would not adequately compensate for the poor quality of the rear private amenity space, referred to above.
11. Upon completion of the proposed development the occupiers of No 39 would be left with a very small and narrow rear garden area. Indeed, the Council have calculated that this area would be approximately 94% smaller than at present, and this figure has not been disputed by the appellant. Due to its size, this area would offer little scope for recreation or relaxation, other than merely sitting out. Consequently, it would be of little value to families with children.
12. Part of the front garden of No 39 would be given over to parking via the proposal. The remaining area of the garden would not be private, due to its position near the road. Accordingly, its presence would not adequately compensate for the paucity of garden space to the rear of No 39 that would result from the proposal.
13. Reference has been made to the definition of curtilage given in paragraph X of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, this definition relates solely to permitted development rights for changes of use of agricultural buildings. As such, that definition is not directly relevant to the circumstances of this appeal. Additionally, the land within the red line boundary as shown on the site plan includes an access way and parking for the proposed new dwelling, which cannot be considered to be private amenity space, which

further reduces the relevance of that definition to this appeal. For these reasons, this matter does not change my findings.

14. The appellant has referred to the planning permission for 35A Woodrow Road³ (No 35A). I note that the Officer's Report for that application only discussed the rear garden involved in that proposal with respect to privacy, rather than the provision of private amenity space. As such, whilst the appellant has asserted that the rear garden at No 35A is smaller than that proposed for the new dwelling in this appeal, it has not been possible to scrutinise the internal logic applied by the Council in that case with respect to the focus of this main issue, meaning that this example does not provide compelling reasons to alter my findings.
15. Taking all of the above into account, I therefore find that the proposal would have an unacceptable and significantly harmful effect on the living conditions of the occupiers of No 39, and the future occupiers of the proposal, with respect to the provision of private amenity space. The proposal would conflict with Core Policy 57 of the Core Strategy which provides that, amongst other things, applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through having regard to the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself.
16. The proposal would also conflict with paragraph 130 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters and Planning Balance

17. No concerns have been raised by the Council in their decision notice with respect to matters relating to highway safety, ecology, or drainage. However, even if I were to likewise reason that the proposal would be acceptable in these respects, these would be neutral factors rather than ones which weigh positively in favour of the proposal.
18. It is common ground that the Council is currently unable to demonstrate the supply of housing sites as required by the Framework. As such, I would consider the most important policies out-of-date and be taken to the provisions of paragraph 11 d) ii. of the Framework in that planning permission should be granted for the proposal 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.
19. The proposal would provide a number of benefits, including providing one new dwelling in an established and accessible residential area, located within a defined settlement boundary. In this respect, the proposal would support the Government's objective of significantly boosting the supply of homes, as set out in paragraph 60 of the Framework, and the new dwelling would contribute to housing choice and mix in the local area. Also of relevance to the proposal is paragraph 69 of the Framework which provides that, amongst other things,

³ W/03/00577/FUL

small and medium sized sites can make an important contribution to meeting the housing requirement of an area.

20. In addition to the above, the proposal would contribute to the environmental objective of achieving sustainable development via the provision of an electric vehicle charging point, and to the social objective by the proposed new dwelling offering disabled access. The proposal would provide economic benefits by providing work for construction professionals and contributions towards off-site infrastructure if required by the Community Infrastructure Levy.
21. The site primarily relates to a residential garden situated in a residential area and in this respect few details have been provided to substantiate the contention that the land is under-utilised in land use terms. Considering that it forms part of a residential property, in all likelihood in its present state over the long-term it would serve a valuable purpose by contributing to the health and well-being of the occupiers of No 39. Therefore, whilst there is an identified need for housing in the wider area due to the housing land supply issue referred to above, I consider that it has not been demonstrated that the site comprises under-utilised land with respect to paragraph 120 d) of the Framework.
22. Given the housing land supply position mentioned above, the requirement to take account of housing need as per paragraph 124 a) of the Framework, and that a high density of development is a characteristic of the locality, the proposal would constitute an efficient use of land in land use terms. However, the weight to be given to this factor is reduced as the proposal would not sit squarely with the importance of securing healthy places, referred to in paragraph 124 e) of the Framework, due to the harm to living conditions that would arise via the proposal, identified on the main issue above.
23. Furthermore, the scale of the positive impacts of the various economic, social, and environmental benefits as summarised above would be directly linked to the quantum of development involved in this appeal, which is one dwelling only. Thus, I consider that all these benefits, when considered collectively, provide only minimal support for the proposal. Therefore, these would amount to no more than limited weight in favour of the proposal.
24. In applying the provisions of paragraph 11 d) ii. it is necessary to assess the proposal against the policies in the Framework taken as a whole. In this respect, paragraph 119 of the Framework highlights the importance of ensuring healthy living conditions in the context of promoting an effective use of land in meeting the need for homes. As, following my findings on the main issue, above, the proposal would not achieve this aim, which I consider to be fundamental to the design process, I give substantial weight to the adverse impacts that would result via the proposal.
25. Setting the substantial weight of these adverse impacts against the limited weight I afford to the benefits I have found, it is clear that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

26. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR

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Appeal Decision

Site visit made on 6 September 2022

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

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/Y3940/W/22/3292266

Land known as The Paddock, Hill Road, Sutton Veny BA12 7AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Griffin against the decision of Wiltshire Council.
 - The application Ref PL/2021/09894, dated 18 October 2021, was refused by notice dated 16 December 2021.
 - The development proposed is the erection of a dwelling and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was submitted for outline planning permission, with all matters reserved, and this is the basis upon which the Council considered the proposal. The submitted plans show details that are clearly reserved for future consideration. They depict the access for the proposed dwelling, and also its location and footprint (drawing ref: 10306 P-02). These details have not been marked as illustrative or indicative. For the avoidance of doubt, I am considering the appeal on the basis of the evidence before me, giving consideration to the above referenced plan as forming part of the outline permission.

Main Issue

3. The main issue is whether the location of the site is suitable for residential development.

Reasons

4. Positioned upon a steeply sloping hillside to the western side of Hill Road, the appeal site comprises a plot of land that currently contains an L-shaped stable block and a static home. There is a concrete yard in front of the stables, and a gated access onto the road. The site has been excavated into the hillside, and to the south of the static home is a steep grass bank, which provides access to the paddocks to the rear of the stables. To the northern boundary are the tall trees and hedges of the garden of a detached bungalow, and there is a vehicle repairs

garage near this property. To the south is the garage and row of tall trees along the drive of Woodcombe Cleve, and another bungalow.

5. The dwelling would be some way from Sutton Veny, physically and functionally separated from the village by mostly fields and paddocks. The appeal site is bounded by residential properties to the north and south, but to the west and beyond Hill Road to the east there are paddocks and fields. The loose-knit cluster of a few homes has a sporadic and verdant appearance as the detached dwellings are positioned within large gardens. Whilst the appellant considers the proposal would be residential infill within a small settlement, the dispersed positioning of the homes and the commercial buildings is such that they visually accord more with the countryside, rather than forming a small settlement. Furthermore, some of the buildings are positioned low down upon the hillside whilst others are much higher up, and this vertical separation enhances the scattered relationship of this group of buildings.
6. The three homes and the commercial buildings near to the appeal site have not been identified or defined by the Council as a large or small village in Core Policy 31 of the Wiltshire Core Strategy (2015) (CS). This policy and CS Core Policies 1 and 2 seek to establish a development hierarchy whereby named settlements have been identified as suitable for accommodating sustainable development. Whilst CS Policy 2 makes provision for some limited infill within the existing built area of small villages, the dwelling would be within a loose scatter of three dwellings and a commercial garage. The proposal would not be in a small settlement but would add another dwelling to a group of sporadic buildings that spatially have no defined nucleus.
7. The stables have a modest size and recessive appearance, with a clear legibility as a building that would typically be found in a rural location. The static home has a temporary, transient appearance. Even a single dwelling of a similar sized footprint and position to the stables and static home would erode the open separation that exists between the nearby dwellings, particularly as the provision of gardens, parking and other domestic paraphernalia would accompany the residential use of the site. Nearby trees and hedges could not be relied upon to screen the proposal in perpetuity, particularly so when such landscaping is in the control of others.
8. Access would be via single carriageway width roads, which are neither lit nor have footways or formal passing places. Near to the site Hill Road is tightly constrained by steeply vegetated banks with no verges, and the constricted nature of the road is such that users would have to utilise private accesses to avoid each other. The appellant has referred to there being no accident incidences for the nearby roads and that parts of the village have no footways. Nevertheless, the nature of the road is such that anyone using it, including those that are familiar with it, would

- need to be highly alert at all times to the presence of other users so as to avoid conflict.
9. The static home was not occupied at the time of my visit, and from the evidence before me neither of the main parties has referred to an extant residential use of the site. The existing small-holding use would generate daily journeys, but it is unlikely that the number of trips would be at the same level as the numerous occurrences that would arise from the residential occupancy of the site. The village and its public transport links, services and facilities, may be within walking distance, but it cannot be assumed that all occupiers could or would be able to do the same. Whilst there are some services within the village, the residential development of the site would increase the number of trips as future occupants would need to avail themselves of basic services and facilities on a frequent basis.
 10. The appellant considers the use of a private motor vehicle would be the nature of living in a rural area. However, in this case accessing even those nearby facilities within the village by foot or by bicycle would not be options for some future residents. The propensity to walk and cycle is influenced not only by distance, but also by the quality of the experience. The steep nature of the hillside, along with the unlit, narrow and constrained nature of the roads would not encourage walking or cycling, and particularly so during hours of darkness, and in the winter during adverse weather. Having regard to the particular circumstances of the location of the dwelling, it is likely that future occupants would be reliant on motor vehicles with the consequential environmental harm resulting from increased journeys and associated pollution.
 11. Reference has been made by the appellant to a dwelling consented under a Certificate of Lawful Use in a nearby village. I note the appellant's frustration with regard to this matter, but the considerations for a planning application are very different to those for a Lawful Use case, and consequently this comparison does not form a precedent for approving the appeal scheme.
 12. The National Planning Policy Framework (the Framework) seeks to promote sustainable development in rural areas that maintains or enhances rural communities. The dwelling would provide the appellant with an affordable family home, and there is local support for the proposal, including that it would provide the appellant with an opportunity to be near his place of work. However, the control of development in the countryside is strictly controlled by national and local policy, and the proposal has not been supported with evidence to demonstrate what business requirements of the appellant justify the erection of a dwelling at this particular site. In this case the dwelling would be set apart from any settlement and local support for the proposal does not by itself warrant the provision of a dwelling in a countryside location.

13. Given my findings, the proposed dwelling would not be in a location suitable for residential development, particularly as future occupants would be heavily reliant on the private car. The suggested conditions would not overcome this significant harm, and the proposal would be contrary to the requirements of CS Core Policies 1, 2, 31, 60 and 61. These policies seek, amongst other things, that new development should be sustainably located, reducing the need to travel particularly by private car, thereby reflecting objectives of the Framework that seek to promote sustainable development and transport.

Other Matters

14. The original application described the proposed dwelling as being market housing. During the appeal process the appellant suggested that the proposal could be a dwelling erected under the Self-Build and Custom Housebuilding Act (2015). However, this was not the basis upon which the Council considered the proposal. In the interests of openness and fairness to all parties, it is important that what is considered at the appeal is essentially what was considered by the Council and on which interested people's views were sought. With that in mind, I have not considered the amendment proposed.

15. The appeal site is within the Cranborne Chase Area of Outstanding Natural Beauty (AONB). The appellant considers the proposal would not alter the landscape of the AONB as the dwelling would be of a similar scale and size as the existing single storey building. Notwithstanding this, the Framework requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. For the reasons given above, a dwelling would impact upon the qualities of the AONB as it would substantially change the appearance of the site to one of residential use. The Council have raised no objection with regard to the impact of the proposal upon the AONB, but as I am dismissing the appeal for other reasons I have not pursued this matter further.

16. The site is within the catchment of the internationally protected River Avon Special Area of Conservation. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes. This responsibility falls to me in the context of the appeal with regard to the impact of the proposal on the River Avon, and I will return to this matter below.

17. Concerns regarding the Council's handling of the application relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

Planning Balance

18. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. The provision of a single dwelling would contribute towards the supply of housing and this social benefit carries weight. There would also be a small, time-limited economic benefit arising from the construction phase of building an additional home. However, weighing against these benefits would be the significant environmental harms arising from the dwelling. The proposal would deliver a home in an area that would not be suitable for additional residential development, including with regard to increased use of motor vehicles and consequential pollution.
19. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse environmental impacts in this case amount to cumulative environmental harm which carries substantial weight, and this thereby significantly and demonstrably outweighs the economic benefits and even the weight that derives from the social benefits when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.
20. Returning now to the matter of the protected River Avon, if I had come to a different conclusion upon the appeal it would have been necessary for me to undertake an Appropriate Assessment. In doing so I would have had regard to whether there would be significant effects arising from the proposal, either alone or in combination with other schemes, as I would have to be certain that the integrity of the protected site would not be adversely affected. However, as I am dismissing the appeal for other reasons, this assessment has not been necessary.

Conclusion

21. For the above reasons the proposed dwelling would not be in a location suitable for residential development. The adverse impacts arising from the proposal would significantly and demonstrably outweigh the aforementioned benefits. The proposal would conflict with the development plan taken as a whole, and there are no considerations that outweigh this conflict. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR

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