The Planning Inspectorate

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Your Ref: PL/2023/06709
Our Ref: APP/Y3940/W/23/3333888

09 October 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Saxon Gate Homes Ltd
Site Address: Land to rear of 42 Kitchener Road, Amesbury

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Jasmine Rogers
Jasmine Rogers

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Site visit made on 30 September 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2024

Appeal Ref: APP/Y3940/W/23/3333888
Land to rear of 42 Kitchener Road, Amesbury, Wiltshire SP4 7AD

- 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 Saxon Gate Homes Ltd against the decision of Wiltshire Council.
- The application Ref is PL/2023/06709.
- The development proposed is erection of 2 dwellings (Use Class C3) and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The main parties have set out the relevant planning history related to the site, which includes an earlier appeal decision[1], which was dismissed. I have had regard to this decision insofar as it is relevant to the proposal before me now.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupants of 46 Kitchener Road, with regard to outlook.

Reasons

4. The appeal site relates to a plot of land situated to the rear of 42 and 44 Kitchener Road. It is within a built up residential area, which is predominantly detached bungalows, where the dwellings are positioned relatively close together. Plot 1 would be situated along the shared boundary with 46 Kitchener Road, the neighbouring detached bungalow, which is positioned at a slightly higher elevation than the appeal site. Along the rear elevation of No 46 is a utility window, a half glazed back door and the lounge windows and patio doors. There is also a raised decking area to the rear of No 46.

5. The Drove runs to the south of Kitchener Road and whilst there are 2 storey properties along this road, they are positioned on the opposite side of The Drove to the appeal site and No 46. Therefore, the occupants of No 46 currently enjoy a relatively open outlook from the rear of their property, in an otherwise built up area.

6. Due to the siting, scale and massing of the proposal, in particular the northeastern section of Plot 1, and its proximity to the shared boundary with

[1] APP/Y3940/W/22/3298946, Decision Date 2 December 2022

No.46, the development would have an unacceptable overbearing effect upon the outlook from the rear windows of No 46. It would also be an obtrusive development from the private garden area of No 46, in particularly from the decking which is the area closest to No 46 and offers the most amenity value to the occupants. It would be situated approximately 1.18m lower than the ground level of No 46, with a hipped roof closest to the boundary. However, the proposal's massing and proximity would be overbearing and give a greater sense of enclosure to the outlook currently enjoyed by the occupants of No 46, which would become dominated by the roofscape of the proposal.

7. Whilst the L shaped design moves the rear half of Plot 1 away from the boundary with No 46, this would not be sufficient to reduce the unacceptable impact of the front part of plot 1. I note the visualisation prepared by the appellant[2]. However, contrary to the statement of the appellant, for the above reasons, I consider the proposal would still be materially harmful. The introduction of planting along the boundary with No 46 would do little to alleviate the overbearing impact of the built form of the proposal.

8. It is acknowledged that the design of Plot 1 has changed since the earlier appeal, including the L shaped design and the reduced ridge height. I also note the use of the hipped roof, which has reduced the bulk and the scale of the roofscape. Whilst these design details and alterations would reduce the level of harm, it would remain as a 'conspicuous presence in rear views', as the Inspector found in the earlier appeal. The proposal would still be harmful to the living conditions of No 46, with respect to outlook.

9. I note the findings of the Daylight and Sunlight Report. In summary, this found that 'all neighbouring windows pass the relevant BRE diffuse daylight and direct sunlight tests' and that 'the development also passes the BRE overshadowing to gardens and open spaces test'. It concluded that 'the proposed development sufficiently safeguards the daylight and sunlight amenity of the neighbouring properties'. However, whilst the amount of daylight and sunlight would be unaffected, the proposal would still be overbearing and enclosing to the outlook of No 46.

10. The appellant has drawn my attention to another appeal decision[3], where the appellant states the Inspector 'placed great weight on an appeal that was accompanied by a Daylight and Sunlight Assessment'. I do not have the full details of this development before me so I cannot be certain that the circumstances are directly comparable to the appeal scheme before me now. However, I note in paragraph 26 of this decision that this related to the impact on the 'levels of light' and not outlook, as is the concern of the appeal before me now. Nevertheless, the circumstances in each proposal are likely to be different. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

11. The Council has raised concerns with the 'restricted parking and turning arrangements', and the harmful consequences that this may have on the practicalities of using the spaces. Whilst the arrangement is tight, sufficient parking has been provided for both dwellings and I note that there is no objection from the Council's Highway Officer. The instances for the potential for parked vehicles to be blocked in or made more difficult by delivery vehicles

[2] Figure 3 of the Appellant's Statement of Case
[3] Appeal Reference APP/U1105/W/17/3177340, Decision Date 22 January 2018

would be rare. It is also unlikely that the additional movements and manoeuvring associated with the turning of vehicles associated with Plot 1 in front of Plot 2 would be significant enough to make the proposal unacceptable on this matter. Therefore, whilst the parking layout would be slightly awkward, it would not harm the living conditions of No 46 or highway safety.

12. The 2 dwellings proposed would be positioned close together. However, the positioning of the dwellings would not be out of character with the density of the surrounding built up residential area. I also recognise that the proposal would achieve room sizes in accordance with the Nationally Described Space Standard (NDSS). However, the lack of harm in regard to these matters does not outweigh the harm to the living conditions of No 46 that I have identified.

13. Therefore, for the reasons set out above, the proposal would harm the living conditions of the occupants of 46 Kitchener Road, with regard to outlook. It would be contrary to Policy CP57 of the Wiltshire Core Strategy (2015) which requires development to have regard to the compatibility of adjoining buildings and uses and the impact on the amenities of existing occupants. It would also conflict with paragraph 130 (f) of the National Planning Policy Framework 2023 (the Framework) which states that development should have a high standard of amenity for existing and future users.

Other Matters

14. The appeal site falls within the catchment of the River Avon Special Area of Conservation (SAC). The Council advises that developments within the river catchment have the potential to contribute to the elevated phosphorous through foul water discharges from sewage treatment works and package treatment plants, causing the river to be in an unfavourable condition. Residential development has potential to cause adverse effects alone or in combination with other developments through discharge within the river catchment of phosphorus in treated wastewater.

15. The Council state that because the site has not been allocated for housing development, it would not be covered by the phosphorous mitigation strategy, which would offset all planned residential development. They state that the appellant 'is welcome to apply for the Council-led scheme once this is available and all other significant planning matters are resolved. However, at this time, it is not possible to confirm if the Council's mitigation credits are available or will be available for any specific application'. The appellant alleges that following the determination of the appeal, they would investigate and commit to site specific on or off-site mitigation to ensure that the development can be brought forward without comprising the integrity of the River Avon SAC.

16. Had I been minded to allow the appeal, I would have sought more information on this matter. However, given my conclusion on the main issue, it is not necessary or appropriate for me to do so as I do not need to carry out an Appropriate Assessment as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I do not need to consider the matter any further.

Planning Balance and Conclusion

17. At the time the decision was made, the Council was unable to demonstrate a five-year supply of deliverable housing sites. The 'Housing Land Supply

Update' published in May 2023 confirms that the Council can only demonstrate 4.6 years of housing supply. However, following the publication of the revised Framework, the Council consider that they meet the requirements of paragraph 226 of the Framework, and only need to demonstrate a 4-year supply of housing. Given the latest 'Housing Land Supply Update', the Council would be able to achieve this.

18. I have found that the proposal would harm the living conditions of the occupants of No 46, in regard to outlook. As such it would be contrary to the aims of the Framework in regard to creating places which have a high standard of amenity for existing and future users. The harms would be significant and long lasting. They would accordingly attract substantial weight.

19. The proposal would make a small contribution towards the provision of housing, in particular in supporting the Government's objective to significantly boost the supply of homes. The proposal would be built out quickly, with the appellant stating that the 'dwellings are likely to be delivered within 12 months of the consent'. Paragraph 70 of the Framework supports the development of windfall sites, and the latest 'Housing Land Supply Update' highlights that 1,219 dwellings from the deliverable supply will be from windfall sites. The proposal would also provide 2 bungalows, which would respond to the needs of an ageing population. In addition, it would provide some further social benefits, including supporting strong, vibrant and healthy communities, with future occupiers likely to participate in activities and events within the local community.

20. There would be economic benefits contributing to building a stronger, responsive, and competitive economy, supporting growth with construction and post-construction benefits. Further economic benefits would be derived through Council Tax, New Homes Bonus Payments and Community Infrastructure Levy payments. The proposal would encourage development and associated economic growth, with future occupants contributing to the local economy and continued viability of services in the local area. In environmental terms, the proposed dwelling would be located in a sustainable location, in close proximity to numerous services and served by nearby public transport opportunities, which itself would reduce the need for private transportation for the future occupiers of the dwellings. Together these benefits carry moderate weight in favour of the development.

21. Therefore, in these circumstances, even if the 'tilted balance' at paragraph 11d of the Framework were engaged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in my view. Accordingly, the material considerations in this case do not indicate that the development should be determined other than in accordance with the development plan.

22. In conclusion, there are no material considerations, including the approach of the Framework, worthy of sufficient weight, that would indicate a decision other than in accordance therewith. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR