The Planning Inspectorate

Room 3D
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0303 444 5120
Customer Services:
0303 444 5000

Email: west2@planninginspectorate.gov.uk
www.gov.uk/planning-inspectorate

Wiltshire Council
Planning Appeals
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Your Ref:
Our Ref: APP/Y3940/W/24/3345363

18 December 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Square One Developments Limited
Site Address: Land Rear of 64 & 66 Queen Alexandra Road, Salisbury, SP2 9LA

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:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

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

Yours faithfully,

Sean Ernsting
Sean Ernsting

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

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

Planning Inspectorate

Appeal Decision

Site visit made on 19 November 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2024

Appeal Ref: APP/Y3940/W/24/3345363
Land Rear of 64 & 66 Queen Alexandra Road, Salisbury SP2 9LA

- 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 Stevens (Square One Developments Limited) against the decision of Wiltshire Council.
- The application Ref is PL/2023/09400.
- The development proposed is described as the subdivision of plot, erection of 1 new dwelling, together with hard and soft landscaping.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the River Avon Special Area of Conservation; (ii) the character and appearance of the area; and (iii) the living conditions of future occupiers, as well as the occupiers of No's. 64 and 66 Queen Alexandra Road, with particular regard to outlook and noise.

Reasons

River Avon Special Area of Conservation

3. The site is within the catchment area of the River Avon Special Area of Conservation (the SAC). The River Avon catchment is an internationally important habitat due to the presence of *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation and species such as Desmoulin's whorl snail and sea lamprey.

4. It has been concluded that elevated levels of phosphorus are preventing conservation objectives from being achieved and that this has resulted in the river being in an unfavourable condition. New developments within the river catchment have the potential to contribute to elevated phosphorus through foul water discharges from sewage treatment works and package treatment plants. It is therefore necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SAC.

5. The evidence before me is clear that the proposal, when combined with other development in the area, would have a likely significant effect on the SAC due to increased foul water discharge.

6. The Council has produced a document entitled Strategic Appropriate Assessment of Development in Wilshire Occurring in the River Avon SAC Catchment (the SAA). I note that this document has been produced in consultation with Natural England. The SAA sets out that the current approach is to seek to achieve phosphorus neutrality, in part, by securing developer contributions which can be put towards mitigation schemes.

7. The impact of the development proposed as part of this appeal would be quite minor. This is confirmed by the completed nutrient budget calculator which I am aware has been agreed by the Council's ecologist. I am therefore satisfied that any impacts could be mitigated successfully. However, there is no planning obligation before me that provides the necessary financial contribution. Without an obligation in place, the contribution has not been secured, and as such, I simply do not have the necessary certainty to conclude that the impacts of the proposed development will be mitigated.

8. I understand that both parties are content that this matter could be deferred and dealt with via condition. However, as I am the competent authority in this case, this would not be an appropriate course of action. Furthermore, Planning Practice Guidance[1] sets out that negatively worded conditions, such as the one proposed here, are unlikely to be appropriate in the majority of cases except in exceptional circumstances, for instance where the delivery of particularly complex development schemes may otherwise be at risk.

9. Therefore, because the necessary mitigation has not been secured at this stage, I find that the proposed development may have an adverse effect on the integrity of the SAC. It would therefore conflict with Policies CP50 and CP69 of the Wiltshire Core Strategy, 2015 (CS), the relevant aspects of which seek to preserve and enhance biodiversity, including the integrity of the River Avon SAC.

Character and Appearance

10. The appeal site is located within a residential area and the surroundings are predominantly characterised by the presence of single storey or two storey semi-detached and detached dwellings. Because the dwellings are generally set close to the road, and the gaps between buildings are fairly modest, the area does not have a particularly spacious character.

11. The site itself comprises part of the rear gardens of No's. 64 and 66. Given that it does not front onto a road, the proposed dwelling would represent backland development. However, while the majority of homes have been developed in a fairly linear pattern over many years, there are some examples of backland development nearby, including No. 92 and a more recent development at Wellington Mews. The Council has indicated that No. 92 pre-dates the houses that have surrounded it. However, while that might be the case, it is a fact that it now constitutes a backland form of development which contributes to the character of the urban form in this area.

12. As a result, it does not seem to me that the proposed development of a single dwelling on the appeal site would look out of character or incongruous with the surroundings. Furthermore, given the fairly tight-knit urban grain of the

[1] Paragraph: 010 Reference ID: 21a-010-20190723

immediate area, the proposal would not result in a reduction in the perception of spaciousness and the dwelling would not seem particularly cramped.

13. I therefore conclude that the proposed development would preserve the character and appearance of the area. As such, it would conform with CS Policy CP57, which in part, seeks to ensure that new development is well designed and that it respects existing character.

Living Conditions

14. While the appeal site does form part of the rear gardens of No's 64 and 66, it is of a reasonable size and it can be concluded from the approved plans that the proposed dwelling would sit comfortably within the plot with private space on all sides. Given the separation distances between the proposed dwelling and No's 64 and 66, and the fact that the new home would be a single storey bungalow of limited height, it seems highly unlikely to me that occupiers of the existing homes would feel enclosed or 'hemmed in'. For the same reason, there would also be very limited opportunities for the occupiers of No. 66, a two-storey dwelling, to overlook the proposed house. In any event, any potential for harm would be completely mitigated by the fact that the private living spaces of the proposed home would be situated towards the rear of the building.

15. I acknowledge that cars would need to travel past the side elevations of No's 64 and 66 in order to reach the parking area of the proposed dwelling, and that there are windows set within those elevations. However, I noted on my site visit that it is already possible for vehicles to park alongside the two dwellings and so it is likely that some disturbance already occurs. Furthermore, the number of car journeys associated with one additional dwelling would be very limited and I do not find that the associated noise that would occur would be sufficient to constitute harm. In support of their case, the Council has provided examples of other appeal decisions where it was concluded that backland development would result in harm in this regard. However, I note that these decisions involved proposals for more than one dwelling and so they are not directly comparable to the scheme before me.

16. As a result, I find that the proposal would preserve the living conditions of future occupiers and the occupiers of No's. 64 and 66. It would therefore conform with CS Policy CP57, the relevant aspects of which seek to protect living conditions.

Other Matters

17. An updated version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. It is not clear from the evidence what effect, if any, the updated Framework might have on the Council's land supply position. However, even if it transpired that the Council could no longer demonstrate a sufficient supply of deliverable sites, the tilted balance set out in paragraph 11d of the Framework would not be engaged. This is because paragraph 11d(i), and footnote 7, provide a reason for development proposals to be refused where they would have an impact on habitats sites. As such, the land supply position is a neutral consideration as part of this appeal.

Conclusion

18. I have found that the appeal proposal would have the potential to cause harm to a designated habitats site. Consequently, the scheme would conflict with the development plan taken as a whole, notwithstanding that I have found not found harm in relation to character and appearance or living conditions. Whilst the provision of one dwelling would contribute to local housing supply, and could provide some economic benefits for the local area, the small-scale nature of the scheme means that any such benefits are likely to be very limited. Accordingly, there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR