The Planning Inspectorate

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Planning Appeals
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Your Ref: PL/2023/07310
Our Ref: APP/Y3940/W/24/3357824

03 March 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr B Shelton
Site Address: 62 Newtown, Westbury, BA13 3EF

I enclose for your information a copy of the appellant's final comments on the above appeal(s). Normally, no further comments, from any party, will now be taken into consideration.

Yours sincerely,

Pana Kwabe
Pana Kwabe

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The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/Y3940/W/24/3357824

DETAILS OF THE CASE

Appeal Reference	APP/Y3940/W/24/3357824
Appeal By	MR B SHELTON
Site Address	62 Newtown Westbury BA13 3EF

SENDER DETAILS

Name	MR MARK REYNOLDS
Address	[redacted]

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- ☐ Appellant
- ☑ Agent
- ☐ Interested Party / Person
- ☐ Land Owner
- ☐ Rule 6 (6)

What kind of representation are you making?

- ☑ Final Comments
- ☐ Proof of Evidence
- ☐ Statement
- ☐ Statement of Common Ground
- ☐ Interested Party/Person Correspondence
- ☐ Other

COMMENT DOCUMENTS

The documents listed below were uploaded with this form:

Relates to Section:	REPRESENTATION
Document Description:	Your comments on the appeal.
File name:	Response to LPA Statement - 62 Newtown.pdf

PLEASE ENSURE THAT A COPY OF THIS SHEET IS ENCLOSED WHEN POSTING THE ABOVE DOCUMENTS TO US

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28th February 2025

Dear Pana Kwabe

Appeal by: Mr B Shelton

Site Address: 62 Newtown, Westbury, BA13 3EF

Appeal Ref: APP/Y3940/W/24/3357824

I am writing in response to your letter dated 18th February 2025 inviting comments on the Local Planning Authority's (LPA) statement and third-party representations. The appellant's full case is contained within the previously submitted Statement of Case (SoC).

The LPA generally rely on their original delegated report to support their case. Our original SoC responded to the reasons for refusal and the associated delegated report, and we will therefore not repeat our earlier points. Our comments on the LPA's further points are as follows.

The LPA have helpfully clearly set out their revised housing land supply position as a result of the December 2024 revisions to the National Planning Policy Framework (NPPF) and associated updat to the Planning Practice Guidance (PPG). This confirms that a five-year housing land supply in Wiltshire cannot be demonstrated. Only a 2.03 years supply can be demonstrated which is considered to be a substantial shortfall. The figure of 2.03 years is an updated position since the issuing of our earlier SoC and shows a much lower housing land supply. The weight given to the provision of housing should therefore be even greater.

The LPA statement cites that at paragraph 4.18 of the earlier SoC, the appellant is of the opinion that, because the development is not visible, it is acceptable. The visibility of a site and its impact

on the public realm is indeed a material consideration. In this case, the scheme would largely be seen only from private views within the immediate area, having a minimal effect on the established streetscape and appearing subservient from the street. The appellant does not suggest that if a site is not visible, a poor design is justified.

In some cases, backland development can be acceptable depending on the context of the site, including its size and its relationship with surrounding built form and the street. Here, the proposal would not unduly harm the existing levels of spaciousness nor unduly disrupt the existing pattern of development in and around the site. The garden sizes of the new houses would be comparable to those of the houses immediately surrounding them, including those at Newtown to the west and Studland Park to the rear. Therefore, the proposed layout of the scheme as a whole would not be out of place in its immediate context, notwithstanding the longer gardens further east.

The LPA does not give any weight to the examples of backland development provided within the earlier SoC. In relation to the sites referred to in paragraphs 4.28 and 4.29 of the SoC, they advise that it is clear from the maps provided in the SoC that there are existing dwellings to the rear of these sites and therefore, in principle, a precedent of backland development had already been set. The LPA opines that this is very different from the appeal site, where there are no dwellings to the rear of the existing linear development. However, we reiterate our view that the site context at the appeal site is different from Newtown to the east, as there is built form to the rear of the site. It is here that the site transitions from a more linear ribbon character to the more densely built-up part of Westbury. Development to the rear of 62 Newtown is entirely appropriate.

The LPA are not persuaded that all of the existing boundary treatment will be able to be retained and requests that the Inspector views the site on foot to make their own assessment. The appellant recognises the importance of site visits and requested that the Council undertook one during the application process rather than determine this on a desk based exercise. The final layout and landscaping details will be dealt with at reserved matters, and a condition could be included on any permission to ensure that existing landscaping is retained and supplemented where necessary.

The LPA are of the view that there is no existing overlooking between properties. The Inspector will be able to view this on site, including the relationship with the properties at Studland and Newtown. The development would not result in undue harm through overlooking or loss of privacy for the reasons already outlined in the SoC.

A third party has raised concerns with regards to a number of matters. The matters of tree protection, ecological mitigation and enhancement can be dealt with by conditions on any permission. Concern is also regards with flooding, but there is no evidence of current or historic flooding on the site. The site is outside of a flood zone or area of flood risk. A drainage strategy can also be dealt with via condition or at reserved matters stage.

The LPA have suggested several conditions. Paragraph 57 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the six tests. On review of the suggested conditions, it is not considered that these all meet the tests.

Condition 6 relates to the access which is a reserved matter. The condition is excessively prescriptive, and the design of the access should be dealt with at reserved matters stage. No justification has been provided to explain the criteria set within the condition. Condition 4,10 and 13 all relate to arboricultural impacts and tree protection. Condition 4 and 10 have overlapping requirements and are not both considered to be necessary. In addition, condition 13 is not considered to be necessary to make the development acceptable and is not considered to be an enforceable condition. However, in event that the Inspector considers that the suggested conditions meet the six tests, the appeal anent would not object to their inclusions.

For the above reasons, nothing in the LPA's statement or third-party representation, changes the conclusions reached in our earlier SoC, and we maintain that the reason for refusal set out on the decision notice, do not stand up to scrutiny.

Kind regards

Tessa Hampden

BSc MA MRTPI (Chartered Town Planner)

RTPI
Chartered Town Planner