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

19 May 2025

Dear Sir/Madam,

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

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,

Helena Power
Helena Power

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Planning Inspectorate

Appeal Decision

Site visit made on 24 April 2025

By G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

Appeal Ref: APP/Y3940/W/24/3357824
62 Newtown, Westbury, Wiltshire, BA13 3EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr B Shelton against the decision of Wiltshire Council.
- The application Ref is PL/2023/07310.
- The development proposed is described as outline application for demolition of 62 Newtown and detached garage, and construction of up to 4no dwellings (all matters reserved).

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was submitted in outline with all matters of detail reserved for future approval. The application was accompanied by supporting documentation, including layout plans and site sections. Given that all matters of detail are reserved for future approval, I have treated the submitted plans as illustrative of the appellant's proposals.

Main Issues.

3. The main issues are the effect of the proposed development on: (a) the character and appearance of its surroundings; and (b) on the living conditions of neighbouring residents with particular reference to potential overshadowing, privacy, visual impact, noise, disturbance and other nuisance.

Reasons

Character and appearance

4. The appeal site includes a detached dwelling standing in an elevated position above Newtown which is a residential street on the south-eastern fringes of Westbury. It has a lengthy garden, which is largely grassed and mown. Hedges fringe both side boundaries with its neighbours. Another hedge has grown across the site, cutting the garden almost in half. The property has a longer rear garden that its neighbours either side and widens at the end. The garden also shares two boundaries with dwellings comprised within Studland Park, part of a maturing residential estate. The land to the south-east at the end of the garden is open and appears to be countryside.

5. The appellant's illustrative plans show the likely form of the proposed development. The existing dwelling would be demolished but replaced alongside a new access which would serve up to three more dwellings in what is currently a garden. A dwelling would be sited further alongside the new access about halfway into the garden and two further dwellings built at the end of the garden where it widens.

6. The Council acknowledges that the site as a whole lies within the designated settlement boundary for the Town, but this does not mean in its view that it is automatically acceptable as a development site. The Council's concern in this respect is directly related to the proposed form of the scheme, described as backland development. Tandem development is another term which could aptly describe the proposal. The Council notes that this part of Newtown is laid out in linear form, with the dwellings on the southern frontage all displaying lengthy gardens.

7. I saw that this part of Newtown was laid out as twin ribbons of development either side of the street leading to the countryside, petering out a relatively short distance to the south-east of the site, from whence the transition to open countryside begins.

8. Although the appellant cites examples of backland development elsewhere, I saw no examples of development of a type similar to that proposed close to the site within this part of the Town. I therefore share the Council's view that the proposed form of development would be uncharacteristic of the locality.

9. In terms of the development's appearance, the replacement of one detached dwelling with another at the front of the site, subject to detailed design, should not make a material difference to that seen now. The dwellings to the rear would not be seen in the public realm, albeit that they could be seen from the rear of some dwellings in Studland Park. Were the dwellings at the rear to be bungaloid in form, a prospect not excluded by the appellant, their impact would be considerably lessened.

10. Although reserved for future approval the illustrative plans shows that a new access would replace the existing, albeit in a different position. The appellant suggests that it would be used by service vehicles, including refuse/recycling lorries. In my experience, many local authorities require access roads used by large vehicles of this type to be built to adoptable standards. Whether that is the case in Wiltshire I do not know.

11. However, if it is to accommodate large vehicles, I would expect the access to be wider than the existing, given that it would need to service up to four dwellings rather than the single domestic garage served now. I am also conscious of the Council's suggested condition[1] in respect of the gradients expected to be achieved on the access road.

12. I acknowledge that the appellant regards the suggested condition as being too prescriptive, but such standards are not unusually applied in circumstances where the means of access is reserved for future approval. In view of the prevailing steep levels at the front of the site the formation of a new access built to acceptable standards may require significant cutting and earth moving resulting in localised visual impact. The absence of detailed, definitive plans of the access renders this a difficult aspect to assess accurately.

[1] In the event of the appeal being allowed

13. Having regard to the above I conclude, access apart, that whilst the development would not generally offend the locality in terms of its appearance, its form would be at odds with that predominantly seen in the area, uncharacteristically so. Accordingly, the proposal conflicts in part with some provisions of Core Policy 57 of the Wiltshire Core Strategy (CS) requiring new development to create a strong sense of place through drawing on the local context and being complementary to the locality. Development should also relate positively to the existing pattern of development and townscape.

Living conditions

14. To assist in my consideration of this aspect I was asked by the Council to visit and walk the whole of the site. This I did for some time. I saw that the site rises gently from the rear of the dwelling to the end of the garden, which is well screened on most of its flanks by what I would regard as reasonably luxuriant hedges. At the end of the garden, on its short south-western boundary is a row of trees, which are not as effective as the hedges in screening at their lower level.

15. My overall impression was that the site is of a size and shape capable of accommodating the form of development shown on the illustrative layout plan. Whilst some trees and hedges on the site would be removed, with care and forethought it should prove possible to retain and possibly enhance most of the screening on the site's flanks. Additional screening could be introduced to augment the trees at the end of the site. If these aspects were catered for, the visual effects of the development on the residents of the adjacent dwellings in Studland Park would be minimal, particularly so were the dwellings at the rear designed as bungalows.

16. If adopted for the three proposed plots at the rear, a bungaloid form of development would also, in my view, overcome the concerns raised by the Council in respect of overlooking, acceptable levels of privacy and overshadowing, notwithstanding the sloping nature of the ground.

17. The access would be built at the front of the site between Nos 60 & 64 Newtown. It would serve the traffic generated by four dwellings, including service vehicles such as refuse lorries, parcel, postal and food deliveries. No 60 would be sited away from the access, separated from it by the replacement dwelling, and the gardens of the other proposed dwellings. I do not consider its residents to be at undue risk of adverse effects.

18. The access would run in close proximity to No 64 and much of its garden. With due allowance made for the gradual introduction of quieter vehicles, given its length and proximity to the shared boundary, the use of the access would to my mind be excessively intrusive by reason of noise and disturbance within the No 64 and throughout much of its garden, which currently provides a tranquil aspect for its occupants. It is also likely that glare from car headlamps using the driveway would introduce additional disturbance and nuisance to the rear of No 64 during dark evenings and at night-time, particularly since cars would be approaching from a higher level. Similar considerations would apply to the future occupants of the proposed replacement dwelling at the front.

19. The appellant has gone to some lengths to describe how the living conditions of the residents of No 64 could be safeguarded, including by additional and augmented

planting, the provision of acoustic fencing, the use of sound absorbent materials on the road surface. However, in the absence of detailed plans of the access, especially at those points where it would be closest to No 64 and its garden, I am not persuaded that the appellant's suggested mitigation proposals would achieve their objectives, even if they were capable of implementation in practice. In the absence of detailed plans of the access and safeguarding proposals, I intend to adopt a precautionary approach regarding the existing occupants of No 64 and future residents of the replacement dwelling at the front of the site.

20. I conclude that whilst I find that the living conditions of most residents living closest to the site would not suffer unacceptable harm, on the basis of the information presented, I find that the living conditions of the residents of No 64 Newton Road and those of the future occupants of the proposed replacement dwelling would be significantly harmed or not be of an acceptable standard by reason of noise and other disturbance caused by the use of the proposed access. Accordingly, the proposal conflicts with provisions of CS Core Policy 57 in that it has not been demonstrated that the development could be implemented whilst safeguarding the amenities of existing occupants and by ensuring that appropriate levels of amenity are achievable within the development itself.

Other matters

21. Whilst I find conflict with statutory policy, this represents the starting point in my considerations. The material considerations in the form of national policy also weigh heavily arising in particular from the agreed and serious shortfall in housing land supply. This is considered further in the planning balance and conclusions.

22. All other matters raised in the representations have been considered, including the references to the *National Planning Policy Framework (*The Framework*).* The comments made by the Westbury Town Council have been taken into account. Many local residents submitted representations, and most of the planning-related points raised have already been addressed. Drainage or run-off flooding points are also raised, but I have but anecdotal evidence on this point, and the Council did not object for this reason.

23. No other matter is of such strength or significance as to outweigh those considerations that led to my overall conclusions.

Planning balance and overall conclusions.

24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework places considerable emphasis on sustainable development and highlights the delivery of new housing as a national priority. It is an important material consideration in planning decisions.

25. Both parties recognise that there is a serious deficit of housing land as required by the Framework. The tilted balance is therefore engaged by Paragraph 11d)ii of the Framework which requires 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 when assessed as a whole.

26. My conclusions on the main issues should therefore be balanced against other aspects of the scheme including its advantages. These include a modest contribution to improving the local housing land supply, help in sustaining local businesses and services and the albeit, short term economic activity and employment opportunities arising from development. Although the appellant sees the opportunities offered by increased planting and bio-diversity gain as an advantage, the scheme would also involve lost greenery.

27. In assessing the first main issue, the harm to the character of the area would be localised and contained, and if this represented the only objection, I would be tended to apply the tilted balance in favour of the appellant.

28. However, that is not the case, since I find on the second main issue that the scheme would adversely affect the living conditions of neighbouring and future residents. The Framework advises that planning decisions should ensure that developments should create places with a high standard of amenity for existing and future users. Based on the information before me, much of which is illustrative rather than definitive, that objective would not be achieved.

29. Having regard to all aspects I conclude that the adverse impacts of the scheme would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework when assessed as a whole.

30. Accordingly, the appeal is dismissed.

G Powys Jones

INSPECTOR