



Appeal Decision

Site visit made on 9 January 2018

by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25th January 2018

Appeal Ref: APP/V3120/W/17/3178708

Land between 34 Blenheim Way and 2 Worcester Place, Southmoor

- 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 David Maclean against the decision of Vale of White Horse District Council.
 - The application Ref P17/V0593/FUL, dated 6 March 2017, was refused by notice dated 26 May 2017.
 - The development proposed is development of a one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the proposal on:
 - the character and appearance of the area, having particular regard to the layout and design of the new dwelling, and
 - the living conditions of the dwelling's intended future occupiers and nearby occupiers, in terms of outlook, privacy and effect on light.

Reasons

3. The appeal site comprises a grassed area of land between No 34 Blenheim Way, an end of terrace 2 storey property, and No 2 Worcester Place, a 2 storey detached dwelling. The proposal is for a detached 2 storey dwelling with integral car port.

Character and Appearance

4. Policy CP37 of the Vale of White Horse Local Plan 2031 Part 1 (LP) requires new development to be of a high quality design that, amongst other matters, responds positively to the site and its surroundings, creating a distinctive sense of place through high quality townscape and landscaping that physically and visually integrates with its surroundings.
5. This policy accords with the National Planning Policy Framework (the Framework) which makes it clear at paragraph 56 that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute to making places better for people. Paragraph 58 of the Framework states that planning policies and decisions should aim to ensure

that developments, amongst other matters respond to local character and history, and reflect the identity of local surroundings and materials, whilst not preventing or discouraging appropriate innovation.

6. The area within the vicinity of the appeal site is characterised by residential development of detached and terraced form, set behind landscaped front gardens. The area, whilst built up has a spacious character with landscaping between the road and dwellings providing a soft edge to development. Whilst the dwellings in the area display similar design characteristics, the Council has not raised concern about the design approach adopted by the appellant. I have no reason to disagree. The new dwelling would be 2 storeys in height with a pitched roof, gable feature and would be constructed of materials that would reflect those used in the locality.
7. Although set back from the front elevation of No 2 and No 34, the new dwelling would adjoin the back edge of the pavement. No front garden is proposed. The relationship of the dwelling to the pavement would result in it being a prominent, dominant structure in the street scene, the impact of which could not be softened by landscaping to the front of the dwelling, as is the case elsewhere in the locality. I consider that given this, that the proposal would not integrate, either physically or visually with its surroundings. The proposal would be at odds with the otherwise spacious qualities of the locality.
8. In light of the foregoing, I conclude that the proposal would not respond positively to its surroundings. As a result harm would result to the character and appearance of the area, which would be in conflict with the aims of LP Policy CP37, and the guidance on design and character within Section 5 of the Council's Design Guide SPD. There would also be conflict with the design of the built environment aims of the Framework. The provision of a small dwelling, on a windfall site, in a sustainable location does not outweigh this harm.

Living Conditions

9. Policy DC9 of the Vale of White Horse Local Plan 2011 (VWHLP) seeks to ensure that development is not harmful to the living conditions of neighbouring occupiers, in terms of a number of matters including privacy, daylight, sunlight, dominance and visual intrusion. Whilst pre-dating the Framework, this policy broadly accords with its core planning principle which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Nearby Occupiers

10. The appellant has calculated that the new dwelling would be separated from No 2 and No 34 by a 1 metre wide path. No 2 has a ground floor window on the side elevation facing the appeal site, which serves a living room. No 34 has a ground floor living room window on the side elevation and a bedroom and landing window above. The new dwelling would be sited 1.69 metres from the side elevation containing windows in No 34.
11. The Council's reason for refusal, amongst other matters, raised concern about the proposal resulting in overshadowing, however within evidence it was put to me that the proposal would result in a loss of light to the side living room window of No 34. The new dwelling would be sited to the west of No 34. Whilst the proposal would bring development closer to the side of this dwelling,

- I am not convinced that overshadowing of its side elevation would be caused, over and above that which is likely to exist because of its relationship to No 2.
12. I note the appellant's submissions that the side window in No 34 is a secondary window to the living room. I have been provided with a copy of a floor plan showing the internal layout of No 34, which indicates that this room is served by windows in the rear elevation. Whilst it may have been the intention for this room to be served by windows in the rear elevation, the submitted photographs indicate the rear windows are some distance from the seating area in the living room, and the rear part of the property, whilst accessed through opening in the lounge, appears to be used as a dining area, separate from the living room. I am not therefore convinced, on the basis of the evidence before me, that that the windows in the rear elevation of No 34 provide daylight to the living room. It is on the basis of the current layout that I have considered the proposal.
 13. In light of the above, it appears that the living room to No 34 is served only by a window in the side elevation facing the appeal site. I find that the close proximity of the new dwelling to this window, would as a result of its height significantly affect the amount of light reaching this window and the room beyond. The living room would become dark and gloomy which would make it a less pleasant space to use. I note the appellant's attempt to mitigate this impact by designing the dwelling with an open sided car port, however this would not result in a reduction in the overall scale of the building close to the neighbour's window. This design feature would not therefore mitigate the harm identified. The main outlook from No 34's living room would be of a car port, with a solid wall above. This would be oppressive and overbearing on the outlook from this window, exacerbating the harm that I have identified above.
 14. I therefore find that the proposal, for the reasons given would be harmful to the living conditions of the occupiers of No 34. The proposal would therefore conflict with the aims of VWHLP Policy DC9 and the core planning principle of the Framework. In reaching this conclusion, I acknowledge that the appellant could erect a fence along the boundary of the site with No 34. Be that as it may, this would not have the same effect on living conditions as those identified, because such development would be significantly lower than the proposed dwelling.
 15. The appellant submits that the new dwelling would be located a similar distance to the rear of properties in Storksbill Lane as nearby development in Blenheim Way and Worcester Place. The Council has calculated that the rear of the new dwelling would be 16 metres from the rear of the property at No 39 Storksbill Lane, whereas nearby dwellings in Blenheim Way and Worcester Place are located more than 21 metres from the rear of dwellings in Storksbill Lane.
 16. Whilst I acknowledge that the Design Guide SPD includes a diagram indicating that 21 metres is an adequate distance between facing habitable rooms, the guidance is clear that the specification of a minimum distance can lead to standardised layouts. The SPD explains that the relationship of buildings to each other, their height and the positioning of windows can all have an impact on the privacy enjoyed by neighbouring properties. It appears therefore, that subject to such details being satisfactory that a distance less than 21 metres is not necessarily unacceptable.

17. The new dwelling would have windows on the rear elevation and roof lights serving a bedroom. The submitted drawings indicate that the cill height of the window would be 1.75 metres above the height of the floor level. Whilst it may be possible for somebody in this room being able to see the rear elevation of No 39 and its rear garden, such views would be unlikely to be significant given the change in height between the appeal site and No 39 and the design of the first floor rear windows as proposed. Within built up environments, there is often mutual overlooking between nearby occupiers. For the reasons given I am satisfied that the proposal would not result in significant harm in privacy terms to nearby occupiers. There would be no conflict with the aims of VWHLP Policy DC9 in this regard.

Intended Future Occupiers

18. Whilst VWDLP Policy DC9 makes reference to amenity, this is in respect of neighbouring properties, and not the amenity of the occupiers of the proposed development. I have not been referred to any other policies which the Council consider to be of relevance in this regard. However, I am mindful that the core planning principle of the Framework seeks to secure a good standard of amenity for all, including intended future occupiers.
19. The Council has expressed concern that a poor quality living environment would be provided to the intended future occupiers of the new dwelling because of the design of the high level windows within the bedroom on the rear elevation. This room would in my opinion be spacious and well lit. The sky would be visible from the rear windows and the roof lights, and glimpses of the roof scape of development to the rear would also be likely to be visible if the person occupying the room was tall. I consider that it would be a pleasant room to use, and I am not convinced on the basis of the evidence before me, that the standard of accommodation provided would not provide a good standard of amenity to the intended future occupiers of the new dwelling. There would be no conflict with the Framework in this regard.
20. It is submitted in the Officer report that the new dwelling and its garden would be overlooked by windows in the rear of No 39 Storksbill Lane. I observed on my site visit that this property was at a lower level than the appeal site. The first floor windows were visible above the current boundary fence to the rear of the appeal site. Although I did not visit No 39, it is likely that views of the rear of the new dwelling and its rear garden could be obtained from the first floor windows of this property.
21. Whilst the rear elevation of the new dwelling is closer to development in Storksbill Lane than nearby development, the relationship of the garden would be similar. I consider that overlooking of the rear of the new dwelling could be mitigated by the planting of landscaping and boundary treatment, which could be controlled by planning condition. This would ensure that the privacy of the intended future occupiers would not be adversely affected by existing development. This matter is not therefore a determining factor in this case.

Other Matters

22. My attention has been drawn to an earlier planning application on the site (Ref P16/V0126/FUL). Whilst the appellant makes reference to the officer report for this application, I have not been provided with details of this scheme and I am therefore unable to make a comparison to that before me.

Conclusion

23. The proposal would result in harm to the character and appearance of the area and to neighbouring occupiers' living conditions at No 34 Blenheim Way, in conflict with the development plan and national planning policy. The matters advanced in support of the proposal do not outweigh the identified harm or indicate that the development should succeed.
24. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR