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## Appeal Decision

Site visit made on 17 November 2014

**by Joanne Jones BSc(Hons) MA MRTPI**

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

**Decision date: 11 December 2014**

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**Appeal Ref: APP/Y3940/A/14/2223496**

**Garage site and vacant land, Tynings Way, Westwood, Wiltshire BA15 2BS**

- 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 Selwood Housing Society against the decision of Wiltshire Council.
  - The application Ref 14/02362/FUL, dated 27 February 2014, was refused by notice dated 02 July 2014.
  - The development proposed is the construction of 2no. 2 bed and 2no. 3 bed houses with associated roads and parking.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 2no. 2 bed and 2no. 3 bed houses with associated access and parking at Garage site and vacant land, Tynings Way, Westwood, Wiltshire BA15 2BS in accordance with the terms of the application, Ref 14/02362/FUL, dated 27 February 2014, and the plans submitted with it, subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Selwood Housing Society against Wiltshire Council. This application is the subject of a separate Decision.

### Procedural Matter

3. Although the planning application was made in the terms given in the heading to this decision, this was changed by the Council to *'construction of 2no. 2 bed and 2no. 3 bed houses with associated access and parking'*. Whilst there is nothing to indicate that this revised description was agreed with the appellant it does provide a more accurate description of the proposal. For clarity I have used this in my decision.

### Main Issues

4. The main issues in this case are the effect of the proposed development on:
  - The character and appearance of the surrounding area;
  - The living conditions of neighbouring occupiers, with particular regard to privacy and overshadowing; and
  - Recreational space.

## Reasons

### *Character and appearance*

5. The appeal site is an irregular shaped, privately owned, area of grassland, which the appellant describes as a 'space left over after planning'. Be that as it may, it was evident on the site visit that the local community cross the site as a 'short cut' rather than use the Public Right of Way (PRoW) that runs along the north and western edge of the site.
6. The site is bounded to the south, east and north-west by residential properties and garages. These are of brick construction, with a variety of terraced, semi detached and detached dwellings. These dwelling, particularly to the north west, have a common layout and spacing within their plots. Whereas the dwellings to the east are more individually designed.
7. The appeal proposal would introduce 4 new dwellings onto the site. Whilst these would not be identical to the surrounding properties, the limited footprint, layout and scale would give the development a modest appearance, not out of character with properties in the immediate vicinity.
8. Although the proposed development would be visible to users of the PRoW and from neighbouring properties, passing views from the surrounding road and Conservation Area would be very limited. This is due to the set back from the access road, local topography and existing screening. The proposed dwellings would only be easily visible once fairly close, and would be seen as part of the cluster and continuation of the surrounding dwellings.
9. As I saw on my site visit the village of Westwood is punctuated by small pockets of informal open space. Accordingly, whilst the loss of an area of grassland is regrettable, it would not significantly harm the overall settlement character. Whilst I note that there is no formal public access to the site, there is some amenity value in the open nature of the site and the relief from the surrounding built up area that it gives. Nevertheless, this should be balanced by the lack of views into the site and thus its limited contribution to the overall character of the area.
10. In addition, the proposal includes provision for a small area of grassland to the north and retains the PRoW which would also make some contribution to a sense of relief from the built up areas. As a result of consideration of these factors, I do not consider that the amenity value that the site makes to the surrounding area amounts to an overriding one which would prevent development of the site in the manner proposed.
11. As such, and given the appeal site's position close to a number of surrounding properties, I also do not consider that the proposed development would be incompatible with the character and appearance of the surrounding area and would preserve the character and appearance of the adjacent Conservation Area in accordance with the expectations of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. Therefore the proposal would accord with saved Policies C31a and H17 of the West Wiltshire District Plan First Alteration 2004 (LP), which requires, amongst other things, that new development respects or enhances the quality of architecture of surrounding buildings and would be keeping with the character, appearance and distinctive spatial form of the settlement.

13. It would also concur with the guidance contained within the National Planning Policy Framework (the Framework), which includes similar aims, in that developments should respond to local character and history, and reflect the identity of local surroundings and materials.

*Open space*

14. Policy LP2 of the West Wiltshire Leisure and Recreation Development Plan Document 2009 (DPD) broadly seeks to restrict the loss of open space and sports facilities by limiting the circumstances when it can happen. The first part of LP2 states that development leading to the loss of open spaces or sport or recreation facilities will be permitted only if it would not cause significant harm to nature conservation interests, to the landscape, or settlement character. The second part of LP2 refers to a number of policy tests to ensure that the site: (i) is surplus to requirements; (ii) enhancement of other existing spaces/facilities; (iii) replacement provision; and (iv) is ancillary to the use of the land for sport or recreation.
15. It is notable that the Council has carried out a detailed leisure and recreational needs assessment to identify those facilities which are of high or low quality and value. The appeal site is not listed in this assessment and is not subject to any recreation / open space designation. The DPD also states that green spaces should be a minimum of 0.25ha, whereas the appeal site is approximately 0.16ha well below this threshold. I also have no evidence to persuade me that Westwood is lacking in accessible open space.
16. As I saw on my site visit, the village benefits from Westwood Park, which is designated as a high quality recreation area, and is located within a short walking distance of the appeal site. There is also no evidence before me that the appeal proposal would cause significant harm to nature conservation interests.
17. Furthermore, the appellant maintains that whilst no restriction is placed on access to the appeal site at present, it would be possible, as privately owned land, to restrict such access. I attach significant weight to this evidence.
18. Turning to the second part of Policy LP2. The appeal site is not designated as a high or low quality open space and only offers limited potential for recreation. Accordingly, I am not persuaded that it is a valuable community space, particularly where there are similar spaces in the immediate vicinity and formal recreation play spaces in the surrounding area.
19. In reaching this opinion I acknowledge the level of public support for the open space, including a petition to retain it and the objections to the scheme presented by the Parish Council. However, the weight I can attribute to these objections are tempered as the current use of the site by the public has been permitted through the goodwill of the landowner and the site is not designated as a village green or open space. The use of the PRoW will also be maintained and therefore the local community can still use this route to access the school, post office and social club.
20. Whilst reference is made to Policies R1 and R2 of the LP, these policies are not 'saved' and do not form part of the adopted development plan. Similarly, the Neighbourhood Plan and the Wiltshire Core Strategy are not formally adopted and are subject to change which reduces any weight I can attach to them.

21. To conclude on this main issue, I consider that the appeal scheme would comply with Policy LP2 and the Framework, which aims to guard against unnecessary loss of open spaces and recreational facilities.

*Living conditions*

22. The occupiers of 13 Lister Grove state that the proposal would cause significant loss of light and privacy as well as overshadowing. In this regard LP Policy C38 states that proposals will not be permitted which would detract from the amenities enjoyed by, or cause nuisance to, neighbouring properties and uses.
23. Due to the local topography the proposed dwellings will be set lower than No13 and set back approximately 8m from the side extension of that property. These factors along with the hipped roofs and narrow gables of the proposed dwellings would to my mind ensure that there is no significant effect on the living conditions of existing occupiers of No13 or other neighbouring dwellings in terms of overshadowing or loss of light. My findings on this matter are further supported by the Daylight and sunlight report submitted by the appellant, which concludes that "*the proposed development will far exceed the BRE guidelines for daylight, sunlight and overshadowing*".
24. In terms of privacy, there will be no windows on the north elevation of the proposed 'end' dwelling and a 1.8m high close boarded fence would be erected along the boundary. Given these factors and the distance between the proposed dwellings, No13 and the Old Chapel there would be no significant impact on the living conditions of existing occupiers in terms of privacy.
25. For these reasons I conclude on this issue that the development would not compromise the living conditions of the occupants of No13 or other neighbouring dwellings. Consequently, I find no conflict with Policy C38 of the LP.

*Other matters*

26. I do not foresee that additional traffic along Peto Grove would significantly prejudice road safety and the use of dropped kerbs to delineate the access would assist in this regard. The proposed scheme would also provide parking for future occupiers which would reduce any pressure for on-street parking in the vicinity of the site. I also note that there have been no objections to the scheme from the highway authority which further supports my findings.
27. The appellant asserts that there is not a 5 year supply of deliverable housing sites in the area and this is not disputed by the local planning authority. Under these circumstances, the National Planning Policy Framework indicates that where relevant policies are out-of-date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or where specific Framework policies indicate that development should be restricted.
28. When considering the three dimensions of sustainable development as set out in the Framework, social benefit would arise from the provision of new affordable housing in an area of shortage. In the economic dimension, house building would undoubtedly create or sustain employment and business activity and future occupiers would support local services. Whilst such benefits in the case of four houses might be small, they are not insignificant.

29. In the environmental dimension, the effect of the development on the character and appearance of the area was discussed above. In terms of accessibility, the development is within walking distance of the local shop and post office, as well as the bus stop and primary school.
30. Accordingly, I find that the proposal would amount to a sustainable form of housing development when assessed against the Framework as a whole.

#### *Conditions*

31. The Council has put forward a list of suggested planning conditions that could be attached to a planning permission in the event of the appeal being allowed. I have looked at these in the light of the six tests set out at paragraph 206 of the Framework. I have made minor revisions to the wording of the suggested conditions either to improve clarity or to ensure the conditions meet the tests set out in the Framework.
32. A condition requiring development in accordance with approved plans is necessary in the interests of proper planning and for the avoidance of doubt. Prior approval of external materials and hard and soft landscaping is necessary to ensure the character and appearance of the area is protected.
33. A condition requiring the highway works to be completed prior to occupation is necessary in the interests of highway safety. A scheme detailing surface water discharge is also necessary to ensure the development can be satisfactorily drained.

#### **Conclusion**

34. The Framework sets out a presumption in favour of sustainable development, to which there are three, mutually dependent dimensions: economic, social and environmental. For the reasons set out above, I consider that all three dimensions would be met by the appeal scheme. The proposal would also make a contribution towards addressing the shortfall of housing within the local area.
35. There is no doubt that there is strong local feeling about this proposal, as reflected by the volume of objections received. I recognise that this decision will be disappointing for local residents and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents, very important though they are, must be balanced against other considerations. The starting point in this case is the development plan. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan and the Framework.
36. For the reasons set out above, I find no conflict with the development plan, nor any other material harm. On balance, therefore, the evidence in this case has led me to conclude that the appeal should be allowed.

*Joanne Jones*

INSPECTOR

**Schedule of Conditions attached to Appeal Decision APP/Y3940/A/14/2223496**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 3723/01 revision F dated 10/01/2014.
- 3) No development shall take place until samples of the materials to be used in the construction of the external walls and roofs of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
  - a) Location and canopy spread of all existing trees and hedgerows on the land;
  - b) Full details of any trees to be retained, together with measures for their protection during the course of construction operations;
  - c) A detailed planting specification showing all plant species, supply and planting sizes and planting densities;
  - d) finished levels and contours;
  - e) means of enclosure;
  - f) car parking layouts;
  - g) other vehicle and pedestrian access and circulation areas;
  - h) all hard and soft surfacing materials;
  - i) minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc);
- 5) All soft landscaping works, approved in accordance with condition 4, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. All hard landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 6) No part of the development hereby permitted shall be occupied until the access, the vehicle crossover of the public footpath and the parking spaces have been completed in accordance with the details shown on the approved plan. The area shall be maintained for those purposes at all times thereafter.
- 7) No development shall take place until a scheme for the discharge of surface water from the site (including surface water from access and

driveways), incorporating sustainable drainage details, has been submitted and approved in writing by the local planning authority. No part of the development shall be occupied until the surface water drainage has been constructed in accordance with the approved scheme.

TETLOW KING PLANNING