
Appeal Decision

Site visit made on 1 June 2015

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 12th June 2015

Appeal Ref: APP/L3245/W/15/3008507

Development Site, Harcourt Crescent, Shrewsbury, Shropshire

- 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 Thomas Priestly against the decision of Shropshire Council.
 - The application Ref 14/05208/FUL, dated 17 November 2014, was refused by notice dated 13 February 2015.
 - The development proposed is the demolition of existing garages and erection of apartment block containing four single bedroom apartments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the appeal stage amended plans were submitted. These revise the internal layout of the apartments and the position of some of the windows. Both the Council and third parties have had the opportunity to comment on these revised plans as part of the appeal process and many third parties have done so. I therefore consider that no party would be prejudiced by my determining the appeal on the basis of the amended plans.
3. A number of concerns have been raised regarding ownership of land, potential covenants on the land, and rights of access. I can see no reason why an approval of planning permission would negate or supersede any private legal rights relating to land ownership. Whilst covenants may have implications for the implementation of the scheme, I have made my decision based only on the planning merits of the case.

Main Issues

4. The main issues in the appeal are the effect of the proposed development on:
 - the character and appearance of the area; and
 - The living conditions of nearby residents with particular regard to noise and disturbance, privacy and outlook.

Reasons

Character and appearance

5. The appeal site is located to the rear of properties on Crowmere Road and Harcourt Crescent and forms part of an existing garage court. The surrounding

area is largely residential in nature and comprises mainly a mixture of houses and bungalows. To the rear of the site lies Belvedere High School. As the garage court is surrounded by dwellings, the site is not visible from the adjacent roads.

6. The proposed apartment block would be a two storey building of a contemporary design with a shallow mono-pitch roof. Whilst the residential properties in the area are of a traditional design with pitch roofs, on approaching the site, the apartment block would be seen in the context of the existing flat roof garages and the large flat roof school building situated to the rear. As a result, it would not appear as an incongruous or alien feature that was out of character with the area.
7. Whilst the proposed building would have no relationship with the street and so would not enliven the street scene, its location would not cause any harm to the character and appearance of the wider area.
8. The communal space around the building would be limited in size and much would be utilised to provide car parking space. Nevertheless given the relatively limited communal space around the adjacent maisonettes, the proposal would not appear cramped or out of keeping.
9. All in all, I consider that the proposed development would not harm the character and appearance of the area. In this regard therefore it would accord with Policy CS6 of the Shropshire Core Strategy (adopted March 2011) (SCS) which requires development to have a high quality of design which, amongst other things, takes account of the local context and character.

Living Conditions

10. The proposed building would be located approximately 17m from the rear elevation of the maisonettes, and around 35m from the rear elevations of the closest houses on Crowmere Road. These distances would be sufficient to ensure that the building itself did not have an unacceptable impact on the outlook from the windows on the rear of these properties. Although the building would be close to the boundaries of rear gardens on Crowmere Road, I consider that given the length of the gardens, the building would not have an overbearing impact or create an un-neighbourly sense of enclosure to these gardens.
11. However, the proposal would also involve the erection of a boundary fence between the site and the closest maisonettes which are currently unenclosed. This would only be around 5.5m from the rear elevation of the closest maisonettes. Although the height of the fence is not shown on the plans, in order to maintain privacy, it would need to be a reasonable height. I am in no doubt that a high fence, so close to the rear windows on the ground floor would dominate the outlook from these windows and create a harmful sense of enclosure.
12. I accept that the proposal would remove three garages that currently stand in front of these windows, but these garages are set further away from the windows than the fence would be. Moreover, there are gaps between the garages whilst the fence would be a continuous feature. As such the garages do not have the same impact on the outlook of the windows as the proposed fence would do.

13. The appellant has pointed out that the fence could be erected along the boundary without the need for planning permission. Be that as it may, I have no substantive evidence to indicate that there is a significant probability that the fence would be constructed should this appeal be dismissed.
14. The proposal would have a number of windows on the elevation facing the maisonettes. However, as noted above, provided the proposed boundary fence was of sufficient height, it would be sufficient to prevent any overlooking between ground floor windows. In addition, the repositioning of the windows on the first floor means there would be no overlooking as the only window at this level would be above the stairs.
15. On the western elevation the existing boundary treatment would prevent any overlooking from the ground floor windows. However, at first floor level there is a window serving the main living area for flat 4 and as this is the only window serving the room it would not be appropriate for it to be obscure glazed. Notwithstanding this, given the orientation of the proposed window to the boundary, only limited parts of the garden would be overlooked, and the privacy of the majority of the garden would be maintained. So overall, I am satisfied the proposal would not have a detrimental impact on the privacy of neighbouring occupiers.
16. At present although the majority of the garages are used by local residents, the appellant has indicated that some of those on the appeal site are used by local tradesmen for storage of equipment and materials. Local residents have highlighted that parking is not allowed in the area other than in the garage itself and thus it is likely that residents only put their car into the garage when they have finished using it each day. Whilst the appellant has suggested that the local tradesmen make frequent trips to the garages, evidence from the residents that overlook the site is that most only visit once or twice a week. Consequently, traffic movements in the area are likely to be limited and the traffic noise minimal.
17. The proposed development would have parking within the site and as a result it is likely to significantly increase the amount of vehicular movements within the garage court area. Given the close proximity of the parking area to the rear elevations of the maisonettes, the increase in traffic movements would inevitably increase the noise and disturbance experienced by the occupiers of these properties from car engines, the opening and closing of car doors and from music being played within cars. In my view, it would make the noise levels in this rear communal area more akin to that of a front garden. This would be particularly noticeable and intrusive in the summer months when the outside area is likely to be used more intensively, and windows left open to improve ventilation. In this respect the proposed development would have an unacceptable impact on the living conditions of the nearby residents.
18. Overall, although I consider the appeal scheme would not result in a loss of privacy, it would have a detrimental impact on the living conditions of nearby residents with particular regard to outlook, and noise and disturbance. As such, in this respect, it would conflict with policy CS6 of the SCS which, amongst other things, seeks to ensure that development protects residential amenity.

Other Matters

19. In the light of changes made to Planning Policy Guidance in November 2014, it is disputed by the parties whether the proposal would be required to make a contribution towards the provision of affordable housing. However, as I am dismissing the appeal for other reasons, I have not determined whether this contribution is necessary.

Conclusion

20. Despite my findings regarding the impact of the development on the character and appearance of the area, these matters do not outweigh, or negate, my concerns about the effect of the development on the living conditions of nearby residents. As a result of this, I consider the appeal proposal would be unacceptable.

21. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR