
Appeal Decision

Site visit made on 30 August 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 23 September 2016

Appeal Ref: APP/M1005/W/16/3151803

The Garage, Fairfield Road, Horsley Woodhouse, Ilkeston, Derbyshire DE7 6BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Jewkes against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2015/1146, dated 17 November 2015, was refused by notice dated 23 February 2016.
 - The development proposed is residential development to create 4 units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters other than access and layout reserved for future consideration. I have dealt with the appeal on this basis, treating the proposed site layout plan¹ that show the access to the highway and the layout as indicative insofar as it relates to the appearance and scale of the dwellings and landscaping.
3. A plan² provided with the application shows how the floor plans for the dwellings could be laid out. As the appearance and scale of the dwellings is reserved for future consideration the appellant is not tied to the detail shown on that plan. However, given that the design and access statement submitted with the application states that the dwellings are to be single storey I have treated this as indicative of the appellant's intentions and have assessed the application on this basis.
4. Both main parties have referred to the Council's Residential Development Supplementary Planning Document. However, I have not been provided a copy of this document and as such I can give it little weight in the determination of this appeal. The appellant has cited the Successful Places Supplementary Planning Document that has been adopted by a number of neighbouring local authorities. However, it has not been adopted by this Council and it is not part of any national guidance and as such I can ascribe it little weight.
5. There is no dispute between the two main parties that the amenity space as shown would be suitable for over 55's accommodation. The second reason for

¹ Drawing No 816-110-C

² Drawing No 816-111

refusal relates to the absence of a legal agreement under S106 of the Act. However, both parties are now in agreement that the occupation of the dwellings could be controlled by way of a planning condition as suggested by the Council and I have no reason to dispute this. As such the Council have withdrawn the second reason for refusal and I do not address this matter in the reasoning below.

Main Issue

6. The main issue is whether the proposed development would provide a suitable living environment for future occupiers, with particular regard to outlook.

Reasons

7. The appeal site is an irregularly shaped parcel of land surrounded on all sides by dwellings and their gardens. The site is currently occupied by a number of workshops and garages with the remaining curtilage being hardstanding. The proposed development would involve the demolition of the existing buildings and the construction of four single storey dwellings with a car park and turning area accessed from the existing site entrance.
8. Paragraph 17 of the National Planning Policy Framework (the Framework) states that one of the core planning principles is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings. For my part, I consider that outlook is the view or prospect afforded to accommodation by a dwelling's immediate surroundings. It is reasonable to assess the outlook from the main living accommodation that would include the habitable rooms of the dwellings. I acknowledge that some of the habitable rooms would be utilised more often than others due to the nature of their use.
9. Due to the restricted size of the site and its irregular shape the dwellings would be in close proximity to the northern and eastern boundaries of the site. I acknowledge that it would be possible to ensure that some of the habitable room windows face the western boundary of the site and the communal garden. However, as shown on the indicative layout, it would be very difficult to avoid having habitable room windows facing the northern or eastern boundary.
10. Taking into account that existing dwellings and their gardens adjoin these boundaries any fence or wall would need to be similar in height and design to the existing walls to ensure that privacy to all parties would not be reduced. At such close range the boundary treatment would be overbearing and oppressive in relation to the outlook from the habitable rooms facing it. Furthermore, a large part of the western elevation of Plot 1 would face and be in close proximity to part of the parking area and consequently the bedroom window, as shown on the indicative layout, would also have a poor outlook.
11. I note that future occupiers could landscape their gardens which may soften the impact of the boundary treatment to a small extent. I also note that the use of roof lights and sun pipes would ensure that sufficient sunlight and daylight is received within the living accommodation but this is a neutral consideration and does not overcome the harm in relation to outlook.
12. On the basis of the size and siting of the proposed dwellings I do not believe an alternative design could be achieved that would avoid the substantial harm

described in relation to outlook. I therefore conclude that the proposal would not provide a suitable living environment for future occupiers, with particular regard to outlook. The proposal would not achieve a good standard of amenity for future occupants, one of the core planning principles set out in the Framework.

Other Matters

13. The appellant has stated that the proposal would not give rise to any overshadowing or overlooking issues, would not exacerbate ecology or highway issues, is within a settlement, that the buildings on site offer no positive visual contribution, and that it could be designed to reflect the mix of properties in the locality and I note that the Council did not object to the scheme on these points. However, a lack of harm in these respects is a neutral consideration and these matters do not individually or collectively outweigh the harm that I have identified.

Conclusion

14. The appellant has stated that the Council cannot demonstrate a 5 year supply of housing land and the Council have not provided any evidence on this matter. Accordingly, I have no reason to dispute this and it follows, by virtue of paragraphs 47 and 49 of the National Planning Policy Framework (Framework) that relevant policies in the development plan for the supply of housing are not to be considered up-to-date. However, paragraph 49 of the Framework also states that all housing applications should be considered in the context of the presumption in favour of sustainable development.
15. Four additional dwellings would be provided which would make a modest contribution to the local economy through the economic activity associated with their construction and occupation. The site is within the settlement of Horsley Woodhouse and as such it is within a relatively accessible location in relation to services and facilities. It would reuse land that has been previously developed. As such the proposal would accord with the environmental dimension.
16. However, I have found that the proposal would result in substantial harm to the living environment of the future occupiers and as such it would conflict with the core principles of the Framework and with the social dimension of sustainable development. When assessed against the Framework taken as a whole that harm would significantly and demonstrably outweigh the modest benefits associated with the proposal, including the contribution to housing supply.
17. Given that the three roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour.
18. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR