

Appeal Decision

Site visit made on 5 January 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/F1040/W/16/3159545

Jolly Colliers Public House, 2 Rose Valley, Newhall, Swandlincote, Derbyshire, DE11 0QN

- 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 Mrs Margaret Guthrie against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/0151, dated 15 February 2016, was refused by notice dated 8 June 2016.
 - The development proposed is the erection of 14 no apartments and conversion of existing public house to form dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with matters of access, appearance, landscaping, layout and scale to be determined. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on highway safety.
 - The effect of the proposal on the living conditions of neighbouring residents with particular regard to privacy.

Reasons

Character and Appearance

4. This appeal site comprises a public house with associated car park and garden area. The property abuts Rose Valley which is a narrow road generally characterised by two-storey terraced and semi-detached dwellings which are relatively modest in scale. The large expanse of land to the rear of the public house adjoins the gardens of modern, two-storey housing on Rambler Close and the gardens of a two-storey block of flats at Chrysanthemum Court. The scale and design of the flats at Chrysanthemum Court is such that they have the appearance of terraced dwellings.
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5. The proposal seeks to convert the existing public house to a dwelling and erect a building containing 14 apartments on the land to the rear. The building would utilise materials that are found within the local area such as brickwork and render. Indeed, I note that the proposal has sought to reflect some design features of the existing public house and properties within the area.
6. However, whilst there would be set backs and the use of the gable features, the scale and massing of the building is such that it would appear as a single, continuous mass of built form. Whilst I note they would not be too dissimilar in width to surrounding properties, the several gables proposed on each elevation would be particularly excessive in width and height and would obscure the majority of the building's façades. Moreover, there would be little uniformity in the size of each gable or indeed the spacing between them.
7. Furthermore, there would be a considerable variation in the proposed roof, with a series of pitches at different heights. At its highest point, towards the centre of the building, the roof of the central gable on the southern elevation would extend to almost half of the overall height of the building. In addition, the pitched roof of each gable would be close to the proposed ridge height or in some circumstances, above it.
8. I note that there are significant variations in the window design of the surrounding properties. Whilst the appellant indicates that the proposed windows are all of the same style, the proposed plans nevertheless indicate that there would be a significant degree of variation in the fenestration, with French doors behind Juliet balconies, smaller windows with crossbars, single pane casement and larger, three pane casement windows unevenly spread across the building. Moreover, whilst the proposed flats would be set back from Rose Valley, the proposed building would be visible from several vantage points within the immediate area. As a result, it would, in my view, appear as a dominant and incongruous feature within the street scene.
9. I note references to a development for what the appellant describes as a much larger apartment development immediately adjacent to the appeal site. However, I do not have full details of that scheme or the policies that applied at the time of its consideration. In any case, I have considered the appeal scheme on its own merits and the presence of a similar development in the area would not justify the harm to the character and appearance of the area arising from the appeal proposal.
10. I conclude, therefore, that the proposal would have a harmful effect on the character and appearance of the area. Consequently, it would fail to accord with Saved Policy H4 of the South Derbyshire District Council Local Plan Adopted Version May 1998 (LP) which states that residential development within the built up area of Newhall will be permitted provided it is of a suitable scale and character. The proposal would also conflict with Policy SD1 of the South Derbyshire Local Plan Part 1 2016 (LPP1) which states that development which does not lead to adverse impacts on the environment will be supported.
11. The proposal would also conflict with Paragraphs 56 and 60 of the National Planning Policy Framework (the Framework) which attach great importance to the design of the built environment and seek to promote or reinforce local distinctiveness.

Highway Safety

12. The appeal site is currently accessed from Rose Valley which is an unclassified road serving around 53 residential properties. It is proposed to utilise the existing access point into the site. Rose Valley varies in width with a particularly narrow section running from the junction with Meadow Lane to the appeal site. It is indicated that the road is subject to a 30mph speed limit, however, the Local Highway Authority indicates that it is unlikely that actual vehicle speeds would be 30mph with a 20mph design speed considered more appropriate. I have no reason to conclude otherwise.
13. The Local Highway Authority has indicated that the current design criteria for adoptable roads states that roads serving up to 50 dwellings should have a carriageway width of 4.8m, whilst roads serving over 50 dwellings should have a width of 5.5m with footpaths on either side. However, I have been provided with no details of the current design criteria and I am therefore, unable to offer it more than limited weight.
14. Nevertheless, Rose Valley currently serves in excess of 50 dwellings. The proposal would increase the number of dwellings using Rose Valley by 15 – a considerable proportion in my view. Between the junction of Meadow Lane and Rose Valley and the appeal site, the width of the road reduces considerably to around 3.6m at its most narrow. The appellant indicates that the narrow width of the junction has existed for some time and therefore it acts as a traffic calming measure. However, the width of the road would not allow for two cars to pass one another nor would it allow for safe pedestrian movements from the appeal site towards Meadow Lane. Whilst I note access to Rose Valley is available from Kinder Avenue, there would be nothing to prevent future residents from using the Meadow Lane junction.
15. It is indicated that the public house provides off road parking for 28 cars and, on occasions, the spaces are fully utilised with patrons having to park on-street. However, there is no substantive evidence before me to suggest that the existing public house creates more intensive vehicle movements than the proposed residential use would generate. I note that the proposal would reduce the existing number of parking spaces and that future occupants may not be car owners. However, there is no evidence before me that the proposal would result in a reduction in trip numbers or even that it would generate similar levels of vehicular movements to the existing use. Moreover, I agree with the Council that, in contrast to the proposed residential use, the vehicular movements to and from the public house are likely to be outside of peak times and that a number of patrons would visit on foot.
16. Manual for Streets (2007) (MfS) provides technical advice on stopping sight distances and visibility requirements. In respect of traffic with speeds of 20mph, MfS suggests a stopping sight distance of 25m, adjusted for bonnet length. The stopping sight distance assists in determining the length of visibility splays. Accordingly, in this instance the 'Y' distance should be 25m. MfS advises that the 'X' distance of 2.4m back from the carriageway should be used in most built-up situations.
17. The Council has raised no particular concerns in respect of visibility to the right of the access point. I have no reason to disagree. However, it is indicated that the forward visibility between the site access and the junction of Rose Valley and Meadow Lane around the front of the public house, at a distance of 1.5m

into the carriageway, would be between the 14m and 17m. The visibility would be further reduced to 11m once vehicles were 2.4m back from the carriageway edge as recommended in MfS. The proposal would, therefore, fail to achieve the minimum distances required by MfS. There is no contrary evidence before me and I therefore see no reason to disagree with the Council's figures. Moreover, I was able to see from my site visit that the public house itself is a significant obstruction to the visibility of oncoming traffic along Rose Valley from the proposed site access. As a result, I am not satisfied that an adequate visibility splay to the left of the proposed access would be achieved and there would be, therefore, the potential for conflict between cars exiting the site and cars approaching from the left on Rose Valley.

18. I conclude, therefore, that the proposal would have a severe effect on highway safety, in conflict with Policy T6 of the LP which states that all new development should incorporate adequate provision for access. It would also conflict with Policy INF2 of the LPP1 which requires appropriate provision for safe and convenient access to and within the development for highway users. Finally, the proposal would conflict with paragraph 32 of the Framework which states that decisions should take into account whether safe and suitable access to the site can be achieved for all people.

Living Conditions

19. The appeal site adjoins the rear gardens of 12 Rose Valley, 2 Rambler Close and the gardens of the flats at 27-34 Chrysanthemum Court. The flats have windows at both ground and first floor which face onto the appeal site. 12 Rose Valley has a flank wall facing the appeal site whilst the rear elevation of 2 Rambler Close faces onto a small portion of the appeal site boundary.
20. The proposal would include apartments at first floor which would have lounge and bedroom windows facing 27-34 Chrysanthemum Court. In addition, there are apartments proposed in the first floor that would have bedroom windows with direct views into the gardens of 12 Rose Valley and 2 Rambler Close.
21. The Council indicates that it has adopted separation standards which would not be achieved with the 16m separation distance between the proposal and 27-34 Chrysanthemum Court, nor with the distance to the rear windows of 2 Rambler Close or the 5m distance from the boundary of 12 Rose Valley. Indeed, the Council's Housing Design and Layout Supplementary Planning Guidance states that distances between bedrooms and kitchen windows should be at least 18m.
22. Nevertheless, whilst the proposal would not achieve the Council's minimum standards, there is a significant level of dense vegetation along the boundaries of the appeal site. I have no reason to believe that the vegetation is under any threat of removal or that it would not be retained at its existing height for the foreseeable future. Indeed, it could be reasonably retained through a suitably worded condition. Furthermore, additional landscaping is proposed which could further assist in screening mutual overlooking between the proposal and neighbouring properties. In addition, the proposed windows would be at a relatively oblique angle to the garden of 12 Rose Valley and the rear of 2 Rambler Close. As a result, it is unlikely that the proposal would result in harmful levels of overlooking to neighbouring properties.

23. Whilst I note the existing trees currently have an effect on the living conditions of neighbouring occupiers, their retention as a result of the proposal would not materially increase the existing level of harm experienced by those residents.
24. I conclude, therefore, that the proposal would not have a harmful effect on the living conditions of neighbouring residents with particular regard to privacy. Consequently, the proposal would accord with Policy H11 of the LP which states that proposals for new housing development should provide reasonable amenities in terms of privacy for existing dwellings. It would also accord with Policy SD1 of the LPP1 insofar as it states that development should not adversely affect the amenity of existing or future occupiers. Finally, it would accord with paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

25. I note the concerns of local residents regarding the proposal, however, I have no substantive evidence that the proposal would give rise to additional anti-social behaviour or have a negative impact on property values in the area. I am unable, therefore, to offer such concerns more than little weight.
26. The appellant has drawn my attention to a recent development nearby at the junction of Meadow Lane and Robinsons Road. Whilst I note that development is modern in appearance and three storeys in scale, I have limited detail of the approved scheme or the policies which applied at the time of its consideration. In any event, I have considered this appeal proposal on its own merits.
27. The Council has indicated that a contribution towards the provision of 2 school places is required to mitigate the effect of the proposal on nearby school capacity. I have not been provided with any mechanism which would deliver the required contribution. However, as the appeal is to be dismissed on other substantive issues, a conclusion either way on whether the proposal should make a contribution towards school infrastructure would not affect the overall decision.
28. I note the relatively sustainable location of the appeal site and the contribution the proposal would make towards boosting the supply of housing in the area. Such benefits are to be afforded significant weight. However, in this instance those benefits would be outweighed by the totality of the harm arising from the effect on the character and appearance of the area and on highway safety.

Conclusion

29. Whilst I have found that the proposal would not have a harmful effect on the living conditions of neighbours, I have found that it would result in harm to the character and appearance of the area and to highway safety. Those are the prevailing considerations.
30. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR