

Appeal Decision

Site visit made on 18 January 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 30 January 2017

Appeal Ref: APP/J0405/W/16/3160103

**Dayla Drinks, 80-100 High Street and 102 High Street, Aylesbury,
Buckinghamshire HP20 1RB**

- 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 Shanly Homes Ltd against the decision of Aylesbury Vale District Council.
 - The application Ref 16/00796/APP, dated 1 March 2016, was refused by notice dated 8 June 2016.
 - The development proposed is redevelopment of the site for a 2 to 4 storey building comprising 59 apartments (12no. 1-bed and 47no. 2-bed) with 45 parking spaces and associated access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of nearby residents with particular regard to privacy;
 - the effect of the proposed development on highway safety;
 - whether the proposal should make provision for affordable housing and contribute towards infrastructure;
 - whether any benefits of the proposed development are significantly and demonstrably outweighed by any adverse impacts (the planning balance).

Reasons

Character and Appearance

3. The appeal site mainly comprises a vacant commercial building and hardstanding positioned on the corner of High Street and Exchange Street opposite a traffic island close to Aylesbury Town Centre. The traffic island is surrounded by relatively tall modern buildings of a commercial and modern character and appearance.
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4. However, the southern boundary of the appeal site runs parallel with two storey terraced dwellings with traditional detailing set behind front gardens which directly face the appeal site and a public walkway known as Highbridge Walk.
5. Moving on to look at the proposal, the proposed flat roofs changing in height, large windows and doors and metal balconies would result in a highly modern development. When viewed from High Street and Exchange Street, the scale and design of the proposal would be in keeping with other modern and commercial buildings nearby.
6. However, when viewed from Highbridge Walk the proposed development would be at odds with the pitched roofs, chimneys and other traditional details of the terraced properties opposite and nearby. Thus, through its scale and contrasting form the proposed development would dominate the entrance to Highbridge Walk and erode its overall traditional character. In my view, this would be harmful to the overall character and appearance of the area.
7. Thus, on balance the appeal proposal would be in conflict with Policy GP35 of the Aylesbury Vale District Local Plan Written Statement (2004) (LP) which seeks to ensure new development respects and compliments the character and appearance of an area.

Living conditions

8. The proposed elevations facing Highbridge Walk would include a number of large openings comprising two large glazed panels either side of glazed doors which would mainly serve the main living areas.
9. These windows and doors would directly face the front elevations of the dwellings opposite and would be large enough to allow the occupants of the proposed dwellings to look into the windows and gardens of the dwellings opposite and vice versa.
10. Furthermore, this elevation would also include balconies. Even though relatively small, they would be large enough to accommodate a table and chairs and space for two people to sit comfortably. Thus, increasing the likelihood that occupants would look out over the front garden and towards the front elevation windows of the dwellings on Highbridge Walk for more prolonged periods of time.
11. I have considered the proposed section through Highbridge Walk detailing the separation distances between the proposed and existing dwellings as well as the 45 degree line. I also acknowledge that windows and doors are clearly required in the proposed elevation facing Highbridge Walk. However, there is no substantive evidence before me which demonstrates why the proposed openings need to be so large or that balconies are required.
12. In my view the presence of people for prolonged periods in this elevated position using balconies in such close proximity to the dwellings opposite together with the excessively large glazed panels and doors where people will be visible in their main living areas, would result in significant overlooking and the perception of being overlooked. Thus, the proposed development would be harmful to the living conditions of the occupants of the existing dwellings on Highbridge Walk with particular regard to privacy.

13. For these reasons the proposed development would be in conflict with saved Policies GP.8 and GP.95 of the LP which seek to ensure new development does not unacceptably harm the amenities of residents living nearby.

Highway Safety

14. The proposed development would be accessed by a new single vehicular access from High Street which is a relatively busy single carriage two-way road.
15. I acknowledge that the removal of the access which is closer to the traffic island than the proposed access is beneficial to highway safety. However, the proposed development would be served by a single relatively narrow access between the proposed apartment block and the existing buildings on High Street.
16. Vehicles manoeuvring in or out of the proposed visitor parking spaces located directly adjacent to the junction of the access with High Street would obstruct any vehicle wishing to turn into the appeal site. Thus, vehicles would need to wait on High Street to allow any manoeuvre associated with the visitor car parking spaces to be completed. Furthermore, it may also be necessary for a vehicle to reverse back out onto High Street to allow another vehicle to leave the appeal site. Moreover, should visitors turn into the access and be unable to use a visitor parking space or pass through the gates those vehicles would also need to reverse out into High Street.
17. This section of High Street is busy for most of the day. Vehicles waiting, stopping unexpectedly, or reversing into High Street would increase the risk of collisions on High Street. Furthermore, there would be a risk of collisions between vehicles entering the appeal site and vehicles manoeuvring out of the proposed visitor car parking spaces.
18. With regard to the impact of the proposed development on congestion in the area. I acknowledge the number of movements would be broadly equivalent to those generated by the previous use. However, the timing of residential movements would be different and whilst the site previously had permission for 39 dwellings, this has now lapsed and the appeal scheme is for 59 dwellings.
19. Even though the appeal site has good public transport links and is within easy walking and cycling distance to services and employment, there is no substantive evidence which allows me to make an assessment of the impact of the proposals on congestion in and around the town centre. Without such, I am led to the conclusion that the proposed development would exacerbate any issues there may be and thus be harmful in this regard.
20. I have also considered the swept path analysis and note that refuse collection vehicles would be able to safely enter and leave the site in a forward gear. Furthermore, I am satisfied that appropriate visibility could be achieved. I have also noted the concerns with regard to the proposed parking spaces adjacent to boundaries and whilst accessing such spaces would be difficult this would not mean they could not be used safely. Moreover, even though a travel plan has not been provided this could be secured through an appropriate planning condition.
21. However, overall for the reasons given, I find that the proposed visitor parking spaces adjacent to the proposed point of access would increase the risk of collisions in the area and the lack of detailed analysis leads me to the

conclusion that the appeal scheme would exacerbate congestion issues in the area. Thus, the proposed development would be harmful to highway safety in the area and would conflict with Policy GP.20 of the LP and paragraph 32 of the Framework, which taken together seek to ensure a safe and suitable access can be achieved and safer conditions for all road users.

Affordable Housing and Infrastructure

22. The Council have sought a number of planning obligations towards infrastructure and affordable housing. Although the need for those requirements is not contested, the appellant's viability appraisal concludes that it would be unviable for the scheme to provide any affordable housing or contributions towards infrastructure.
23. Whilst I note the Council's comments that they require an independent appraisal of the viability assessment, they have not raised any specific concerns with regard to it. Thus, with the absence of any substantive evidence to the contrary, I am led to the conclusion that based on the site specific circumstances the appeal scheme cannot support the provision of any affordable housing or infrastructure contributions.
24. Therefore in this regard the proposal would accord with the aims of saved Policies GP.2, GP.86, GP.87 GP.88 of the LP, which seek to ensure new residential developments deliver appropriate amounts of affordable housing and infrastructure subject to site specific circumstances.

The planning balance

25. It is contested whether the Council is able to demonstrate a 5 year supply of deliverable housing land in accordance with paragraph 49 of the Framework. I have considered the evidence provided by both parties with regard to the 5 year land supply position. However, I find the evidence on the 5 year land supply to be inconclusive.
26. Even if the Council cannot demonstrate a 5 year supply, and relevant Policies of the LP which seek to restrict the supply of new dwellings were therefore out of date, the proposal would need to be considered in accordance with the presumption in favour of sustainable development. In which case, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
27. I acknowledge the benefit of the scheme in providing 59 new homes, thus adding to the supply of housing in the area. The scheme would also involve the redevelopment of previously developed land which has been disused for some time. I also note that these homes would be close to a town centre where services and employment can be easily accessed. The scheme would also benefit the local economy as a result of the construction of the proposed dwellings and providing new customers and employees for local businesses.
28. However, the benefits of the scheme are significantly and demonstrably outweighed by the harm to the character and appearance of the area, living conditions of residents living nearby and highway safety. Consequently, on balance the proposal does not amount to a sustainable or an acceptable form of development.

Other Matters

29. I note that the appellant has submitted an updated Flood Risk Assessment (FRA) as part of the appeal which seeks to address the Council's reason for refusal relating to flood risk. However, the Council have not commented on it and whilst I note the Environment Agency have been consulted I do not have their comments. Nevertheless, I am satisfied that a technical solution could be found and thus as my decision would not turn on this matter I have not addressed it any further.
30. I have also considered the impact of the proposed development on crime in the area. However, overall I find that the proposed development would be appropriately secured by gates and see no security risk with the proposed dwellings on Highbridge Walk provided they are fitted with appropriate locks. Moreover, detailed measures to ensure visitor cycle parking provision, surveillance and lighting in the communal areas could form the subject of appropriate planning conditions. However, as I am dismissing the appeal for other reasons I have not considered these matters any further.
31. I have noted that the appellant is dissatisfied with the Council's handling of the planning application. However, this is a matter which would need to be pursued with the Council. I confirm that I have had regard only to the planning merits of the proposal.

Conclusion

32. For the reasons set out above, on balance the appeal proposal would fail to accord with the development plan or the framework and thus with regard to all other matters, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR