
Appeal Decision

Site visit made on 18 April 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 25th April 2017

Appeal Ref: APP/Y3940/W/16/3167790

Rear of 3 Silver Street, Warminster, Wiltshire

- 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 P Tanswell against the decision of Wiltshire Council.
 - The application Ref 16/04096/FUL, dated 28 April 2016, was refused by notice dated 23 June 2016.
 - The development proposed is for the construction of two, one bedroom flats to rear of 3 Silver Street.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the Warminster Conservation Area and the setting of adjacent listed buildings most notably, the Grade II listed Farmer's Hotel, No.1 Silver Street;
 - the effect of the proposal on the living conditions of the occupants of an adjoining ground floor residential flat with regard to light and outlook, and;
 - whether the proposed development would unacceptably increase or suffer from flood risk.

Reasons

Policy background

3. The development plan includes the Wiltshire Core Strategy (CS) and saved policies from the West Wiltshire District Plan 1st Alteration 2004 (WWDP). The Warminster Neighbourhood Plan has been examined with the examining Inspector concluding that it meets basic requirements but recommends certain modifications including the deletion of Policy L1 which aimed to adopt a blanket approach to the prevention of development in areas of high risk from flooding.

Character and appearance and, setting

4. In the exercise of planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of
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- preserving or enhancing the character or appearance of the Conservation Area. The objectives of policy Core Policy 58 of the CS are consistent with this test.
5. Paragraph 126 of the National Planning Policy Framework advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. It also advises that heritage assets are irreplaceable resources. Paragraph 132 advises that when considering the impact of the proposed development on the significance of a designated heritage asset, such as a Conservation Area, great weight should be given to the asset's conservation.
 6. I have been provided with the Warminster Town Conservation Area Character Assessment (WTCACA) and alongside my own assessment undertaken at my site visit, together with other appeal documents that have been supplied helps identify the special character of this particular Conservation Area.
 7. The Conservation Area is focussed on the main traditional trade routes and market centre but comprises of distinct character areas derived from the different uses that dominated these areas during different times. Development closest to the centre of the town is predominantly characterised by two and three storey buildings set back immediately behind the pavement edge occupying the full widths of relatively narrow plots that historically had long burgage plots to the rear. As a result the central part of the Conservation Area has a fine urban grain.
 8. The appeal site is typical of this prevailing character with a narrow frontage onto Sambourne Road. It currently has an open character allowing views through the site to the rear of buildings fronting Silver Street.
 9. The apartment building would be set back from the road to allow off street parking to take place in the form of a forecourt parking area. However, the building and its associated parking would occupy a considerable proportion of the site. Moreover its set-back would be at variance with the prevailing character of buildings within the Conservation Area generally. The shoe-horned appearance and its set back with forecourt parking would fail to preserve the character or appearance of the Conservation Area.
 10. The architectural detail and external materials proposed are bland and uninspiring and do not capture the prevailing character. I would agree with the Council's Conservation Officer that the rear projecting range is cumbersome and out of scale and is not typical of rear projections in the area that generally take on a subservient scale and form. In addition, there has been little attention given to the detailing of the scheme that would demonstrate that the development would at least preserve the character or appearance of the Conservation Area.
 11. As a result, the proposed development would cause significant harm to the Conservation Area as a result of the scale, extent and massing effect of the proposed building, the lack of sensitive detailing and its shoe-horned appearance. The proposal in not preserving or enhancing the character or appearance of the Conservation Area would therefore fail the statutory test and would be contrary to Core Policy 58 of the CS. This policy seeks to protect and enhance the significance of Wiltshire's historic and built heritage.

12. Turning to the setting of listed buildings, I have been provided with a schedule of five buildings that are listed and which are located within relatively close proximity of the appeal site. I agree with the Council that the setting of some of these particular heritage assets should not be confined to the front elevations only, particularly given that the rear elevations are prominent when viewed from Sambourne Road and Emwell Street.
13. In March 2015 Historic England published its Historic Environment Good Practice Guide in Planning Note 3 – The Setting of Heritage assets with guidance on the steps to follow in assessing these. Given the lack of any formal assessment submitted by the appellant, I have taken this guidance into account when reaching my conclusions.
14. The listed building comprising the Grade II Farmer's Hotel at No.1 Silver Street consists of a series of linked buildings of varying height that dominate the corner of Silver Street with Sambourne Road. The significance of this heritage asset is derived from the grandeur of its chamfered corner entrance onto Silver Street and its continued visual recognition as a former coaching inn with its segmental headed coach arch, now glazed fronting Sambourne Road. Its position immediately behind the footway together with its gentle curvature in following the principal highways draws the eye. The end of the building adjoining the appeal site consists of a single storey extension containing two timber doors that lead onto a narrow path, which takes on the appearance of opening out into the yard area that comprises the appeal site. Whilst the appeal site may be in different land ownership, the openness of this site in turn contributes to the historic significance and setting of the listed building.
15. Although the rear elevations of No's.2 and 4/5 Silver Street, both Grade II Listed Buildings, are set well back from Sambourne Road, their differing styles, materials, fenestration and roof forms are particularly noticeable from the gap between The Farmer's Hotel and Emwell Street.
16. The scale of the proposed development would radically alter the setting of The Farmer's Hotel from Sambourne Road and, in views from the south, the setting of this listed building would become densely developed. However, the proposed development would be sufficiently distant from No's. 2 and 4/5 Silver Street for their setting not to be adversely affected by the proposed scheme.
17. Taking these matters into account, I therefore conclude that whilst the setting of The Farmer's Hotel would be demonstrably harmed by the proposed development, the setting of No's. 2 and 4/5 Silver Street would at least be preserved. However, as a result, of the proposal's effect on The Farmer's Hotel, the proposed development would be contrary to Core Policy 58 of the CS that seeks to protect and enhance the significance of Wiltshire's historic and built heritage. The proposed development would also fail the general duty in the exercise of planning functions with regard to listed buildings in the particular respect of The Farmer's Hotel.

Conclusion on the first main issue

18. The harm that would be caused to the significance of the Conservation Area as a whole and to the setting of The Farmer's Hotel, although significant, would be less than substantial. In such circumstances, paragraph 134 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal. In accordance with the statutory duties

described, I attach considerable weight to the harm that would be caused to the Warminster Conservation Area and the setting of The Farmer's Hotel. On the other side of the balance, I have only identified one public benefit. This benefit is derived from providing two residential flats in a sustainable town centre location and I give this moderate weight.

19. Overall, however, I conclude that the public benefits do not outweigh the harm that would be caused to the Conservation Area or the setting of the listed building. The proposed development would therefore be contrary to the Framework.

Living conditions

20. The proposed building would be some 6.5m in height and incorporate a 10.5m long flank wall that would be located within approximately 1.5m of the boundary of the ground floor flat to the rear of No.2 Silver Street. The ground floor flat has two windows within its south facing elevation together with a third east facing window. These windows according to the Council serve the existing kitchen/dining area to the flat. Moreover, this flat has a small south facing outdoor amenity area.
21. The Council has carried out a sun light path assessment of the likely effects of siting a two storey structure within close proximity of the flat in question. This assessment concludes that there would be direct overshadowing of the ground floor windows and private amenity space for at least six months of the year. Given the height and proximity of the proposed two storey building, I consider that it would materially reduce the amount of daylight to the kitchen/dining area to No.2 Silver Street. The proposal would be positioned due south of this property which would cause some reduction in the amount of sunlight received by this property. This would in my view result in unacceptable overshadowing which would be for most of the day and would seriously harm the enjoyment of both indoor living space and outdoor amenity space. Furthermore, occupants of this flat would be confronted by a large mass of brickwork at close quarters. This would make the outlook from both the windows and outdoor amenity space oppressive and overbearing.
22. For the above reasons, I therefore conclude that the proposed development would cause material harm to the living conditions of occupiers of the adjoining flat to the north in terms of loss of daylight and sunlight and in terms of outlook. This would be contrary to Core Policy 57 of the CS that seeks to ensure amongst other things that new development is compatible with adjoining buildings and uses in terms of ensuring satisfactory levels of amenity. This policy is consistent with paragraph 17 of the Framework that seeks to secure high quality design and good standard of amenity for all existing and future occupiers of land and buildings and with paragraph 56 that explains that good design is key to sustainable development.

Flood risk

23. No flood risk assessment was submitted as part of the application. The Council maintains that the site is either partly or wholly within Flood Zone 2 according to the Environment Agency's mapping of Flood Zones. The Council contends that the proposal fails the sequential and exceptions test as no such analysis has been undertaken as to whether land within Zone 1 is available to accommodate the development proposal.

24. Paragraph 101 of the Framework explains that the aim of the sequential test is to steer new development to areas with the lowest probability of flooding. Furthermore, it explains that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas within a lower probability of flooding.
25. The appellant draws attention to a recently built development of housing at Sambourne Road. The details of this scheme are not available to me. However, I note the Council's explanation that there was a history of previous permissions at this location and that the extent of the boundary of Zone 2 encroached only marginally into this site. I do not accept that this proposal is directly comparable to the appeal before me.
26. In the absence of detailed assessment as required by paragraphs 101-103, I cannot be confident that there is sufficient evidence to demonstrate that flooding problems will not occur or be exacerbated by the development as proposed. Further, I remain unconvinced that the housing proposed should not be located in a zone with a lower probability of flooding. Consequently I find that there is a fundamental conflict with the objectives of Core Policy 67 of the CS that seeks to ensure that satisfactory evidence is provided upfront in accordance with national policy and established best guidance so that flood risk is minimized by new development. This is a consistent approach with that advised in the Framework.

Conclusion

27. For the reasons given above and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Gareth W Thomas

INSPECTOR