
Appeal Decision

Site visit made on 18 April 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 15 May 2017

Appeal Ref: APP/W0530/W/17/3167199

73 High Street, Melbourn, Cambridgeshire SG8 6AA

- 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 D Solanki against the decision of South Cambridgeshire District Council.
 - The application Ref S/0218/16/FL, dated 27 January 2016, was refused by notice dated 25 October 2016.
 - The development proposed is to convert the existing shop to residential and also convert the remainder of the existing house to 3 flats, therefore creating 4 no 1 bed flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) whether the proposal would involve the loss of a village service and the reduction in the level of retail provision in the locality,
 - (ii) whether appropriate provision is made for affordable housing, and
 - (iii) the effect of the development on highway safety in the area.

Reasons

Loss of a village service

3. The appeal site comprises of a traditional detached two-storey residential property with a vacant retail unit at the front of the property located within the centre of the village of Melbourn and the Melbourn Conservation Area. The surrounding area is mixed in terms of land uses and character, with retail and commercial uses along both sides of the High Street to the north-west and north-east and residential uses to the east, south and south-west of the site.
 4. The proposal would involve the conversion of the existing retail unit and residential accommodation to 4no. one-bedroom flats with associated parking, cycle storage, amenity area and refuse storage facilities at the rear.
 5. Policy SF/1 of the South Cambridgeshire Local Development Framework Development Control Policies Development Plan Document 2007 (DCP) states
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that planning permission will be refused for proposals that will result in the loss of a village service, including village pubs, shops, post offices, community meeting places or health centres, where such loss would cause an unacceptable reduction in the level of community or service provision in the locality. Policy SF/1 of the DCP sets out criteria that will need to be considered including (a) the established use of the premises and its existing and potential contribution to the social amenity of the area; (b) the presence of other accessible village services which would act as an alternative and (c) the future economic viability of the use, including financial information and the results of any efforts to market the premises for a minimum of a 12 month period at a realistic price. The Council contends that the proposal has not been supported by sufficient evidence to address the requirements of the policy in this instance.

6. I find this policy to be broadly consistent with Paragraph 28 of the National Planning Policy Framework (the Framework) which encourages planning policies and decisions to plan positively for local community facilities that support the rural economy and, as appropriate, to guard against the unnecessary loss of valued facilities and services. The Framework also expressly refers to local shops as local services and community facilities. Paragraph 70 of the Framework encourages planning policies and decisions to plan positively for the provision and shared use of local community facilities, such as local shops, that enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services.
7. The appellant has stated that the retail shop has been vacant for over 10 years and that he has tried to rent out the shop during this period. I am mindful that the Framework place emphasis upon ensuring viability and deliverability of development. However, from the representations received there appears to have been little awareness on the part of the local community of the invitation for future interest in the shop and some doubts raised about whether or not the shop has been continually marketed. At the time of my site visit, I saw no publicity to that effect displayed at the premises. The appellant has stated that proof of marketing can be provided. However, I have not been supplied with any evidence or marketing particulars to clarify in more detail what enquiries have been received, the date the property was viewed and any comments made by prospective occupiers.
8. Whilst I have noted during my site visit that other alternative accessible retail uses are available nearby, it is evident from the representations made that the retail premises is seen as making a contribution to the vitality of the village and the potential social amenity of the area. I therefore consider that the proposal does not fulfil the requirements of Policy SF/1 of the DCP. Furthermore, in terms of the Framework, I am not satisfied that the loss of a facility clearly valued by the community can be concluded to be 'necessary'.
9. Consequently, I conclude that the proposal would involve the loss of a village service and retail provision which would be harmful to the surrounding community and contrary to Policy SF/1 of the DCP. This policy, amongst other things, seeks to protect the loss of community service unless the existing use is no longer economically viable and alternative accessible provision is available in the locality. In addition, it would conflict with the aims of paragraphs 28 and 70 of the Framework that seek to plan positively for local community facilities that support the rural economy, enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services.

Affordable housing

10. Policy HG/3 of the DCP states that proposals for housing developments will only be permitted if they provide an agreed mix of affordable housing to meet local needs and the amount of affordable housing sought will be 40% on schemes of 2 or more dwellings subject to the viability of particular developments.
11. A material consideration of considerable importance and weight in this instance is the Written Ministerial Statement (WMS) on affordable housing of 28 November 2014. The WMS states that for developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1000sq.m, no affordable housing or tariff style contributions should be sought. The intention of the WMS is to ensure that these requirements do not become a disproportionate burden for small scale developers and thus frustrate housing supply. This statement has been translated into national planning guidance in the National Planning Practice Guide (PPG)¹, following a recent Court of Appeal decision in May 2016² and the WMS is now Government policy.
12. As such, there is a conflict between the national threshold relating to the provision of affordable housing in the WMS and the PPG and the local thresholds set out in Policy HG/3. There is a general presumption that the requirements of a WMS should be followed, especially as it postdates the DCP. Nevertheless, it is also important to acknowledge that a policy should not be applied rigidly or exclusively when material considerations may indicate an exception may be necessary. It is for the decision taker to weigh any conflict between relevant policies in light of material considerations, including local circumstances.
13. In this instance, a number of matters suggest a local exception from the policies in the WMS is currently necessary. The Council have provided evidence that South Cambridgeshire has a high level of housing need across the District (1,700 families on the waiting list). The appellant does not dispute this evidence and although limited information is provided, this high level of need is supported by a recent appeal decision in the District³ and therefore I attach significant weight to this consideration. In addition, I found Policy HG/3 consistent with the Framework in that it acknowledges development viability considerations in decision-taking and would not impose a level of planning obligation that would prevent development coming forward. As a consequence, whilst the WMS carries considerable weight, I do not consider it outweighs the development plan in this instance given the substantial need for affordable housing in the district.
14. The proposal does not make any provision for affordable housing to meet local needs. Although the appellant has indicated that evidence can be provided to show that the proposal would not be financially viable with an affordable housing contribution and that Registered Housing Providers are not likely to be interested in the management of affordable homes in a flats scheme, such as in the appeal proposal, this evidence is not before me.
15. Consequently, I conclude that the proposal would not make adequate provision for affordable housing contrary to Policy HG/3 of the DCP.

¹ PPG Paragraph: 031 Reference ID: 23b-031-20161116

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

³ APP/W0530/W/16/3142834

Highway safety

16. The appeal site is located at the junction of High Street and Little Lane. The High Street is a two-way road with double yellow lines on both sides of the road and limited on-street parking available with parking restrictions in front of the property. The proposal includes the provision of one parallel car parking space and two diagonal parking spaces on Little Lane, a narrow one-way road with no footpath provision running at the side of the property. The fronts of the residential properties at Nos. 3 and 7 Little Lane are located at the back edge of the road and access is directly opposite the proposed parking spaces.
17. Cambridgeshire County Council as the Local Highway Authority (LHA) has objected to the development stating the proposed car parking spaces would be constrained and would lead to vehicles reversing in the wrong direction on a one-way street. It would also lead to increased vehicle movements along Little Lane through to its junction with Orchard Road, which has constrained visibility.
18. Paragraph 32 of the Framework states that decisions should only be prevented or refused on transport grounds where the residual impacts of development are severe. In view of the scale of development, it is evident that the impact of the development on highway efficiency would not be severe. However, paragraphs 32 and 35 of the Framework go on to state that decisions should also take into account whether safe and suitable access to the site can be achieved for all people.
19. From the evidence provided and from my observations on site, I consider that this section of Little Lane is neither safe nor suitable to safely cater for the proposed parking spaces and traffic movements from the proposal, due to the current road conditions, the configuration of the site and the restricted visibility of Little Lane at its junction with Orchard Road. The parking arrangements would result in vehicles reversing into and out of the parking spaces onto the one-way road at a point where the road width is severely restricted in close proximity to the front of the properties at Nos. 3 and 7 Little Lane. It would result in extra traffic movements along Little Lane to its junction with Orchard Road where the visibility is severely constrained by an existing boundary wall and hedge on third party land alongside the junction. I consider as such the proposal would have an adverse effect on highway and pedestrian safety.
20. I note the appellant's arguments regarding the positive benefits arising from the proposed car parking as the appeal building currently has no car parking spaces and that similar parking arrangements are already present on Little Lane nearby the site. However, I have assessed not just the numerical provision but the local prevailing circumstances and the presence of similar parking arrangements does not set a precedent for such inappropriate parking provision in this location for the reasons set out above. I consider that these factors would not outweigh the site's significant shortcomings I have identified in this case.
21. Consequently, I conclude that the proposed development would have an adverse effect on highway safety. It would conflict with Policies TR/1 and TR/2 of the DCP which seeks to ensure development includes satisfactory parking provision and access arrangements. The proposal would conflict with paragraphs 32 and 35 of the Framework, which seek to ensure that a safe and suitable access to the site can be provided for all people and that a safe and

secure layout can be achieved which minimises the conflicts between traffic and cyclists or pedestrians.

Other matters

22. The Council acknowledges it cannot identify a five year supply of deliverable sites. Paragraph 49 of the Framework states that housing developments should be considered in the context of the presumption in favour of sustainable development. It goes on to state that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate such a five year supply.
23. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development. For decision making this means that where the development plan is absent, silent or relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted. Sustainable development is identified as having social, economic and environmental roles. Policy DP/1 of the DCP in line with the Framework identifies how decisions should be consistent with the principles of sustainable development.
24. It is accepted that the proposal would be well connected to existing services and facilities and that it would provide some social and economic benefits through contributing to the mix and supply of housing and local services in the village. However, four flats would make a limited contribution to the vitality of this rural community and, more generally, to the housing stock in the district. While I note the appellant's view that the scheme's design would amount to environmental benefits, I have found above that taken overall the development would involve the loss of a village service, no affordable housing provision and would be harmful to the highway safety in the area. This harm would conflict with the social and environmental dimension of sustainable development and would be sufficient to significantly and demonstrably outweigh the scheme's benefits when assessed against the policies in the Framework as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework.
25. I have noted some local support for the proposal on the basis of tidying up the site which has been vacant for some years. However, there are other means of tidying up the site without the need to carry out the conversion works as proposed. I have also noted the objections from Melbourn Parish Council and local residents including a petition against the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

26. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR