The Planning Inspectorate

Appeal Decision

Site visit made on 19 August 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/D3315/W/19/3229695
The Surgery, Creedwell Orchard, Milverton, Taunton TA4 1JZ

- 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 Stephen Wood against the decision of Somerset West and Taunton Council.
- The application Ref 23/18/0044, dated 9 December 2018, was refused by notice dated 7 May 2019.
- The development proposed is described as 'change of use from commercial class to residential class'.

Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development that appears in the banner heading above is taken from the planning application form. The Council's decision notice refers to the description of development as the 'change of use from Class D1 (Non-residential institution) to Class C3 (Dwellinghouse)'. This more accurately describes the appeal proposal and I have therefore determined the appeal on such a basis.

3. I note that when the application was originally submitted the determining Council was Taunton Deane Borough Council. However, this Council merged with a neighbouring Council prior to the determination of the planning application and the decision was in fact made by the newly formed Somerset West and Taunton Council.

Main Issues

4. The main issues are i) the effect of the development on the provision of community facilities in the area and ii) whether future occupiers of the dwelling would have satisfactory living conditions with respect to outside amenity space.

Reasons

Community facilities

5. The appeal is a single storey building which was used until recently as a doctor's surgery, although the building is now vacant. The building is surrounded by residential dwellings on three sides with a public car park positioned to the north of the site.

6. Policy C4 of the adopted Taunton Deane Site Allocations and Development Management Plan 2016 (SADMP) seeks to protect the loss or change of use of existing community facilities subject to a number of criteria.

7. The appellant asserts that the site does not constitute a community facility given that it is not currently used as a doctor's surgery and is in private ownership. However, having regard to the Council's definition of community facilities at paragraph 1.4.15 of the supporting text to policy C4, I would regard the building as a community facility, given its last use for healthcare. The proposed conversion to a C3 use would therefore result in the loss of a community facility.

8. I acknowledge the submission of details of recommendations regarding the closure of the facility by the National Health Service as a doctor's surgery, including issues relating to extending the lease, the need to consolidate services, staff shortages and clinical safety. However, it does not provide the final decision or confirmation of whether replacement facilities have been provided since the closure of the facility. Furthermore, the issues identified do not strictly preclude the use of the building for a similar use. Indeed, the building is in a generally good condition and to this extent there is the potential for it to be re-used as a local community healthcare facility in the future.

9. The appellant indicates that the property has been marketed for a period in excess of 18 months and that there has been little interest. However, no further objective evidence has been provided in support of the appeal to demonstrate the manner in which the property has been marketed, including associated costs or details of any expressions of interest including those from healthcare or community groups. As such, and considering the requirements of policy C4, I am not satisfied on the evidence before me, that it has been adequately demonstrated that there is no longer a need for a community facility use at the appeal building, or that it is no longer financially viable to re-use it for another similar community use. Furthermore, at this time no replacement facilities have been provided on site and whilst alluded to, inadequate evidence has been provided to demonstrate that replacement facilities have been provided within the vicinity.

10. Therefore, and based on the evidence that is before me, I conclude that it has not been satisfactorily demonstrated that there is no longer a need for the existing building as a community facility. Consequently, the appeal proposals would not accord with the provisions of policy C4 of the SADMP, that seeks to protect community facilities.

Living conditions

11. The property is physically constrained with a public car park to the north and enclosures of neighbouring residential properties to the south, east and west. From the information submitted I understand that the area to the west of the property would provide car parking to serve the proposed dwelling, although this and any prospective garden area is not shown on the plans before me.

12. The areas to the south and east of the appeal building are extremely narrow and would not offer appropriate, useable outdoor space given their size and form. No plans indicating the position of amenity provision have been provided in support of the appeal, although from the details before me this would be limited in its extent and predominantly situated adjacent to the existing car

park or adjacent to suggested parking spaces to the side of the dwelling. Therefore, this would be highly likely to be the subject of significant levels of noise and disturbance and unlikely to be used or valued by the future occupiers in the same way as an enclosed private rear garden.

13. The appellant states that they do not require outdoor space to meet their personal needs. However, one must consider the needs of all potential future occupiers. Given the size of the proposed dwelling, it would be a reasonable expectation that it would benefit from a private garden of adequate size, shape and position to cater for basic outside space requirements as per policy D12. Although no formal standards are provided in support of this policy, I consider that as a result of the small size, shape and position of any garden area, that this would be inadequate to cater for the needs of future occupiers of the proposed dwelling.

14. The appellant indicates that they would consider removing the car parking to the side of the property to provide garden space. However, in the absence of plans to show the layout of the parking and garden areas, and noting the constrained nature of the site, I am not satisfied that this would overcome the concerns noted above.

15. The lack of privacy implications from residential use of the building or maintenance of outlook from the property does not in my view alleviate the requirement for adequate outdoor space to serve residential development of this form. Furthermore, whilst I acknowledge the appellant's case that other developments including flats within the area do not benefit from amenity space and front directly onto the car park, this in itself does not justify allowing new development with inadequate outside amenity space provision. In any event, I have had regard to the requirements of policy D12 for different units of residential accommodation and have determined the appeal on its individual planning merits.

16. For the collective reasons outlined above, I conclude that the proposed development would fail to provide adequate outdoor amenity space and would therefore harm the living conditions of the future occupiers of the proposed dwelling, contrary to policy D12 of the SADMP that seeks to provide an appropriate amount of private garden space within new residential development.

Other matters

17. I have had regard to the appellants' concerns regarding the manner in which the Council have arrived at their decision and the time which it took to proceed to determination. The appellant also contends that a covenant restricting the use of the building has previously been lifted and that he would maintain access to rear gardens of neighbouring properties. Whilst noting these matters, they do not overcome my conclusions on the main issues.

18. The appellant contends that the proposal would represent the best use of the site and that other uses would cause harm including in relation to living conditions; the dwelling would provide a unit of affordable housing and that the use would prevent the neglect of the building. I cannot be certain that all non-residential uses would cause harm to living conditions and I am not persuaded that the building could not be re-used as a community facility in the future. It is not necessarily the case that a residential use is the only use which would

provide a certain future for this property or indeed that this is the only way of keeping such a property well maintained.

19. The appellant has indicated that they would be willing to hold the appeal in abeyance to allow any community interest to come forward. However, it has been necessary for me to determine the appeal now on the basis of the evidence that is before me.

20. The appellant indicates that access to parking provision could be maintained or accommodated within the car park if necessary. Even if this were the case, this would not in itself overcome my conclusions on the main issues.

Conclusion

21. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR