
Appeal Decision

Site visit made on 16 September 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/Y3940/W/19/3232617

'Travellers Rest', Carmelite Way, Salisbury SP1 2HL

- 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 S. Palmer (Steve Palmer Building) against the decision of Wiltshire Council.
 - The application Ref 19/00220/FUL, dated 28 December 2018, was refused by notice dated 17 June 2019.
 - The development proposed is the demolition of the existing building and construction of five houses with associated parking and access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development on flood risk;
 - The potential effect of the development on archaeological resource;
 - The effect of the development on parking pressures and highway safety in the area of the site;
 - The effect of the development on the living conditions of neighbouring dwellings and the amenities of the adjacent school.

Reasons

Flood Risk

3. The site is within the defined Flood Zone 3 on the Environment Agency Flood Maps, which is an area of high flood risk. The Planning Practice Guidance (PPG) states that dwellings are regarded as being 'more vulnerable' of flood risk. The proposal would see a net increase of four dwellings on the site. This proposed intensification of the site use by increasing the number of residential units would result in an increase in the number of households to be affected by any future flooding.
4. Paragraph 163 of the revised National Planning Policy Framework (the Framework) states that it should be ensured that flood risk is not increased elsewhere, and development should only be considered appropriate in areas at

- risk of flooding where there is a site-specific Flood Risk Assessment (FRA). The submitted FRA stated that, in terms of fluvial flood risk, this flood zone 3 classification means the site has a 1 in 100 or greater annual probability of river flooding, which is sourced from the nearby River Avon to the south of the site. The FRA also found that after prolonged rainfall the site could have groundwater flooding, with a low to moderate risk of this.
5. The Planning Practice Guidance (PPG) states that the suitability of sites in Flood Zone 3 should only be considered if there are no reasonably available sites in Flood Zones 1 or 2 (areas of low and medium probability of flooding). This is referred to as the Sequential Test.
 6. A Sequential Test has been submitted with the appeal documentation. The search area was stated to be southern Wiltshire, which has been agreed by the Council and which I also consider this as reasonable. The Sequential Test submitted focusses on the Council's lack of sufficient housing land supply. The Council has provided up-to-date information which has concluded that it cannot demonstrate a 5 year housing land supply. The conclusion of the Sequential Test is that as the Council cannot demonstrate a 5 year housing land supply then there will not be sufficient alternative sites for development outside of the flood zone. It also concludes that the site will be needed to address the shortfall in the housing need.
 7. The Council has published its Strategic Housing & Economic Land Availability Assessment (SHELAA) in July 2017 which includes an assessment of 'un-committed sites'. It has also identified many sites which the Council consider would be a preferential site for the proposed development, being that they are in Flood Zone 1 or 2. I recognise that an in depth review of sites within the SHELAA would likely result in some of these sites being unsuitable for various reasons, especially considering the SHELAA is dated over 2 years ago, but this evidence suggests that there are likely to be potential sites in a preferential location in terms of flood risk available.
 8. The appellant appears to have not reviewed the SHELAA in depth as it is 2 years old, but despite this the document could still help to identify preferential sites. In this regard, I note that the Council has gone through the list and marked some which have been allocated or received planning permission, but there are more which seem to be at least potentially available.
 9. Furthermore, there does not appear to be any more information as to other sites which may have come to the market as available which may not have been identified by the Council in any of their assessments.
 10. I acknowledge that the lack of an identified 5 year housing land supply means that more sites would be needed to address this shortfall. However, this is a site within Flood Zone 3. The site could potentially be considered within the Council's windfall allowance, which makes up part of its housing land supply. However, windfall sites by their very nature are not identified and there seems to be no evidence that there are not others available that are at lower risk of flooding.
 11. The appellant has drawn my attention to appeal ref:APP/E1210/A/13/2204087. For this appeal for a site in Christchurch, the appellant contended that the Council could not demonstrate a deliverable five year supply of housing sites, in relation to a Sequential Test. The Inspector for this other appeal also

indicates that the Council had not provided substantive information of alternative sites with a lower flood risk than the site in question. However, for this current appeal, the Council has provided evidence of potentially suitable other sites from the SHLAA. Also, whilst I acknowledge this other appeal decision, each case must be taken on its own merits.

12. Considering the above, it is not possible from the evidence before me to conclude that there are no more suitable alternatives to this site away from high flood risk areas which are available. The Sequential Test has not been passed and therefore there is no need for me to consider the Exception Test in these circumstances, as set out within the Framework.
13. Further to the issue of the Sequential Test, the Council's second reason for refusal relates to flood mitigation proposed. After considering the proposed mitigation to the flood risk at the site the Environment Agency (EA) concluded that the proposed development poses an unacceptable risk to people and property from flood risk. Part of the objection relates to the proposed voids under the houses.
14. The voids are a form of flood mitigation, but there is a need for constant maintenance to ensure the voids are not blocked by silt or debris, for example. The appellant has suggested a maintenance regime, but this would need to be conditioned to ensure this maintenance is continued in perpetuity. However, I would regard it difficult to enforce such a condition at all times, thereby failing the tests for planning conditions as set out in the Framework (paragraph 55). Also, the EA points out that other items other than silt could cause a blockage to these voids. Such blockages could increase flood risk to other existing properties in the area of the site. The EA therefore still objects to this method of mitigation.
15. I do recognise the mitigation measures which include the reduction in hardstanding areas and the raising of the finished floor levels. However, I am not convinced that the proposed overall strategy to address the flood risk is satisfactory from the evidence before me.
16. There are other houses in the area of the site and many would not have the level of flood mitigation as proposed for this development. However, I do not have full details of these other examples and many of these other properties would be built prior to existing flood risk planning policies having been adopted. As such, I give this matter little weight in my assessment of this main issue.
17. Overall, whilst I acknowledge the flood mitigation provided within the FRA, I am not convinced this is satisfactory. Also, the Sequential Test has not provided sufficient information to demonstrate that there are no other sites in preferential locations of lesser flood risk within Southern Wiltshire. As such, the proposal does not meet with the requirements of the Framework to avoid, where possible, flood risk to people and property. The proposal is also contrary to Core Policies 2 and 67 of the Wiltshire Core Strategy (Approved 2015) in this regard, which requires development to refer to the SHLAA when providing evidence towards a Sequential Test, amongst other things.

Archaeology

18. The site is close to the Cathedral Walls and in what was the medieval suburbs of Sarum/Salisbury. The Council's reason for refusal on the issue of archaeology stated that excavations to the north of the site identified high levels of medieval remains, with post-medieval activity being identified to the south.
19. With this evidence it was required that an archaeological assessment should be undertaken of the site. This would be necessary to assess whether the proposed development would be compatible with the required method of preservation if there were any notable finds.
20. With the appellant's final comments, the document entitled "Desk-based assessment of the Archaeological Potential of land at Carmelite Way, Salisbury, Wiltshire" was submitted. This assessment found that the archaeological potential for the site was low, after considering historic maps which suggested the medieval built-up area was mainly north of the present site, and that the area of the site was low-lying, marshy ground in the medieval period.
21. The Assessment is thorough and detailed, and I have no reason to doubt its accuracy or conclusions. However, as this was submitted with the appellant's final comments there has been no opportunity for the Council to respond. Had I been minded to allow the appeal it would have been necessary for me to go back to the Council for comment on the evidence submitted by the appellant. However, even if there were no likely adverse effects to archaeological resource, thereby being in accordance with Policy CP58 of the Wiltshire Core Strategy and the Framework on this issue, that would be neutral in the planning balance rather than representing a positive factor weighing in favour of allowing the appeal. As such, in these circumstances, I have not pursued this issue further.

Parking Provision

22. The appeal site is off Carmelite Way, which is an unclassified road off the busy central road, Exeter Street. The site is within a residential area, although there are other business and school in the close vicinity of the site.
23. Each dwelling proposed has a single parking space, with there being no additional visitor parking provision. The proposal, based on the parking standards set out in the adopted Local Transport Plan, states that 3 bedroom dwellings should have two off-street spaces and 4 bedroom houses should have 3 off-street spaces. As such, the proposal is substantially deficient in parking provision, based on these requirements.
24. Core Policy 64 (Demand Management) does allow for some flexibility to reduce this demand. In this regard, I recognise that this is a central location within Salisbury where there are alternative sustainable modes of transport available. There are also shops, services and employment opportunities with walking distance of the site. However, from my observations on site and from the Council's evidence this is an area where there is already high demand for on-street parking, which is maybe because of the nearby City centre and also the school, together with this being a relatively high density residential area.
25. There is some control of parking in the daytime being within a 'Residents Parking Zone', but there is generally no control in the evenings through to the

early mornings. Even within the restrictions to parking I observed few available spaces in the daytime.

26. Therefore, whilst I understand that in some circumstances a reduction in demand for parking provision could be appropriate, the proposal has a parking provision deficit to an extent that would likely result in significantly increased on-street parking pressure. This would add to an area where there is already high on-street parking pressure which could result in obstructions to the flow of traffic through awkward manoeuvring by drivers trying to enter tight spaces, or just drivers stopped waiting for spaces to become available, for example. This could have an adverse effect to highway safety given the close proximity of the site to the school entrance (particularly at peak times) and the junction with the busy Exeter Street.
27. For these reasons the parking provision is unsatisfactory which is harmful to highway safety and the flow of traffic in the area. The proposal is therefore contrary to Core Policy 64 of the adopted Wiltshire Core Strategy (2015) which requires a minimum parking requirement for well designed new residential developments.

Living Conditions

28. The proposed houses are in an urban area of Salisbury and would be in close proximity to other properties, including a school to the rear. The houses would be in the form of a terrace, which each being three storeys with a raised ground floor level due to the flood zone designation. I recognise also that the current site is mostly open other than the single dwelling.
29. To the west and southwest of the site, occupiers of neighbouring properties would have a view of the proposed new dwellings. However, the proposed dwellings would be positioned towards the north of these neighbouring properties and so the level of overshadowing would be minimal. I also note that the proposed dwellings are set in from the site boundaries which would both limit any overbearing or dominating effect and also increase the distance between windows. The appellant has provided a plan to show that there is spacing of approximately 17m from the nearest proposed dwelling to some of the neighbouring windows to the southwest. This would also be at an oblique angle. After assessing the potential overlooking to all neighbouring properties from the proposed development, when considering the distance and angles included, any impact would not be at a significant level.
30. There is a school playground to the rear of the site, with the proposed rear upper floor windows overlooking this area. However, whilst I understand the concerns raised as a consequence of this proposal, I have no substantive evidence that this proposed development would result in a safeguarding issue. I also note that the school grounds in this city centre location is already overlooked to some degree. The proposed houses would be set off the boundary and there would be a high rear boundary wall, which together would ensure against the development being an overbearing feature when viewed from within the school grounds. Being to the south of the site, the school grounds should not be overshadowed to any significant degree.
31. Considering all the evidence, the proposal would not result in any significant adverse effect to the living conditions of neighbours to the site or the functions of the school. The proposal is therefore in accordance with Policy 57 of the

Adopted Wilshire Core Strategy (2015) which seeks to require development to have regard to the amenities of existing occupants in the area of the site.

Other Matters

32. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should 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.
33. However, any such approach has to be considered against there being no application of policies of the Framework (defined by footnote 6) requiring that protected areas or assets of particular importance would provide a clear reason for refusing the development proposed. For if they were to be, the tilted balance within paragraph 11 would not be engaged, so righting the planning balance.
34. This is the case here, and consideration of the 'out-of-datedness' of the policies of the development plan is therefore a sterile one, as in fact the policies of the Framework provide clear reasons for refusing the development proposed here. For the very detailed reasons set out above in respect to flood risk, I have concluded that not only are these specific policies engaged, but they are clearly breached by the appeal proposals. The presumption in favour of sustainable development anticipated in paragraph 11 of the Framework is therefore not engaged.
35. Nonetheless, I do recognise the benefits of the proposal, in providing five family size dwellings towards the local housing supply. There would be an economic benefit through the construction of the dwellings and from the new occupants supporting local businesses. The dwellings would make an efficient use of the site whilst the appellant also argues that they would improve the street scene and the setting of the Conservation Area. Indeed, I note there has been no objection from the Council regarding the design and appearance of the proposed dwellings and I have no reason to disagree that they would preserve the character and setting of the Conservation Area and other nearby designated and non-designated heritage assets.
36. However, the proposal is for a relatively small number of houses and so the benefits are limited. These benefits do not outweigh the harm I have identified above.

Conclusion

37. For the reasons set out above, the appeal is dismissed.

S. Rennie

INSPECTOR