
Appeal Decision

Site visit made on 4 February 2020

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 19th February 2020

Appeal Ref: APP/Y3940/Q/19/3239750

1-12, 14-15 Old School Mews, High Street, Shrewton SP3 4FA

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Mrs Olive Christine Bunkell against the decision of Wiltshire Council.
 - The development to which the planning obligation relates is the conversion of former school building and new development to create 14 age related dwellings and ancillary development.
 - The planning obligation, dated 30 January 2014, was made between Wiltshire Council and MQL Developments.
 - The application Ref 19/01440/106, dated 7 March 2019, was refused by notice dated 25 April 2019.
 - The application sought to have the planning obligation discharged.
-

Decision

1. The appeal is allowed. The planning obligation, dated 30 January 2014, made between Wiltshire Council and MQL Developments no longer serves a useful purpose and is discharged.

Preliminary matter

2. I am satisfied that the appropriate notices have been served. Therefore, irrespective of whether objections have been received, I am content that I am in a position to determine the appeal.
3. I note that the appellant has submitted the application on behalf of the majority of the owners of the effected properties.
4. It is undisputed that the scheme at Old School Mews has not been completed in accordance with the permitted plans in relation to the construction of steps in lieu of ramps and the subdivision of what was envisaged as communal gardens to provide separate areas of private outdoor space.

Main Issue

5. The main issue is whether the planning obligation no longer serves a useful purpose and so should be discharged.

Reasons

6. Planning permission was originally granted in 2014 with an accompanying planning obligation that restricts occupation to, *'a person who is not less than*

55 years old¹; or b) the partner and/or spouse and/or family members of a person who falls within 2(a) above and who lives with that person and there shall be no limit or restriction as to the number or age of the persons who Occupy the Dwellings within this clause.'

7. This means that the appellant and others in her situation are unable to sell their property unless they sell to others who meet the conditions of the obligation. This, by its very nature, restricts the market for the housing, a view echoed in the letters from the estate agents which were provided to me.
8. This issue may impact on the speed at which properties are sold or the value that the properties may realise, which, of course, is of very great personal significance to the person who wishes to sell their property. However, it is not pertinent to whether the planning obligation still retains a useful purpose which I address below.

Housing for the over 55s

9. There is a local and national need for specialist housing designed to meet the diverse needs of older people. The Old School Mews development comprises a converted school and new build behind. The site slopes up from the road, and, as permitted, falls within the age-restricted general market housing category. This form of housing is generally suitable for the active elderly.
10. The supporting documents which accompanied the original planning application, together with the approved plans, provided for a development which would be accessible throughout, through the construction of ramps linking the different levels of the site. However, the proposed development has not been constructed in line with the approved plans. Consequently, the properties do not provide the levels of accessibility which had been envisaged when the planning permission was granted, and the accompanying planning obligation entered into. As such, the development is not the accessible, adaptable general needs housing for older people described within the Annex to the Framework.
11. In coming to this conclusion, I note that there have been no amendments to the development since it was constructed and therefore, those purchasing the properties would have been aware of the steps and barriers to movement prior to purchase. However, this does not alter the fact that the planning obligation relates to a development that has not been built in accordance with the plans, the consequence of which is that due to the number of external steps, it is not physically suitable to be targeted at the over 55s, albeit I note that there are residents who are substantially older. This is the substantive element of the planning obligation.
12. The Council have raised a number of considerations relating to whether the planning obligation continues to serve a useful function. I am aware that the Wiltshire Local Transport Plan 2011- 2026 sets out minimum residential parking standards, although, exceptionally, where demand is likely to be low, reduced levels of parking are acceptable. With particular reference, to the particular circumstances of the appeal before me, I note, in theory at least 29 off street parking spaces would be required for the development to meet the parking standards, in contrast to the 21 spaces available, and that this could result in

¹ See Planning Practice Guidance Reference: ID: 63-010-20190626

residents and visitors parking on High Street. However, at the time of my site visit, the surrounding roads were quiet with little evidence of on street parking. I am aware that my site visit, which took place mid- morning, was only a snapshot in time, and I expect that during the evenings, or when children are being delivered to, or picked up from the nearby school, High Street may be busier with parked cars. Nonetheless, whilst the street is relatively narrow, there is no evidence before me that the potential overflow of parking would result in severe congestion or safety implications, or that if necessary, other means of managing on street parking could not be used. Therefore, I accord limited weight to the conflict with Policy 61 Transport and New Development of the Wiltshire Core Strategy (CS) adopted 2015.

13. There is some landscaping in the public areas. However, the well-tended garden areas are clearly linked to specific properties and are not communal in nature. I note that the Building for Life guidance suggests that outdoor space should be equal to, or more than, the footprint of a home. However, levels of private space vary significantly depending on the particular circumstances of developments and occupants. Many of the gardens within the development do not afford the levels of privacy, or size of garden, that might otherwise be reasonably expected and this semi- private character of the garden areas is more typical of age restricted housing rather than family or other unrestricted housing which could result were I to discharge the planning obligation.
14. Indeed, not all the properties have gardens. Nonetheless, I am aware that the amount and quality of private garden space can vary depending on the circumstances of an individual property, and that there are no hard and fast rules to determine how big gardens or areas of private outdoor space should be. It is my judgment that the levels of private space within the development would not be appropriate for purpose-built family housing. However, given the size and type of dwellings, in the particular circumstances of this development, the availability of private garden space is not inconsistent with the objective of CS policy 57 to ensure that appropriate levels of amenity are achievable.
15. I am aware that because of the restrictive nature of the planning obligation, sub open market sales values reduced the ability to negotiate a commuted sum for affordable housing consistent with CS policy 43. However, this is not of direct relevance as to whether the obligation no longer serves a useful purpose. Moreover, the specific circumstances of this appeal are such that the development as built does not reflect the development for which permission was granted.
16. Irrespective of whether the planning obligation is discharged, the development of small residential units, set within an attractive infill development, will continue to provide a resource for those who wish to downsize and remain in the village.

Conclusion

17. For the reasons set out above, I conclude that the planning obligation no longer serves a useful purpose and the appeal should be allowed and the planning obligation discharged.

L. Nurser

INSPECTOR