



Appeal Decision

Site visit made on 30 January 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/M1005/W/19/3240774

107 Park Street, Ripley, Derbyshire DE5 3ES

- 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 Simon Donnelly of Preserva-CSS Ltd against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2018/1102, dated 12 November 2018, was refused by notice dated 22 July 2019.
 - The development proposed is change of use from small scale garden centre/nursery and associated dwelling to full residential use C3, including retention of existing single dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Simon Donnelly against Amber Valley Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed parking and access arrangements would be satisfactory and safe.

Reasons

4. The appeal site is an area of disused land within a residential area of Ripley, close to the town centre. The site is largely grass and scrub, with several derelict buildings. The site is roughly triangular with a strip of land extending onto Park Street, which is bordered by two unmade roads with houses fronting onto them. Between the two roads is an area of hardstanding with two blocks of garages.
5. The proposed development would involve the construction of twelve semi-detached houses with off street parking. The houses would be served by a new access road off Park Street, and the existing blocks of garages would be replaced by 15 car parking spaces. The existing residential property at 107 Park Street, which is within the site boundary, would be retained.
6. According to the appellant, the land was formerly a garden centre/plant nursery, as stated on the description of development, and any additional traffic generated by the proposal should be considered in light of this use. The Council disputes that this is the lawful use of the site and considers it instead to

be a private small holding. It is not for me to determine the established use of the site, which could be done through an application for a lawful development certificate under section 191 of the Town and Country Planning Act 1990. Nevertheless, it seems to me that the current levels of traffic generated from the site are very low, and I have no evidence that, without a change of use, they would be likely to significantly increase

7. Park Street is a narrow residential street of terraced houses. There is pavement along most of the street but in two sections, including the appeal site frontage, low walls directly abut the carriageway with marker posts to draw attention to them. According to the highway authority, the street varies in width from between 4.1 and 4.4 metres, and is less in the sections with low walls.
8. The appellant contends that in terms of its width, Park Street meets the guidelines in the Manual for Streets¹ for accommodating two way passing car traffic and larger vehicles passing cyclists. However, whilst these recommendations may just about be met, the low walls and parked cars reduce the effective width of the road. I experienced on my site visit the difficulty for even a relatively small car in travelling along the narrowest part of the street between a wall and parked car. Signs restrict traffic on Park Street to 'access only', to control through traffic because of these limitations.
9. The additional traffic which would result from the proposed twelve houses would be relatively low and the street is lightly trafficked, but the existing situation is already problematic with very limited opportunities for vehicles to pass, and any additional traffic would exacerbate this. The appellant has acknowledged the difficulties currently experienced by the occupier of 107 Park Street when turning onto the road, because of the presence of parked cars. Local residents have raised concerns about the traffic situation and the potential impact of additional development, and have highlighted amongst other issues the difficulties for emergency and other larger vehicles gaining access along the road. Based on my observations during the site visit, I see no reason to dispute this view.
10. To address previous objections on highways grounds, the appellants have submitted a traffic assessment and further information to demonstrate how the proposals could be accommodated on the highway network.
11. The proposal would involve removing the retaining wall along the site frontage on Park Street to create a new access with a footpath. I agree that this would have the effect of increasing the width of this particular section of the street which would make it easier for cars to pass. Although it does not overcome the problem of the second section of wall further along the street, I note the appellant's comments that the majority of car borne trips are likely to arrive and depart via East Albion Street which is a quicker route to the main road network and avoids the particularly narrow section of Park Street.
12. The highway authority has accepted that the layout would allow vehicles to manoeuvre into and out of the site, and that whilst parked cars may hinder access by larger vehicles, other legislation could be used to overcome the problems associated with on-street parking. In light of this information, and further discussions between the parties during the application process, the

¹ Department for Transport, 2007

highways authority objection was withdrawn, subject to a number of conditions and a legal agreement.

13. The majority of the houses along Park Street have no off-road parking and there is a similar situation in the surrounding streets. Existing Park Street residents would have a reasonable expectation that an alternative solution be found if parking restrictions were put in place to enable the proposed development to go ahead. At the existing site there are a total of 16 parking spaces which are rented out to local residents by the appellant. There is currently no formal mechanism regarding allocation of the spaces, so it is unclear whether the existing garage spaces are all used by residents of Park Street, or whether some are used by residents of surrounding streets.
14. The proposal would allow for the replacement of the garage blocks and parking areas with 15 new spaces in the same location. The appellant asserts this would more than re-provide for the existing situation and would reduce the amount of on-street parking on Park Street, allowing traffic to flow more easily.
15. In light of the existing parking pressure in the area I agree that the re-provision of parking is important, although given the uncertainties over the use of the existing spaces, I am not convinced that the provision of 15 spaces would be sufficient to both replace parking lost from the garages and also reduce the need for on street parking. Notwithstanding that, for the scheme to be successful it would be necessary to ensure that the new spaces would be made available for existing residents, rather than any wider use, whilst at the same time implementing measures to limit on street parking.
16. The appellants have indicated that they would be happy to enter into a legal agreement to secure a parking scheme for existing residents and make a financial contribution to monitor the situation and implement delivery of a Traffic Regulation Order. The highways objection was withdrawn on the basis that these measures would be put in place, but I have no such agreement before me, and without any mechanism to restrict on street parking and re-provide parking for existing residents, the concerns over the access arrangements remain.
17. I note the appellant's comments about the lack of accidents recorded along Park Street and the junctions with Wellington Street and Albion Street. However, given the narrow nature of these roads and the resultant low traffic speeds, this is not unexpected. In this case, safety concerns relate less to the scope for traffic accidents, but rather to problems which could be encountered by emergency and service vehicles when trying to access the site and the resultant risks to public safety.
18. The Council's decision notice also refers to difficulties with safe egress and access to Heath Road and Wellington Street. However, the highway authority has accepted that a scheme to improve visibility at the Park Street/Wellington Street junction could be secured by a condition. The Council has provided no further explanation as to their specific concerns, or why the proposed condition would not be sufficient to overcome them. In the absence of any convincing evidence of harm in this regard this matter does not add to my concerns.
19. Taking all of the above into account I conclude that, in the absence of a mechanism to restrict on street parking on Park Street and to provide residents with appropriate alternative provision, the proposed access and parking

arrangements would not be satisfactory or safe. The proposal conflicts with Saved Policy TP1 of the Amber Valley Borough Local Plan 2006 which requires satisfactory access to the transport network, and Section 9 of the National Planning Policy Framework, which in paragraph 108 requires that safe and suitable access can be provided for all uses. Paragraph 109 goes on to require that proposals should be prevented if there is an unacceptable impact on highway safety, and paragraph 110 says that in this context, proposals should allow for access by service and emergency vehicles.

Other matters

20. As well as concerns about highway matters, local residents have expressed concerns about the potential for the proposed houses to cause overlooking, loss of light and privacy, in addition to disturbance during construction. However as I have dismissed the appeal on other grounds, I have not pursued these matters further.

Conclusion

21. For the reasons given, the appeal is dismissed.

R Morgan

INSPECTOR