



Appeal Decision

Site visit made on 19 May 2020

by **M Shrigley BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Appeal Ref: APP/J3720/W/20/3245202

1 Home Farm Cottages, Old School Lane, Lighthorne CV35 0AX

- 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 Stephen Kelly against the decision of Stratford on Avon District Council.
 - The application Ref 19/02256/FUL, dated 9 August 2019, was refused by notice dated 31 October 2019.
 - The development proposed is the conversion of a garage to a single dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on (i) the living conditions of neighbouring occupants having regard to privacy, and (ii) highway safety having regard to car parking provision.

Reasons

Living conditions

3. The Council's Development Requirements Supplementary Planning Document (SPD) Part F, at point F4 advises that where new residential development directly faces one and a half or two storey buildings, a distance of at least 21 metres between facing habitable room windows (including living rooms, dining rooms, kitchens, studies and bedrooms) is normally required. More generous distances are advised for taller buildings. The SPD provides detailed guidance which in effect compliments Policy CS.9 of the Stratford-on-Avon District Core Strategy (Core Strategy) 2011-2031 which sets out broad design principles for all new development.
4. The front elevation of the garage subject to conversion contains two pitched roof dormer windows which directly face the rear habitable windows of 1 and 2 Home Farm Cottages. The appellant suggests there is a separation distance of around 19.1 metres between the garage and the rear of no.1, and 19.2 metres to the rear of no.2, building to building. I acknowledge this follows the latter separation distance being disputed by third party representation as being closer to 19 metres, owing to an existing ground floor rear kitchen extension not originally accounted for.

5. The separation distance suggested by the appellant falls below the standard advised in the Council's SPD. I also note the SPD standard is written as a minimum which suggests to me a greater separation could be warranted dependant on the site circumstances. In this regard the garage occupies a significantly higher slab level comparative to the two cottages, as the land is downward sloping towards Old School Lane. As a result, the existing dormer windows which would serve a bedroom, have unrestricted direct views of the habitable rooms and gardens of the two cottages from an elevated position. In gauging the shortfall evident when measured against the detailed SPD guidance, the topography of the site is material to my decision.
6. Considering that overlooking of neighbouring habitable windows and garden areas would be more frequent associated to the new use of the building, than its existing use, the change would be intrusive. Even if I were to accept that there was at least 19.2 metres between the garage and no.2 I would still find it to be an intrusive change due to the elevated position of the appeal site. This effect is particularly relevant given Point F2 of the SPD specifically requires the design and layout of new development ensures reasonable privacy is provided for surrounding residents in relation to the enjoyment of dwellings and private gardens. In this regard the shortfall in SPD separation distance is exacerbated by the site levels evident which would lead to substandard levels of neighbouring privacy. Accordingly, I give substantial weight to the level of harm which would be evident when measured against the advice of the SPD as well as the broad provision of Policy CS.9 of the Core Strategy which seeks to encourage development where people want to live. The effect would be corrosive to that aim.
7. I appreciate that a planning condition could be used to secure obscure glazing. Indeed, the SPD also acknowledges scope for this approach. However, I do not accept in this case it would provide an appropriate form of mitigation. This is because the windows concerned would serve a habitable room where clear glazing would be the expected norm to ensure satisfactory living conditions are apparent for potential future occupants. Furthermore, if obscure glazing were applied to the principal elevation of the building in this way it would appear odd and incompatible within the street-scene. Both of those reasons lead me away from accepting a planning condition as a means of overcoming the harm to privacy levels I have identified.
8. Thus, I conclude that the development would result in an unacceptable erosion of privacy which is harmful to neighbouring living conditions. Accordingly, the development conflicts with Policy CS.9 of the Core Strategy which sets out overarching design principles which seek to encourage development where people want to live. It also conflicts with Part F of the Councils SPD which seeks to prevent overlooking problems and to protect amenity. As well as the relevant aims of the National Planning Policy Framework (the Framework) which seek to provide a high standard of amenity for existing and future occupiers.

Highway safety

9. The conversion of the garage and loss of the associated hardstanding to the front of it would prevent the space being for utilised for car parking by occupants of no.1 Farm Cottages. Currently there is one parking space within the garage itself and a further two using the hardstanding. Consequently, the

- development would lead to a significant shortfall in off-road parking serving the cottage.
10. I note the layout of residential properties in the vicinity gives rise to an existing reliance on highway parking which would be exacerbated by the proposal. The narrow width of local roads in the immediate vicinity makes reliance upon on-street parking undesirable, as any additional parked cars situated along the highway are likely to obstruct other passing vehicles and pedestrians. This would be particularly hazardous near to the road junctions shared with Old School Lane where there is unrestricted parking, and where family sized housing is prevalent. The appellant has suggested additional parking spaces could be introduced on adjoining land. However, that would be beyond the extent of the appeal site boundary and involve further fresh planning issues to be addressed locally. Therefore, my decision is based on the plans at the time the planning application was determined.
 11. I acknowledge Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Factoring the site-specific circumstances of existing residential properties relative to narrow local roads I agree the removal of parking provision belonging to 1 Farm Cottages would be hazardous to road users and pedestrians.
 12. I have considered the potential use of permitted development rights for an incidental annexe or a home office, but it does not override, or take away from my concerns towards protecting highway safety levels in the area based on the merits of the proposal as a new independent dwelling which would remove off road parking from another property. Moreover, it is not for me to determine within a s78 appeal as to what potential alternative uses or development would be lawful. To that end appellant can apply for a determination under s191/192 of the Act regardless of the outcome of this appeal.
 13. I therefore conclude the development is harmful to highway safety due to the reduction in on-street parking evident. Consequently, the development conflicts with Policy CS.26 of the Core Strategy which seeks that parking provision reflects local circumstances and to ensure new development does not have an unacceptable impact on highway safety. As well as the relevant aims of the Framework which seek to protect highway safety and the function of an area.

Other matters

14. I acknowledge that the site lies within the Lighthorne Conservation Area (CA). Accordingly, I am conscious of my legal duty under Section 72(1) of the Town and Country Planning Listed Building and Conservation Area Act 1990 (the Act), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
15. The Lighthorne CA is recognised for encompassing several listed buildings set within rural lanes and open farmland as important features. To that end I am equally cognisant of Section 66(1) of the Act which requires me to have special regard to the desirability of preserving the setting of listed buildings. Dene Hollow and Curacy Farm are nearby Grade II listing buildings and are attractive period properties of notable local heritage value. Dene Hollow is closest to the appeal site separated by existing intervening boundary features, and Curacy

Farm is located some distance away. The changes applied for would lead to subtle ground floor elevational alterations to an existing building erected with planning consent. Accordingly, the setting of nearby listed buildings would be preserved. The development is for the conversion of an existing building and impacts on a localised part of the CA. Consequently, I am satisfied a neutral impact to the CA and the setting of nearby listed buildings would be evident in concluding on the main issues set out above.

16. The appellant disputes the Council has a 5-year supply but there is no evidence to support this claim. The Council have indicated that they have a 5-year supply of housing land which was apparent at the time of making their decision. This is based on their submitted detailed Housing Land Calculations of 31 March 2019 advising there is equivalent to 6.51 years' worth of supply as the most up to date position. Additionally, I note the acceptability of the broad principle of residential development in this location against local housing policy is also not disputed by the Council. For those reasons, I give little weight to the appellants assertion housing land supply is deficient. Therefore, I do not accept Paragraph 11 (d) of the Framework is engaged. In any event even if I had accepted that 11(d) were engaged, I would still find that the development would be unacceptable with respect to resultant neighbouring living conditions and highway safety effects as overriding reasons to why the appeal fails.
17. Lastly, the appellant has referred to the basis of other appeal decisions. However, the circumstances are not directly comparable to this case, which involves the conversion of an existing building already in situ to a materially different use where living conditions are impinged upon and highway safety levels reduced, therefore my decision remains unaltered.

Conclusion

18. For the above reasons I dismiss the appeal.

M Shrigley

INSPECTOR