



Appeal Decision

Site visit made on 24 June 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal Ref: APP/C1055/W/20/3249219

50 Sitwell Street, Spondon, Derby DE21 7FG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr J Beck against the decision of Derby City Council.
 - The application Ref 18/01795/RES, dated 22 November 2018, sought approval of details pursuant to condition No 1 of planning permission Ref DER/03/17/00333, granted on 21 February 2018.
 - The application was refused by notice dated 20 February 2020.
 - The development proposed is 'Residential development (four dwellings).'
 - The details for which approval is sought are: reserved matters of access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made to approve all five reserved matters as set out under Condition No 1 of the outline planning permission Ref DER/03/17/00333. Reference is made on the application form to several other conditions, and I note information has been submitted pursuant to other conditions to inform the assessment of the reserved matters. However, it is clear that the Council publicised and considered the application as being for the reserved matters only and not as an application to also discharge other conditions of the outline permission. Accordingly, I have considered the appeal as being only for the approval of the reserved matters.

Main Issues

3. Based on the Council's reasons for refusal, I consider the main issues in this case to be the effect of the proposal on parking conditions in the vicinity of the site and the operation of the highway network; and the effect of the proposal on the living conditions of prospective occupants, with respect to outlook and overshadowing.

Reasons

Parking and effect on the highway network

4. The development would comprise two pairs of semi-detached three bedroom dwellings, set slightly back from, but addressing the highway. The proposed layout would not allow for off-street parking. I saw on site that Sitwell Street is a narrow but busy street through the centre of Spondon, with double yellow

lines on both sides of the road precluding on-street parking so as not to impede the flow of traffic. Sitwell Street is also a bus route with stops no more than 100 metres away outside the supermarket.

5. Appendix C of the Derby City Local Plan Part 1 Core Strategy (January 2017) (the CS) sets out that parking standards for residential development will be negotiated site by site on the basis of the size of the proposed dwellings, availability of public transport and consideration of existing on-street parking issues. The appeal site is well located to access shops, facilities and public transport on foot, and it is reasonable to consider that future occupants would often do so. In this respect, I recognise that the National Planning Policy Framework (the Framework) sets out that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
6. The appellant states that the double yellow lines outside the site would force future occupants to use alternative forms of transport. However, whilst proximity to local facilities is beneficial, this is not a guarantee that future occupants would not own a car and wish to park it close to their dwelling. Moreover, the evidence before me does not indicate that any mechanism, such as a planning obligation, was agreed as part of the outline permission to formally restrict future occupants from owning a car or enable the Council to enforce such a restriction.
7. I am not provided with details of car ownership levels locally, though Members of the Planning Committee referred to an average of two cars per household and thus a potential for eight additional vehicles requiring parking in the area. I cannot verify these figures; however, the development would provide four, three-bedroom dwellings, all of which would be suitable for occupation by families who are quite likely to own a car, if not more than one. Moreover, despite the facilities available in Spondon, its proximity to Derby means it is reasonable to consider that at least some future occupants would require a car to commute to parts of the city not directly or well served by public transport for work, education, shopping or leisure. I am therefore of the view that, despite the parking restrictions on Sitwell Street which may deter some future occupants from owning a car, the proposal would still generate additional demand for parking in the immediate area.
8. In view of the parking restrictions on Sitwell Street and other streets around the centre of Spondon, future occupants with a car would have to park some distance from the development on the closest unrestricted roads or, as feared by Council Members and interested parties, in the adjacent public car park of the Village Hall and Library, which is used by town shoppers and is evidently not intended to be used for residential parking. However, its proximity to the appeal site and the extent of restrictions elsewhere means I cannot rule out the possibility that future occupants of the development, or their visitors, may use the car park or other nearby locations. Even occasional use would reduce the availability of parking and would require other drivers to seek parking elsewhere, inconveniencing them and adding to traffic movements and parking stress in the area, and potentially reducing trade at local businesses. Moreover, delivery vehicles attending the dwellings may choose to park on-street, impeding the flow of traffic and causing a hazard to other road users.

9. 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. Having regard to the evidence before me, I conclude for the reasons set out above that the lack of parking within the proposed layout would result in increased demand for off-site parking within the area which would add unacceptably to parking stress locally and would significantly harm the safe operation of the highway network.
10. Accordingly, the proposal would conflict with Part 15 of Policy CP23 of the CS, which requires appropriate levels of parking to be provided, having regard to the realistic requirements of the users, the accessibility of the area by different transport modes and the possible impact of the parking on the transport network; and with Saved Policy GD5 of the City of Derby Local Plan Review (2006) (the LPR), which supports development which would not cause unacceptable harm to the amenity of nearby users, including from traffic generation, access and parking.

Effect on Living Conditions

11. A prominent, mature Beech tree, which is subject to a tree preservation order (TPO), stands just outside the appeal site in the grounds of the village hall. The Proposed Plans drawing indicates that the tree canopy would overhang the rear garden of the closest dwelling on the site to a considerable extent, and would come close to the rear corner of the building. However, I saw on site that the spread of the canopy was only marginally over the boundary wall, and more accurate to the Tree Appraisal Plan. I have also had regard to the evidence relating to the spread of the tree's roots.
12. The Council's concern is that the tree's proximity would lead to pressure from future occupants to prune or ultimately remove the tree in order to prevent shading and an overbearing effect. The tree's height and impressive crown makes it an immediate and imposing feature next to the site. However, it would be located to the north-west of the proposed dwelling, and therefore would not cause direct loss of sunlight or significant shadowing of the rear garden, compared to the dwelling itself and other trees which line the rear boundary of the site and lie to the west and south-west of the proposed dwelling, but which do not appear to be subject to TPO protection.
13. However, whilst these trees are more directly in the sun's path, I saw at my visit during midsummer that the height of the sun meant sunlight from this direction still reached most of the site area. In winter, when the trees are not in leaf, the level of screening would be reduced and, though the sun would be lower in the sky, afternoon sunlight would still be able to reach the dwelling.
14. Despite the scale of the trees, the plans indicate the nearest dwelling would be set away from the rear boundary and the rear rooms would be dual aspect with windows in the side elevation, which would provide additional outlook and would reduce the degree of enclosure caused by trees to the rear. Therefore, I conclude that the proposal would provide acceptable levels of outlook for prospective occupants and would not lead to undue pressure to undertake works to the protected Beech tree or significant loss of its amenity value.
15. Accordingly, there would be no conflict with saved policies GD5 and H13 of the LPR and Policies CP3 and CP4 of the CS which together seek a high quality

living environment which responds positively to landscape features and provides satisfactory levels of amenity, including with respect to overbearing effects and loss of sunlight and daylight.

Other Matters

16. The site is noted as being close to the Spondon Conservation Area, but no adverse effect on its character and appearance or its setting was raised by the Council. I also note the reference to the site as a non-designated heritage asset, but that its significance is very limited as it has lost much of its original setting, and the Council concluded at the outline stage that delivery of housing on the site would outweigh the loss of the buildings. Nothing I have seen or read in evidence leads me to a different view in these respects.
17. The Council did not oppose the appearance of the dwellings, nor their scale in relation to neighbouring development, and I have no reason conclude differently, having seen the site surroundings. With respect to landscaping, a method statement for the building works which affect the root protection area of the Beech tree is still sought by the Council, but I agree this could be secured by condition. However, an absence of harm in these respects would not overcome the harm identified with the lack of parking within the layout.
18. I have had regard to other matters raised by interested parties beyond those encapsulated by the main issues. Some relate to the principle of development which has already been established and cannot be reconsidered at reserved matters stage. Given my findings on the main issues point to the dismissal of the appeal, it is not necessary to consider other matters in detail as they would not alter my overall decision.

Conclusion

19. I recognise that the principle of residential development in this location has been accepted through the outline permission. However, this appeal concerns the details of the development, which I have found would cause harm in respect of parking conditions and the operation of the highway network and would result in conflict with the development plan which is not outweighed by other material considerations.
20. Therefore, for the reasons set out, the appeal is dismissed.

K Savage

INSPECTOR