The Planning Inspectorate

Appeal Decision

Site visit made on 5 October 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Appeal Ref: APP/Q3305/W/20/3256570
Bonnyleigh View and Buildings 1 & 3 adjacent, Gypsy Lane, Frome BA11 2NA

- 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 Chant of Paley Prince Developments against the decision of Mendip District Council.
- The application Ref 2018/3111/FUL, dated 13 December 2018, was refused by notice dated 18 June 2020.
- The development proposed is demolition of existing bungalow and industrial units, erection of B1a office and 6no. two-storey dwellings with associated parking and external works

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Chant of Paley Prince Developments against Mendip District Council. This is the subject of a separate decision.

Main Issues

3. The main issues are:

   - whether or not the proposal would provide adequate living conditions for future occupants, with reference to noise: and
   - the effect of the proposal on the character and appearance of the area.

Reasons

Noise

4. The site comprises a bungalow and industrial buildings, accessed off Gypsy Lane to the south, at the north edge of Frome. To the north and east is Frome Rugby Football Club (FRFC). FRFC's main building, incorporating its first-floor clubhouse, is very close to the north east corner of the appeal site. This creates a pinch point in the FRFC car park, splitting it into two areas that adjoin the site's north and east boundaries, each holding around 50 parking spaces.

5. The facades of the proposed houses within plots 5 and 6 would be 31m and 26m from the FRFC's nearest clubhouse window respectively. The design and layout of the houses would place bedrooms to the rear, with the bedroom window openings facing westwards, away from the FRFC. The dwelling within plot 6 would be immediately adjacent to the north section of FRFC's car park.

6. FRFC is licensed to conduct indoor regulated entertainment, with the sale of alcohol for much of the time, within its clubhouse until 23:00 on any day. It may also hold such activities beyond that, until 01:00, on 30 days of the year. I have no reason to doubt that people within the community have used and will continue to use the clubhouse throughout the year and across the extent of these licensed hours.

7. Paragraph 180 of the National Planning Policy Framework (the Framework) requires decisions to ensure that development is appropriate for its location and, in doing so, avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 182 states that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. The Planning Practice Guidance advises that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected[1].

8. The appeal is accompanied by a noise survey (the NS) which seeks to assess the noise effects of functions at FRFC's clubhouse on future occupants of the proposed housing. Whilst it addresses a previous iteration of the proposal, the siting of the housing has not changed to the extent that the integrity of its data is of less value in my view. That said, its findings are largely predicated on the noise measured from one evening event, a 70th birthday party, which I understand was lower key, shorter and less well attended than functions which can typically take place. This suggests that levels of noise at other events would likely be higher and more sustained than that measured by the NS, which alone significantly diminishes the authority of its conclusions.

9. Even so, the NS records that entertainment noise at the facades of the dwellings within plots 5 and 6 during the event would have been 16dB and 13dB above the 34dBA LA90 respectively. Using the standard employed by the NS, BS 4142:2014, this would likely amount to a significant adverse impact. On this basis, the NS accepts that windows within the dwellings would have had to remain closed in order to mitigate against this noise. Such a measure would be appropriate mitigation for rooms within the dwelling facades as they would be principally non-habitable spaces, aside from the ground floor living rooms, which would be protected to a degree by a 2m masonry boundary wall.

10. However, whilst I note the intention to provide ventilation via highly specified trickle vents, it would not be reasonable to impose a situation where windows could not be opened within the bedrooms in my view. To do so would create an uncomfortable sense of confinement, particularly in the summer. On this basis, the evidence available to me suggests that noise from clubhouse entertainment would likely have significant adverse effects on the occupants of these dwellings trying to sleep with open bedroom windows, particularly within plot 6.

11. Whilst few vehicles used the north section of FRFC's car park during the 70th birthday party, the FRFC's main building has a capacity for 320 patrons and it is logical that the car park would be fuller for busier functions. Given such, it seems to me that there would be clear potential for incidents of loud, impulsive noise, through things such as shouting, singing and vehicle doors slamming, very close to much of plot 6 when people would be trying to sleep. The masonry boundary would be unlikely to attenuate this to a notable degree, given the elevation of the bedrooms.

[1] Paragraph: 006 Reference ID: 30-006-20190722

12. In these circumstances, significant adverse impacts on the future occupants of plots 5 and 6 cannot be ruled out and indeed appear likely in the case of plot 6. Although it is noted that the Council's Environmental Protection Team withdrew its objection to the proposal, I have not been guided by any substantive or qualitative, evidence-based reasoning for this change in position, beyond reference to the dwelling layouts and the masonry wall. This matter has therefore had limited weight within my assessment.

13. Given the acknowledged adverse impacts that noise can have on health and quality of life and the lack of a reasonable level of mitigation, I would therefore conclude that the proposal would not provide adequate living conditions for future occupants, with reference to noise. It would conflict with the relevant aims of Policies DP7 and DP8 of the Mendip District Local Plan 2006-2029 Part 1: Strategy & Policies (Adopted 2014) (MDLP) and the Framework.

Character and appearance

14. Gypsy Lane has a varied fringe character, with areas of suburban housing in a mixture of styles, including detached and terraced houses, and a small number of commercial buildings interposed with tree and hedge bound farmland. The appeal proposal effectively replicates the mixture of residential and commercial uses within the site. The proposed buildings would maintain an appropriately traditional form of design and their openings would be consistent in size to that found in the locality. The proposed layout, scale and the design of its buildings would therefore ensure the scheme's successful assimilation into Gypsy Lane.

15. I therefore conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the design aims of Policies DP1 and DP7 of the MDLP and the Framework.

Planning Balance

16. It is not disputed by the main parties that the Council cannot demonstrate a five-year supply of deliverable housing sites and that the most up-to-date supply figure is 3.8 years. Consequently, pursuant to paragraph 11 d) of the Framework, the presumption in favour of sustainable development is engaged.

17. The scheme would reuse previously developed land to provide a net gain of five homes in an area with adequate access to services and facilities, and I have little doubt that they be developed quickly. Whilst the scale of housing provision would be small, the extent of shortfall in the Mendip District leads me to attach moderate weight to these social and environment benefits.

18. The New Homes Bonus attracts limited weight, as do any economic benefits accrued through the construction phase, and any limited subsequent increase in spending amongst local facilities. I observed Gypsy Lane to be a safe place for those on foot, with good visibility for road users. As such, the proposed short section of footpath would be a very small benefit. Cumulatively, the benefits of the scheme are of moderate weight.

19. The proximity of the site to the FRFC and the noise generated by its attendant community uses would cause a significant adverse impact upon the living conditions of future occupants. I attach substantial weight and importance to this matter and find that it would significantly and demonstrably outweigh the moderate benefits of the proposal. The proposal would therefore conflict with

the development plan as a whole and there are no other material considerations, including the Framework, that outweigh this conflict.

Conclusion

20. For the reason outlined above, and taking all matters raised into account, including the initial officer recommendation to grant planning permission, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR