



Appeal Decision

Site Visit made on 8 December 2020 by Gareth Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Appeal Ref: APP/E3715/W/20/3258404

1 Caldecott Street, Rugby, Warwickshire CV21 3TH

- 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 Roderick Cotton against the decision of Rugby Borough Council.
 - The application Ref R19/0972, dated 17 June 2019, was refused by notice dated 19 August 2020.
 - The development proposed is replacement of shop with residential accommodation above with: single dwelling residential building incorporating ecologically sustainable features. Re-submission of planning application R18/1060.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The exact location of the proposed building is in dispute between the two parties and the appellant has referred to a site plan (Proposed Building 1 Caldecott Street, Rugby Re Submission V2a) that the Council state did not form the basis for the determination of the application. The flank wall would be approximately 600mm further from the rear of the Rose Lane dwellings compared to the site plan that the Council based their decision on (Proposed Building 1 Caldecott Street, Rugby, Re Submission V2). Appeals are normally determined on the basis of the plans before the Council but because the dwelling shown on plan ref: V2a would bring the flank wall of the house further away from the affected dwellings and would be a minor change, third parties would not be prejudiced if the development identified in plan ref: V2a was the basis of this decision. Consequently, I have made my recommendation on the basis of that amended site plan.

Main Issue

4. The impact of the proposed development upon the living conditions of the occupiers of No.1 and No.2 Rose Lane.

Reasons for the Recommendation

5. No.1 Caldecott Street was demolished prior to the application and based on the information available, the site has been vacant for a number of years. Since the building was demolished a number of sites near to No.1 have been redeveloped. To the south of the site is the Rose Lane development which encompasses two semi-detached dwellings and the rear elevations of those dwellings face towards what would be the flank wall of the proposed building. The gardens for the two dwellings are approximately 6 metres deep and an alleyway is proposed between the rear of these gardens and the flank wall of the proposed building.
6. The proposed building would be two storeys tall and would extend deep into the site, at around the same combined width as both No.1 and No.2 Rose Lane. A smaller single storey element would extend along the alleyway and a single storey garage is proposed at the rear of the site.
7. Given the shallow depth of the Rose Lane gardens and the height, depth and siting of the proposed building, which would extend across almost the full width of the gardens for both No.1 and No.2 Rose Lane, the proposed building would appear overbearing to the occupiers of both dwellings. Even taking account of the additional off-set of 600mm, as shown on plan ref: V2a, the building would still appear overbearing, given the shallow separation distance between the proposed flank wall and the rear of those dwellings. The Rose Lane dwellings may be taller than the proposed building but that would not negate the dominant and overbearing presence of the flank wall to adjacent occupiers whilst using the garden and ground floor habitable rooms. The proposal would make the gardens and rear rooms of the two dwellings less pleasant and uninviting places to use.
8. The appellant has referred to the siting of the original building and the location of a window on the flank wall of that dwelling which was in a similar location to the one proposed. He also states that he does not consider the Council executed its duty under section 69 (sic 72) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve or enhance the character or appearance of the Hillmorton, Clifton and Whitehall Conservation Area (CA) in the determination of a number of applications near to the site.
9. Notwithstanding the appellant's concerns with the Council's handling of those cases, planning permission was granted several years ago, and I have not been made aware that those decisions were challenged. Those dwellings are now part of the built environment and the impact of the proposed development upon those dwellings must be considered. Events have overtaken the appellant and the built environment around the site has changed significantly since the building was demolished.
10. Whilst I recognise that the appellant feels aggrieved by decisions relating to adjacent development as far as I have been made aware, the building was demolished without first getting planning permission to rebuild it and there is no indication that permission was granted for the work that has been undertaken to construct the basement. The surrounding area is demonstrably different compared to when the building was demolished, and it is necessary to consider the proposal in that context, having regard to the current policies of the development plan. In other words, rather than comparing the proposal to what

once stood on the site I must assess the proposal on its merits, based on the likely impact upon the living conditions of neighbouring properties, as things currently stand on the ground. Thus, I find it unnecessary to conclude on the disagreement between the parties as to the precise width of the former building on site and have assessed the proposal on its merits, based on the relationship with neighbouring properties.

11. For the reasons given, the proposal would unacceptably harm the living conditions of the occupiers of No.1 and No.2 Rose Lane. As a result, the proposal would be contrary to Policy SDC 1 of the Rugby Borough Local Plan 2011-2031 (adopted 2019) which notes that proposals for new development will ensure that the living conditions of existing and future neighbouring occupiers are safeguarded. As such I conclude that the proposal would not therefore be in accordance with the development plan when considered as a whole.

Other Matters

12. The appellant has referred to another scheme nearby to the site where the dwellings were built relatively close to each other. In that instance the flank wall of the dwellings faced the front elevation of those dwellings with the rear garden set back from the front elevations at more of an angle than the proposed development and the gardens at No.1 and No.2 Rose Lane. Accordingly, the scheme is not entirely comparable to the proposal before me because the flank wall in this instance would be face towards the rear gardens and rear habitable rooms which should be afforded greater protection from overbearing development. Furthermore, each case must be assessed on their own merits and the Council granting planning permission elsewhere would not alter my view on the harmful effect of the current proposal or its compliance with relevant policies.
13. The site is located within a mixed-use area, where commercial premises are common. As such, the use of the site for commercial and residential purposes would be appropriate within the street scene. The proposed building would be similar in appearance with the other terraced buildings locally and would use similar materials in its construction. Red brick terrace development is common throughout the CA and because the building would be similar in appearance it would preserve the character and appearance of the CA.
14. The proposal would make use of previously developed land and add a dwelling to the local supply of housing. I attach weight to these positive benefits, albeit limited on account of the small scale of the proposal. The proposed dwelling would incorporate a number of features with the intention of making the building carbon neutral and these features would positively contribute to the Government's aim to reduce carbon emissions.
15. Interested parties have referred to matters of ownership which are essentially private matters that do not affect the planning merits of the case. Reference has also been made to the fact that the scheme would improve the lane at the side of the site and make it safer to use. I recognise that point but there is nothing to suggest that similar benefits could not be achieved with development that would not cause harm to neighbouring living conditions and I attach limited weight accordingly.

Conclusion and Recommendation

16. Therefore, the proposed mixed use of the site would be appropriate within the area and the appearance of the building would preserve the character and appearance of the CA. Those matters would be expected of any new development within the CA. The carbon neutral approach taken in the design of the proposed building weighs in favour of the proposal and the development would provide an additional dwelling on a previously developed site. I give moderate weight to these matters given the scale of the scheme. Nevertheless, the scale and siting of the proposed building would have an overbearing impact upon the occupiers of No.1 and No.2 Rose Lane and I attribute significant weight to this harm and the associated conflict with the policies in the development plan. That harm would not be outweighed by the moderate benefits identified. Consequently, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspectors Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be dismissed.

Chris Preston

INSPECTOR