
Appeal Decision

Site visit made on 23 February 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021

Appeal Ref: APP/E2340/W/20/3264181

Former Spiritualist Church, Vernon Street, Nelson BB9 9DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Saadat Khan against the decision of Pendle Borough Council.
 - The application Ref 19/0885/OUT, dated 21 November 2019, was refused by notice dated 13 July 2020.
 - The development proposed is described as erection of three storey building for 18 no. studio apartments (Use Class C3) with access only and all other matters reserved.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Saadat Khan against Pendle Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application subject to this appeal was made in outline. The description of development was subsequently amended to that set out in the banner heading above. With the exception of access, all other matters have been reserved for future determination. The other details shown on the submitted plans are indicative proposals and I have treat them as such.
4. Although main parties evidence strays into other matters that are reserved for future determination, necessarily my examination of this appeal does not extend to these. However, as the description advanced clearly articulates the scale and intensity of development sought, these are relevant to the examination of the main issues of this appeal.

Main Issues

5. The main issues are the effect of the appeal proposal on:
 - the character and appearance of the area, with particular regard to the quantum of development proposed; and
 - highway safety, with particular regard to the proposed access and potential levels of vehicular traffic generation.

Reasons

Character and appearance

6. The appeal site is a cleared area constituting previously developed land. The surrounding neighbourhood is characterised by the steeply sloping, regimented rows of 2 storey terraced dwellings. These bound the grid network of roads and narrow rear lanes. The eaves and ridgelines of these properties are distinctive as they mirror the steeply rising topography. This reinforces the continuous unbroken roofscape and small compact form of these dwellings which define the important prevailing character and appearance of this area.
7. Vernon Street differs from the surrounding streets because dwellings are limited to only one side of it. The facing public open space which adjoins the appeal site provides a more open character and sense of space between buildings here. This reduces the visual presence of the adjoining community and business premises which provide a built up frontage for the remainder of this side of the street.
8. Although this is an outline scheme, it is evident that the options for the positioning and massing of a new building here would be limited given the quantum of the development proposed relative to the available site area.
9. It is advanced that the appeal site was formerly occupied by a large ecclesiastical scale building and that the appeal proposal would not be considerably taller than this or the neighbouring community building. However, it is clear from the submitted evidence that the appeal proposal would necessitate the provision of a building which would occupy a large proportion of the site and would be significantly taller than the prevailing building heights in the area.
10. Furthermore, it has not been demonstrated that the height and mass that would be demanded to achieve the specific quantum of development proposed would be sufficiently comparable in its visual effect to the former building and be capable of assimilating successfully with the important character and appearance of this street scene.
11. The effect of a building of the required magnitude would serve to overwhelm the predominantly smaller domestic scale and openness of the existing street scene.
12. The imposition of a planning condition to limit the finished height and mass to a level appropriate to the context of the appeal site would be unreasonable. This is because these confines would render the specific quantum of development sought unfeasible.
13. Although there has been a propensity for rubbish to be deposited on the appeal site, there are measures that the site owner and Council could take to manage its visual appearance. Consequently, the benefits to the appearance of the site that could result through its redevelopment would attract limited weight.
14. For these reasons, the appeal proposal would be harmful to the character and appearance of the area, with particular regard to the quantum of development proposed.

15. Policy ENV2 of the Pendle Local Plan Part 1 Core Strategy 2011-2030 (the Local Plan) states that proposals should contribute to the sense of place and make a positive contribution to local identity and character. The appeal proposal would conflict with this policy. This weighs significantly against the appeal proposal.

Highway safety

16. The appeal proposal would be accessed directly off Vernon Street. Notwithstanding the proximity to the town centre, a high level of on-street car parking was evident in the vicinity of the appeal site, including on this street. This is because of the absence of in-curtilage car parking opportunities for existing residential and non-residential properties in the area.
17. In terms of the proposed access, subject to the exact positioning of the proposed building, there would be scope to achieve acceptable visibility from the proposed access in both directions given the straight alignment of the carriageway. The proposed access would be of an appropriate width. These matters could be necessarily and reasonably controlled through the imposition of a planning condition.
18. Therefore, a safe access could be secured in the position proposed to serve the appeal proposal.
19. In terms of traffic generation, the number of units sought would generate a demand for car parking for both residents and visitors.
20. No substantive evidence has been provided to demonstrate that the quantum of residential units proposed would be less intensive than the previous use of the appeal site.
21. Although the appeal site has a reasonable level of accessibility to the town centre, the submitted evidence does not substantiate that less reliance on cars would necessarily arise. Therefore, limited weight is attached to this as a benefit of the appeal scheme.
22. Moreover, the indicative plans clearly demonstrate that given the quantum of development sought, it is unlikely that sufficient useable car parking could be provided within the appeal site itself to meet the Council's parking requirements. It has not been demonstrated that a departure from the Council's parking standards would be justified in this instance.
23. This shortfall could cause a noticeable overspill of vehicles into the surrounding road network. This would exacerbate the existing levels of on-street car parking and because of the location of the proposed access, also increase the potential for double parking to occur further up the street.
24. In turn, given the width of the highway, this overspill would increase the potential for public footpaths to be obstructed and highway user's visibility impaired by parked vehicles. This would occur in close proximity to the adjacent public open space and play area. These impacts would not be adequately compensated for by the low speed restriction which already exists.
25. For these reasons, although a suitable safe access could be secured, the appeal proposal would have an unacceptable harmful effect on highway safety, with particular regard to the potential levels of vehicular traffic generation.

26. Policy ENV2 of the Local Plan states that developments should be safe for passers-by. Policy ENV4 the Local Plan states that proposals should have regard to the potential impacts they may cause to the highways network, particularly in terms of safety. New developments should comply with the existing maximum car and cycle parking standards. The appeal proposal would conflict with these policies. This weighs significantly against the appeal proposal.

Planning Balance

27. The current Housing Land Supply position is disputed and neither party has robustly evidenced their respective stance. Nonetheless, the general thrust of Policy ENV2 and Policy ENV4 are consistent with the Framework, are relevant and would attract full weight.
28. The appeal proposal would contribute to the existing housing land supply. However, the appeal submission does not demonstrate that the appeal proposal would be deliverable within the next 5 years or meet a shortfall in a particular type of living accommodation. Consequently, this benefit would be moderate in effect and weight.
29. The provision of additional residential units may assist in sustaining local services, businesses and promote short term job creation. However, the extent of these has not been sufficiently quantified and evidenced. Therefore, only limited weight can be attributed to these as benefits. The proposed contribution to local infrastructure provision has been calculated to mitigate the effects of the appeal scheme and therefore it would be of limited benefit.
30. Notwithstanding the limited benefit that would arise from the redevelopment of the site set out earlier, there would be harm to the character and appearance of the area. Accordingly, the proposal would not accord with paragraphs 127 and 130 of the Framework which seek to promote well designed places. Furthermore, given the unacceptable harm to highway safety, the appeal proposal would not accord with paragraph 109 of the Framework.
31. These matters both represent adverse impacts which would weigh significantly against the appeal proposal. Whereas, the benefits of the appeal scheme range from limited to moderate in effect and weight for the reasons set out earlier. Therefore, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This would indicate that the appeal should not succeed.

Conclusion

32. The appeal proposal does not accord with the presumption in favour of sustainable development, as is set out in the Framework. Furthermore, there are no matters before me which out-weigh the conflict with the development plan when taken as a whole. Consequently, the appeal should be dismissed.

C Dillon

INSPECTOR