



Appeal Decision

Site Visit made on 10 May 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2021

Appeal Ref: APP/D1265/W/21/3268480

4A Haimes Lane, Shaftesbury, SP7 8AJ

- 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 Mrs Tracey Cheetham against the decision of Dorset Council.
 - The application Ref 2/2020/0562/FUL, dated 28 April 2020, was refused by notice dated 11 August 2020.
 - The development proposed is demolition of existing single storey dwelling and construction of two storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is a dispute between the main parties in respect of the lawful use of the appeal premises, which has been described as a single storey dwelling. However, whether or not the existing building should be regarded as a self-contained dwelling is not a matter for me to determine in the context of this particular appeal.
3. Since the determination of the planning application subject to this appeal, the preparation of the Shaftesbury Neighbourhood Plan (NP) has progressed. It has recently been approved at a referendum and has subsequently come into force as part of the statutory Development Plan, and the parties have had the opportunity to comment on this matter during the course of the appeal.

Main Issue

4. The main issue is whether the proposal would provide satisfactory living conditions for future occupiers, having particular regard to outlook and the provision of outdoor amenity space.

Reasons

5. Located on the edge of Shaftesbury town centre, Haimes Lane is a relatively narrow street, which is primarily lined with residential properties varying in sizes and designs, and provides a pleasant and intimate sense of enclosure. The appeal site comprises a single storey building immediately adjacent to the road frontage, and a garage to the rear.
6. The appeal scheme includes the demolition of the existing buildings and the erection of a two-storey dwelling. The constrained size of the plot and the footprint of the building, together with the level of hardstanding required for the provision of a shared access, parking and turning area, would leave very

limited scope for the provision of usable outdoor space. Having regard to the available evidence, I find there would not be sufficient space to accommodate garden paraphernalia such as external seating, cycle and refuse storage, or laundry drying, to meet the daily needs of the intended occupiers of the development.

7. The proposed living room window would be directly adjacent to the driveway providing access to Mill Place. This area also appears to be used by residents of Mill Place and their visitors as a parking area, and parked vehicles would therefore harmfully restrict the sole outlook from this window serving a habitable room. Additionally, it is likely that some form of boundary treatment would need to be erected to protect the privacy of future occupiers of the development and neighbouring residents of no 4 Haimes Lane, which would be close to the windows facing it. This adds to my concerns regarding the oppressive and cramped living environment which would be created for future occupiers as a result of the proposal.
8. By virtue of the deficiencies associated with the proposed development, I see no convincing justification to depart from the application of the Council's design principles in this particular instance, despite the site's location in Shaftesbury town centre. The appeal scheme would fail to provide satisfactory living conditions for future occupiers of the development, having regard to outlook and the provision of outdoor amenity space, and would thus represent poor design. It would therefore conflict with Policies 7, 24 and 25 of the North Dorset Local Plan Part 1 - January 2016 (LPP1), as well as paragraphs 127 and 130 of the National Planning Policy Framework (the Framework). These notably seek to ensure that proposals achieve a residential density that is acceptable in design and amenity terms, both for the intended occupants of the development and the occupants of existing premises.

Other Matters

9. No concerns have been raised by the Council in respect of the effect of the proposed development on the character or appearance of the Shaftesbury Conservation Area or the setting of no 6 Haimes Lane, which is listed at Grade II, and there are no reasons for me to reach an alternative view. I therefore confirm that the appeal scheme would preserve the special interest of these designated heritage assets.
10. The Council has made some comments regarding the effect of the proposed layout on the character and appearance of the locality. These concerns were not however included as a reason for refusal within the decision notice, and as I am dismissing the appeal on other grounds, this is a matter which does not need to be considered further here.
11. There is no dispute between the parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites, although different figures have been provided regarding the extent of the shortfall. In such circumstances, paragraph 11d) of the Framework states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. In situations where the presumption set out by paragraph 11d) applies to proposals involving the provision of housing, paragraph 14 of the Framework

indicates that the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that a number of criteria are cumulatively met.

13. The Shaftesbury NP now forms part of the statutory development plan. Furthermore, the Local Planning Authority has at least a three year supply of deliverable housing sites and the housing delivery was at least 45% of that required over the previous three years. With regard to criterion b), although the NP contains housing policies, it does not include site allocations to meet its identified housing requirements. I therefore consider that criterion b) is not met.
14. As detailed within the Framework¹, due weight should be given to policies in existing plans, according to their degree of consistency with the Framework. Whether a policy becomes out-of-date is therefore a matter of pure planning judgment. To do so, the Courts have confirmed that the policies from the development plan which constitute those most important for determining the application have to be identified.
15. In this particular case, the policies which are most important for determining the application are Policies 1, 2, 5, 6, 7, 18, 24 and 25 of the LPP1. These policies are considered to be in general conformity with the Framework, in seeking to focus development in the most sustainable and accessible parts of the Borough. They also require development proposals to be of a high design quality, whilst protecting the character and amenity of the area and the historic environment. Accordingly, I find that the basket of the most important policies for the determination of the scheme before me, taken as a whole, is not out-of-date, and the tilted balance set out by paragraph 11d) of the Framework does not apply in this instance.
16. The proposed development would be sited in an accessible location, and would support the economy, to which I ascribe some weight. The appellant suggests that the proposal would enable the construction of a small, affordable dwelling but in the absence of a mechanism, such as a planning obligation, to secure this type of housing in land use planning terms, little weight can be afforded to this consideration. Against that, I have found that the proposal would fail to provide satisfactory living conditions for future occupiers, to which I afford considerable weight. Overall, I find that the benefits associated with the proposal would not outweigh the identified harm, and there are no considerations which indicate that the appeal should be determined, other than in accordance with the development plan.

Conclusion

17. For the reasons detailed above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

¹ Paragraph 213.