
Appeal Decision

Site Visit made on 11 August 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal Ref: APP/Y3940/D/21/3274728

Old Deweys, High Street, Tisbury, Salisbury SP3 6PS

- 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 Ms Claudia Businaro against the decision of Wiltshire Council.
 - The application Ref 20/10982/FUL, dated 2 December 2020, was refused by notice dated 18 February 2021.
 - The development proposed is for an open-sided wooden structure to provide parking and shelter for car with stairs leading to a terrace above.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As at the time of my site visit, the timber structure had been erected within the appeal site. The application has been submitted retrospectively, and consequently I have dealt with the appeal on that basis.

Main Issues

3. Although the Council has given one reason for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify two main issues.
4. Accordingly, the main issues are:
 - The effect of the proposed development on the living conditions of nearby residents with particular reference to privacy, noise and disturbance; and,
 - Whether the proposed development would preserve or enhance the character or appearance of the Tisbury Conservation Area (the Conservation Area).

Reasons

Living Conditions

5. As noted above, the appeal scheme concerns a wooden structure which, at the date of my visit, was in use as a car port with a raised deck area above providing a balcony. The structure is positioned set back from the High Street and amongst residential development. To the west of the proposed raised decked area and balcony, is the rear elevation of the dwelling at Peel House, with the residential property at Crossways being located to the west of the

proposed balcony area. To the south the site is bordered by the property at Tisbury Cross.

6. Amongst other matters, Policy CP57 of the Wiltshire Core Strategy (2015) (the WCS) requires that development has regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution including noise pollution.
7. The Council maintain that the use of the balcony area would result in noise disturbance for nearby residents and that it would give rise to overlooking and loss of privacy for occupants of neighbouring dwellings.
8. As I observed on my site visit, when looking west from the raised deck area and balcony, there were clear and uninterrupted views into the rear external amenity area and rear facing windows of rooms of the neighbouring dwelling at Peel House. By reason of its height and given the position of the balcony in such close proximity to the rear windows of that neighbouring dwelling, there would be significant impacts on the living conditions of the occupants of Peel House with particular regards to overlooking and unacceptable loss of privacy. Whilst I note that there are some glimpsed views into the rear of Peel House from the shared driveway, the scheme would, by reason of its height, allow for more direct and greater levels of views to the rear of that adjoining property.
9. For the same reasons with regards to the height and proximity of the balcony to the external amenity space at Crossways, I find that there would be unacceptable levels of overlooking and, as such, I conclude that the appeal scheme would unacceptably affect the living conditions of residents at that property. However, by reason of the separation distance and presence of intervening built features, I find that the use of the balcony area would not have an adverse impact on the living conditions of occupants at Tisbury Cross, nor would affect the living conditions of residents at 4 The High Street, with regards to overlooking or loss of privacy.
10. In respect of noise disturbance, the raised deck area would be of a size which could accommodate a small gathering of people. By reason of the likely level of activity associated with its use and given its elevated position and close proximity to the dwellings at Peel House and Crossways, the use of the raised deck area would be likely to result in increased levels of noise disturbance to the detriment of the living conditions of the adjoining neighbouring residential dwellings mentioned above.
11. For the above reasons, the appeal scheme would result in unacceptable overlooking and loss of privacy and unacceptable levels of noise disturbance for residents of the above identified properties. Consequently, the scheme would conflict with criterion vii. of Policy CP57 of the WCS.
12. The Appellant has put it to me that any concerns regarding loss of privacy and in respect of noise disturbance would be sufficiently mitigated by the provision of a screen at the western facing side of the raised deck area, and that planting and screening would prevent adverse impacts in these regards and in respect of occupants at Crossways and Tisbury Cross.

13. In these regards, whilst I acknowledge the Appellant's submissions, I find that even in the event that vegetation on the eastern side of the raised deck area does grow back and reach a sufficient height so as to assist with preventing unacceptable overlooking to the east, such vegetation would not, in my view, be likely to reduce the adverse impacts identified above in respect of noise disturbance. I also note that the Appellant has suggested that additional wicker screens could be positioned on the west elevation of the raised deck area and abutting the boundary to the east, and whilst I concur that such measures may assist in preventing unacceptable overlooking and loss of privacy, I shall return to the effect that such additional screening would have on the character and appearance of the area in the below main issue.

Conservation Area

14. The appeal site is located within the Conservation Area. From the details provided within the Conservation Area Appraisal and Management Plan and from observations made on my site visit, I consider the significance of this part of the Conservation Area is derived from the concentration of early medieval and post-medieval houses which front onto the main thoroughfare of the village, and from the historical and architectural quality of buildings.
15. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in reaching this decision. Moreover, paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
16. As noted above, the appeal scheme is set back from the High Street and enclosed by residential development. As a consequence of the existing layout and position of the development, there would be glimpsed views of the structure from the High Street. In this regard, the use of timber for the raised decking would be seen in the context of the timber fencing which separates the appeal site from the dwelling at Peel House, and in the context of the wooden gate located at the site and to the side of Old Deweys. In these respects, I do not consider that the structure would be an overly prominent or incongruous development in the existing street scene.
17. To the east of the site and from views within Cuffs Lane, the raised deck area would, in the absence of sufficient screening by vegetation as described above, be seen in the context of the timber fencing which surrounds what appeared to be an electrical substation located to the rear of the garage which serves Peel House.
18. Accordingly, for the above reasons, whilst I find that the appeal scheme would not enhance the character or appearance of the Conservation Area, I conclude that the open ended structure would preserve the character and appearance of the Conservation Area. In this regard, I find no conflict with the provisions of Policy CP58 of the WCS which concerns the conservation of the historic environment. Furthermore, the appeal scheme would accord with those paragraphs of the Framework which concern conserving the historic environment.

19. Notwithstanding the above, and as referred to in the first main issue, I find that whilst the provision of additional screens to the front and rear of the raised deck area may assist in reducing adverse impacts with regards to overlooking and loss of privacy, the inclusion of such measures would, in my view, result in a scheme that would be prominent within the Conservation Area and which, by reason of its resulting bulk and mass, would result in less than substantial harm to the Conservation Area. In this regard and in terms of the Framework, I find that the benefits of the scheme would not outweigh the harm to the Conservation Area.

Other Matters

20. The Council's Officer Report indicates that there is concern that the scheme would result in unacceptable living conditions for occupants of the dwelling at 4 High Street as described above. Notwithstanding my above findings with regards impact on living conditions, under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a duty to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest. The Officer's report identifies that the dwellings at High Street Villas are listed buildings. However, for the same reasons given above in relation to the effect of the scheme on the character and appearance of the Conservation Area, and by reason of the separation distance between the appeal scheme and the dwellings at High Street Villas, I find no harm to the significance or setting of those identified heritage assets.
21. The Appellant has put it to me that the raised deck area would provide much needed amenity space at Old Deweys. However, the benefit of additional outdoor amenity space would be a private benefit for the occupiers of that dwelling and whilst enhancing their living conditions it would do so at the detriment of the living conditions of nearby residents. I attach only very limited weight to the private benefit of the scheme and, in this regard, the identified harm to the living conditions of nearby residents and the resulting conflict with the development plan, to which I attach significant weight, would outweigh the benefits of the appeal scheme.
22. The Appellant has further put it to me that dismissal of this appeal would represent an interference with her rights under Article 8 of the European Convention on Human Rights as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established planning policy aims to protect the living conditions of occupants at neighbouring dwellinghouses, in this case I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the Appellant.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR