



Appeal Decision

Site visit made on 19 January 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 JANUARY 2022

Appeal Ref: APP/J1915/W/21/3276910

Land Between 66A Ashdale and 29 Irving Close, Bishops Stortford, Hertfordshire CM23 4EB

- 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 John Farrugia against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0217/OUT, dated 27 January 2021, was refused by notice dated 1 April 2021.
 - The development proposed is outline permission for the erection of a kiosk retail unit, with landscaping and detailed design reserved.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought but with scale and layout to be considered at this stage. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on; the character and appearance of the area including with regard to trees, and the living conditions for nearby occupiers including with regard to refuse storage and collection.

Reasons

Character and Appearance

4. The appeal site is a grass and soft landscaped piece of open land, with a number of trees nearby. It is adjacent to the large Sainsburys building within the Thorley Neighbourhood Centre and alongside pedestrian accesses to this area. It is also to the rear of properties on Irving Close and Ashdale and is partly bounded by domestic fencing. These roads are within a wider residential area which, in the vicinity of the appeal site, are characterised by mainly two storey terraced and semi-detached homes with pitched roofs.
5. The site is located away from the main frontages and entrances of the units in the Neighbourhood Centre, and adjacent to residential gardens. Consequently, it appears clearly separate to the commercial use and is seen as part of the residential development beyond.

6. The open, undeveloped, planted nature of the land results in a pleasant, soft, green character and appearance to the site and the nearby trees contribute to this. Furthermore, it provides an important break in built form and a sense of separation between the large adjacent Sainsburys building and the two storey housing beyond.
7. The proposed development would occupy a significant proportion of the open space. The introduction of built form in this area would harmfully erode the positive open, undeveloped characteristics of the site. Furthermore, the kiosk would create a commercial use in what is an apparent part of the residential area. This would unacceptably compromise the important function of the land in providing visual separation between these areas.
8. The proposed building would be in close proximity to existing trees. The evidence before me is not sufficiently detailed to clearly show that the proposed building would be outside their root protection zones. Taking into account the proximity to these trees, and that layout is a matter to be determined, I am not persuaded that the proposed development would not result in the loss of the adjacent trees. Such a loss, particularly in combination with the removal of the majority of the soft landscaping, would be notably harmful to the positive green characteristic of the site. For the reasons above it is clear that the proposed development would not be a long term improvement to the site.
9. Details of appearance and landscaping would be reserved matters. The single storey height proposed would result in a subservient building, and the materials proposed could be secured at reserved matters stage to appropriately complement the existing buildings. Landscaping could also provide screening, and I do not find harm in these regards. However, this lack of harm is a neutral factor. Therefore, these matters do not outweigh the harm identified above.
10. Consequently, the proposed development would have a harmful effect on the character and appearance of the area, including with regard to trees. As such it would be contrary to policies DES3 and DES4 of the East Herts District Plan October 2018 (DP) and Policy HDP2 of the Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2016-2032 (NP). Together these policies seek high quality design with particular respect to developments' relationships with their locations and surroundings and retaining, protecting and enhancing existing landscape features.

Living Conditions

11. The proposed development is for a class E use kiosk. The size of the proposed unit would limit some operators. However, the suggested key cutting, shoe repair or newsagents are not the only uses that could operate from this unit.
12. Deliveries and refuse collection would be by vehicle to Irving Close or Ashdale, with the final part of the journey on foot. Given the range of uses that could occupy this kiosk, it is unlikely that all future occupants would require one delivery per month and one refuse collection per week, particularly given the limited internal space available for storage. Indeed, even considering the suggested newsagents, such a use would be likely to require more frequent deliveries.

13. This would therefore result in commercial vehicles in the residential streets and subsequent movement of stock and rubbish along narrow pedestrian paths on a frequent basis. These movements and disturbance would be incompatible with the existing quiet residential character and use. Such effects would be harmful during daytime hours when the footpaths would be likely to be used. This would not therefore result in a high standard of amenity for existing users.
14. Due to the daytime hours of operation any noise from the use is unlikely to result in unacceptable disturbance to neighbouring occupiers, and this could be controlled by condition. The proposed kiosk would front an existing footpath which provides access to the Thorley Neighbourhood Centre. Due to the size of the unit, it is unlikely that there would be a significant increase in footfall as a result of the proposed development. As such the noise associated with pedestrians is likely to be similar to the existing. As would any risk of crime or anti-social behaviour, for the same reasons. It would also be possible to secure lighting details by condition.
15. Nevertheless, the absence of harm in these regards does not weigh in favour of the development. As such it does not overcome the harmful effect of deliveries and refuse collection on neighbouring living conditions.
16. Therefore, for the reasons set out above the proposed development would have a harmful effect on the living conditions of existing occupiers, including with regard to refuse storage and collection. As such the proposed development would be contrary to Policies EQ2 and DES4 of the DP. These require that development should avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties with particular respect to noise and disturbance.

Other Matters

17. The proposed development would support the vitality of the existing centre and this is a benefit of the proposal. Albeit given the size of the development such benefit would be limited in its scale. As such, this limited benefit would not outweigh the multiple harms to character and appearance and living conditions outlined above.
18. The application is submitted in outline. However, the issues set out above are fundamental to the acceptability of this proposal in this location and I am not persuaded that it would be possible to resolve these issues at the reserved matters stage.

Conclusion

19. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR