



Appeal Decision

Site visit made on 21 December 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2022

Appeal Ref: APP/Y3940/W/21/3279359

Garage court rear of 121-125 Brickley Lane, Devizes, 401734, 161227

- 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 Clive Stanton against the decision of Wiltshire Council.
 - The application Ref 21/01561/OUT, dated 12 February 2021, was refused by notice dated 28 May 2021.
 - The development proposed is redevelopment of vacant lock-up garages and associated hardstanding to provide 4 apartments and associated car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was originally submitted in outline form with means of access to be determined. The applicant later submitted drawings, following a request from the Council, showing details of the scheme's layout and scale. The Council determined the scheme having regard to those matters.
3. There is no evidence before me indicating that the applicant disagreed with this approach, therefore I have determined the scheme in the same way as the Council, taking into consideration matters of access, layout and scale. The submitted drawings include details of the proposal's appearance and site landscaping, however, I have treated those matters as indicative only.
4. The description of development in the appeal form refers to the number of apartments proposed following amendments submitted at the application stage. I have referred to this description in the banner heading above.

Main Issues

5. The main issues are:
 - whether the future occupiers would be likely to experience acceptable living conditions in terms of external amenity space provision;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the provision of public open space (POS), with particular regard to its future use.

Reasons

Amenity space

6. The appeal site encompasses a communal parking court and a long single storey garage block that is located between the rear gardens of dwellings fronting Berkley Lane and an area of POS.
7. The submitted layout and elevation drawings, show rear balconies emanating from the proposed first floor apartments, yet there is no external private amenity space for the two ground floor units. This would deprive occupiers of an external area where qualitative and functional needs could be met, such as outdoor seating, the display of plants or an area for the drying of clothes. Therefore, the absence of external private outdoor space for those future occupiers residing on the ground floor would result in an unacceptable standard of accommodation.
8. There would be access from the rear of the ground floor flats directly on to the POS to the north. This grassed area surrounded by trees would provide future residents with an attractive outlook from within the flats. In addition, the proximity of the space would likely encourage future residents to use it for general exercise and enjoyment. Nonetheless, I do not consider the future use and proximity to this space would fully address the expectations future residents would have for an area for private outdoor amenity.
9. The appellant indicates that the lack of private amenity space could be addressed by resizing the proposed cycle store and rearranging the external areas around the proposed apartment building. However, the cycle store appears separate and disconnected from the ground floor flats, while no detailed proposals of how the external space arrangements could be modified to acceptable private outdoor areas has been provided.
10. The appellant has referred to an appeal decision¹ where the Inspector allowed the development of 39 apartments without any external private amenity space, contrary to local guidance. Yet, from my reading of that decision the constrained nature of the site limited opportunities for outdoor private space, while there were also issues in terms of the scheme's viability if roof top space was allocated. Accordingly, the circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
11. Consequently, I conclude that future occupiers would be likely to experience unsatisfactory living conditions in terms of external amenity space provision. This would fail to accord with Core Policy 57 of the Wiltshire Core Strategy (January 2015) (Core Strategy) and that policy's requirement for high quality design that considers how buildings and spaces would meet the needs of future occupiers.

Character and appearance

12. Brickley Lane and the streets surrounding it comprise mainly two storey dwellings that are arranged in uniform rows or cul-de sacs. The intervening land between dwellings comprises private gardens and verdant communal

¹ APP/M4320/W/20/3266042, allowed 9 July 2021

spaces that combine to create an attractive and spacious residential environment.

13. The site is located to the rear (north) of a line of dwellings fronting Brickley Lane and to the south of the POS and cul-de-sacs at Hodge Close and Hopkins Road. There would be generous areas of space separating the proposed apartment block from those dwellings fronting Brickley Lane. Moreover, the proposal would sit comfortably to the south of the POS and be consistent with some of the cul-de-sac dwellings nearby that form an attractive enclosure around it. In doing so it would not diminish the open aspect to the north, or significantly alter the spatial character of the area.
14. From Brickley Lane, the proposal would be partially visible through the site access, however it would appear as part of the background buildings that surround the POS to the north. It would also consolidate the boundaries surrounding the POS with a further two storey building. Accordingly, from Brickley Lane the proposal's backland setting would not disrupt the linear arrangement of dwellings along the street, such that the character of that road would be harmed.
15. Notwithstanding my concerns in respect of the lack of private amenity space for future occupiers, the communal and undeveloped land around the proposed apartment block would nevertheless ensure that the block does not appear cramped in its context or inconsistent with the spatial arrangement of other buildings in the locality.
16. Therefore, the proposal would not be harmful to the character and appearance of the area. It would accord with Core Policy 57 of the Core Strategy and Policy H2 of the Devizes Area Neighbourhood Plan (July 2015), where they require proposals to assimilate into the built environment and respond positively to existing townscape and landscape features in terms of building layouts.

Public open space

17. The proposed apartment block would not extend into the adjacent POS to the immediate north, nor would it encroach or cut across any of the footpaths that cross the land. The submitted details show it would be a two-storey structure, not substantially different in scale to the other dwellings that surround the POS, whilst it would also be positioned in a similar manner close to its boundary.
18. The Council suggests that the presence of the appeal building would deter people from using the POS near the appeal site. However, there are already two storey structures surrounding the perimeter of the POS, and there is no evidence before me that those dwellings, have the effect of discouraging people from using the space. Indeed, the presence of dwellings with windows directly overlooking the POS results in good levels of natural surveillance of the space where people will feel safe, and the proposal would likely enhance this further.
19. There are also concerns that the proposal would reduce the openness of the POS, however, it would not displace any of the land, whilst its position along the southern boundary would reinforce the way in which the space is enclosed.
20. Accordingly, the proposal would not harm the future use of the POS or deter people from using the space. It would accord with the provisions of

Core Policy 52 of the Core Strategy where it requires developments to retain and enhance the County's green infrastructure network.

Other Matters

21. The appellant has referred to difficulties in engaging with the Council during the application process, whilst also not being able to receive feedback on an alternative scheme. Whilst I note the appellant's frustrations, these are matters that fall outside of this appeal.

Planning Balance

22. There are differences between the main parties in terms of the 5-year housing land supply (5YHLS) position in the sub-market areas of the County and the weight accorded to those positions. Nonetheless, the Council confirms that at a county wide level there is currently a marginal shortfall in the 5YHLS and I have referred to this overall position rather than the figure that relates to the sub-area of the county. Therefore Paragraph 11(d) of the National Planning Policy Framework (2021) (the Framework) is engaged.
23. In relation to the three objectives of sustainable development in the Framework, I acknowledge that the appeal scheme would be located in an existing built-up area on an unused brownfield site with good accessibility to various modes of transport, services and facilities, and the general thrust of national policy seeks to boost housing provision. Whilst I accept that the Framework supports small scale development, the contribution of 4 dwelling units to the supply and mix of housing in the area would be minimal, as would be any economic benefits resulting from the construction period and spending of future occupiers. Accordingly, I have attributed moderate weight to the scheme's benefits.
24. However, the layout of the proposal would have no private amenity space for future occupiers of the ground floor flats and would result in unsatisfactory living conditions. As such it would be contrary to the aims of the Framework which requires proposals to be of a high standard of amenity for future residents (Paragraph 130(f)). The substantial weight I have attributed to this harm would outweigh the scheme's benefits.
25. Overall, even though I have found no harm in respect of the area's character and appearance and the effect it would have on the POS, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. It would also not accord with the development plan.

Conclusion

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

RE Jones

INSPECTOR