



Appeal Decision

Site visit made on 26 August 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 20 September 2022

Appeal Ref: APP/Y1138/W/22/3294847

Land adjacent to 22B Tiverton Road, Cullompton EX15 1JN

- 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 Channing Channing Brunt against the decision of Mid Devon District Council.
 - The application Ref 21/00255/FULL, dated 3 February 2021, was refused by notice dated 21 September 2021.
 - The development proposed is demolition of existing storage building and erection of three new dwellings.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs has been submitted by the appellant against Mid Devon District Council. This application is the subject of a separate decision.

Preliminary Matters

3. One of the Council's reasons for refusal concerned the impact of the proposed development on local air quality. Following submission of a draft planning agreement to secure appropriate mitigation in respect of this issue, the Council has confirmed that this reason for refusal can be adequately overcome. Whilst the planning agreement is only in draft form, I have not requested a completed copy from the parties, as I am dismissing the appeal on other grounds. This matter is therefore not considered further.
4. In an effort to overcome the Council's concerns regarding the levels of internal space within units 1 and 2 of the proposed scheme, the appellant has suggested that the layout of these units could be altered, to reduce the number of bedrooms and associated occupancy. However, as no revised plans have been submitted to show a revised layout, I have determined this appeal on the plans submitted, which show each of these units as 2 bedroom dwellings.

Main Issues

5. The main issues are:
 - the effect of the development on the living conditions of future and neighbouring occupiers, with particular regard to privacy and internal space;
 - the effect of the development on highway safety with regard to parking provision;

- the effect of the development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Cullompton Conservation Area; and
- whether the loss of employment land would be acceptable with regard to development plan policy.

Reasons

Living Conditions - Privacy

6. Given the sloping topography of the appeal site, the frontage of unit 3 would sit in an elevated position compared to units 1 and 2. Owing to the proposed arrangement of new dwellings, this means the kitchen window in unit 3 would overlook the rear bedrooms on the upper storey of units 1 and 2, as well as parts of the garden to these dwellings. Given the limited intervening space between the properties, this arrangement would compromise the privacy of the occupiers of units 1 and 2, which would be to the detriment of their living conditions.
7. Whilst unit 3 would be slightly taller than the existing storage building on the appeal site, no. 3 Stoneleigh Gardens would remain notably higher. Indeed, the ridge height of unit 3 would broadly align with the eaves height of no. 3. In turn, the impact of the development would be substantively similar to the extant position. As a result, I am satisfied that the proposal should not appear unduly overbearing to the occupiers of no. 3, nor should it cause an unacceptable level of overshadowing on this neighbouring property.
8. Nonetheless, owing to the privacy concerns with regard to units 1 and 2, the development would conflict with Policy DM1 of the Mid Devon Local Plan (2013 – 2033) (Local Plan), which seeks to ensure new development achieves adequate levels of privacy to private amenity space and principal windows.

Living Conditions – Space

9. The internal floor areas of units 1 and 2 would each be approximately 61m². This falls short of the minimum space standard of 70m² for a two storey, two-bedroom dwelling, as set out in the Nationally Described Space Standards (NDSS). As a result, these units would be overly cramped and constrained, which would be to the detriment of the living conditions of their respective occupiers. Once again, the proposal would therefore conflict with Policy DM1 of the Local Plan, which requires new development to make provision for suitable sized rooms and overall floorspace, which allows for adequate storage and movement, and which should be in accordance with the requirements of the NDSS.

Highway Safety

10. Policy HS04 of the Cullompton Neighbourhood Plan 2020 – 2033 (Neighbourhood Plan) seeks to ensure new residential development makes adequate provision for on-site parking. Pursuant to this policy, two on-site parking spaces are required for a two bedroom dwelling. This would give a total requirement of six on-site parking spaces for the proposed development. Only three spaces are proposed, leaving a shortfall of three.

11. I acknowledge that the appeal site is located close to the centre of Cullompton, which means it has good accessibility to local amenities and public transport connections. Whilst I agree this means there could be some scope for flexibility, the shortfall in onsite provision is significant, with only 50% of the requirement being met. Notwithstanding the site's good level of accessibility, I therefore consider that the development would still risk some degree of overspill parking, whether along the nearby highway, or even within the turning space to serve the new dwellings.
12. Tiverton Road is narrow, and on-street parking opportunities are limited. Moreover, demand for the existing spaces is high, given the road's proximity to the town centre. Any additional parking pressure in the area could therefore lead to inconsiderate or obstructive parking, which risks conflict between drivers, cyclists and pedestrians.
13. For these reasons, I consider that the proposed development would provide insufficient on-site parking, which would risk harm to highway safety. As set out above, the development would conflict with Policy HS04 of the Neighbourhood Plan. It would also conflict with the recommended levels of parking provision set out in Policy DM5 of the Local Plan, as well as those set out in the Council's Parking SPD¹.

Character and Appearance

14. The appeal site comprises a parcel of land on the north side of Tiverton Road, which is partly occupied by a storage building in a state of disrepair. Whilst the site falls outside of the Cullompton Conservation Area (CA), it is near to its boundary, and so does have some limited relationship with its wider setting. The significance of the CA, particularly in the vicinity of the appeal, is mostly derived from the historic character of the high street within the centre of the town.
15. The eastern end of Tiverton Road is predominantly residential in nature. The appeal site sits adjacent to a row of terraced houses which lead up to the main high street. These dwellings abut the pavement, and have a simplistic front façade and a uniform shallow pitched roof. Houses along the rest of the road are generally larger and more modern, but are mixed in their design and appearance.
16. The design of units 1 and 2 would broadly echo the simplistic front façade and shallow pitched roof of the neighbouring terrace. The frontage to these units would also sit close to the pavement edge, reflecting the arrangement of the terrace. Whilst there would be some minor differences in terms size, height and design, these common features would allow the new dwellings to integrate effectively with the street scene, whilst also offering a coherent transition between the traditional terrace and the larger and more modern properties further along the road. The access point would also separate the new units from the terrace, which would help minimise any perceived differences or contrast between the properties.
17. Unit 3 would be sited to the rear of the site, so would have limited impact on the street scene. Nonetheless, this dwelling would achieve a high quality and

¹ The Provision of Parking in New Development, Supplementary Planning Document, June 2013

contemporary design, which would assimilate effectively with the more recently developed properties along the road.

18. On account of these factors, I am satisfied that the development would complement the character and appearance of the area. In turn, it would also preserve the character of the CA. In this regard, the development would be consistent with Policy DM1 of the Local Plan, which requires new development to integrate well with surrounding buildings, streets and landscapes, through appropriate design, siting, layout, scale and massing. This Policy also requires development to have a positive impact on local character, including any heritage assets (in this case the CA).

Employment Use

19. Policy DM19 of the Local Plan says non-employment uses on employment or business land will be permitted, where there is no continued commercial interest in the re-use of the site for employment. This should be demonstrated through suitable marketing at an appropriate price for at least 18 months. This supports the underlying objectives of Policy S6 of the Local Plan, which seek to ensure sufficient level of employment provision over the plan period.
20. Whilst historically, the appeal site is known to have been used for employment purposes, it is understood that the buildings currently on the site have not been in operational use since 1987. This position appears to be consistent with the site's apparent state of disrepair. Notwithstanding any lawful use of the site, in reality, this means it has not been used for any substantive employment or community use in excess of 30 years. The loss of any potential employment or community opportunity is therefore unlikely to make a meaningful difference to the provision of such facilities within the locality. Moreover, the appellant has presented evidence to demonstrate the availability of nearby commercial space, as well as extensive community facilities within the local area, which further supports this conclusion.
21. Given that the property has not been marketed for continued commercial use over a period of 18 months, technically, the proposal would conflict with the requirements of Policy DM19. Nonetheless, for the reasons set out above, I only attach limited weight to this policy conflict. Moreover, I am satisfied that the proposal would not undermine the objectives of Policy S6, which seek to ensure adequate employment provision across the Council's area. In terms of Policy DM23 which concerns the re-use of the community facilities, the Council is now satisfied that the proposal would be consistent with such policy requirements.

Other Matters

22. Whilst I note the proximity of the public car park to the appeal site, in practice, I consider it unlikely that occupiers of the proposed dwellings would utilise this as a long-term parking solution, owing to issues of cost and convenience. I am therefore not persuaded that its existence would overcome the shortfall in on-site parking outlined above.
23. The appellant has cited an example of a consented residential development in which the proximity of buildings could give rise to overlooking. Very limited detail of this scheme has been provided, so I cannot properly assess the reasons for its approval, including whether there were material considerations

which outweighed any harm in this regard. In any event, each case must be considered on its own merits, and in this instance, the harm relates not just to potential for overlooking, but also a failure of the scheme to meet internal space standards and potential harm to highway safety.

24. The parties dispute whether or not the Council can demonstrate a five-year supply of deliverable housing land. Nonetheless, and irrespective of whether paragraph 11(d)(ii) of the National Planning Policy Framework (2021) (Framework) is engaged, paragraph 219 of the Framework is clear that due weight should still be given to existing policies according to their degree of consistency with the Framework.
25. Paragraph 130 of the Framework is explicit that new development should function well and promote health and well-being, with a high standard of amenity for existing and future users. Paragraph 111 also highlights that development can be refused where impact on highway safety would be unacceptable. The content of the Framework therefore reflects the overriding amenity and highway safety principles of the Council's Local Plan in terms of new residential development. Even accounting for the Framework's objective of boosting the supply of housing, the conflict between the proposal and the relevant policies of the Council's Local Plan would therefore be attributed significant weight in this appeal, irrespective of the Council's housing land supply position.
26. As mentioned above, the proposal would contribute to the Council's housing stock. Whilst any increase is desirable, the net addition of three dwellings would only be a modest contribution in this instance. Consequently, I consider that the adverse impacts of the development in terms of harm to the living conditions of future occupiers of the scheme and to highway safety would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development would not apply in any event.

Conclusion

27. Whilst I have found in favour of the appellant with regard to character and appearance and loss of employment land, the development would fail to provide acceptable living conditions for future occupiers, and the lack of onsite parking would also risk harm to highway safety. The development would therefore conflict with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, that would outweigh this finding. The appeal should therefore be dismissed.

James Blackwell

INSPECTOR