



Appeal Decision

Site visit made on 23 May 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2023

Appeal Ref: APP/B3410/W/22/3304380

Vacant land to the rear of Glebe School, Stanton Road, Stapenhill, Burton-on-Trent, East Staffordshire DE15 9EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by The Bampton Property Group Ltd. against East Staffordshire Borough Council.
 - The application Ref P/2021/00622, is dated 2 September 2021.
 - The development proposed is the erection of 2No. three-storey semi-detached buildings to form 4 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As stated in the header above, the appeal is against the failure of the Council to determine the planning application in the prescribed period. The Council advised that, if it were now in a position to make a decision, it would refuse the application due to concerns relating to character and appearance, the impact of the proposed development on the living conditions of neighbouring residents, the living conditions for future residents, highway safety and refuse facilities.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the occupiers of 6 and 8 Holme Farm Avenue, with particular regard to outlook and loss of light;
 - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to privacy;
 - the effect of the use of the proposed access on highway safety; and
 - whether the proposed development provides adequate refuse storage and collection facilities.

Reasons

Character and appearance

4. The appeal site lies within an area characterised by a mix of uses, including housing, community buildings and commercial properties. The buildings have a wide range of designs that have evolved over a period of time resulting in a varied pattern of buildings in terms of location, scale, and appearance. A number of trees, which appear to be self-set, occupy the southern part of the site
5. The Council indicate that the site lies within a sustainable location, and they have no objection in principle to the development of the site. They also state that there is currently no shortfall in the five year housing supply. That said, the five year land supply does not represent a maximum number of dwellings, and as a result I do not find this determinative in my assessment of the proposal. I am also conscious that paragraph 119 of the National Planning Policy Framework (the Framework) states, amongst other matters, that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
6. The proposed dwellings would not be readily visible from Stanton Road, and as a consequence the scheme would not be highly legible, it would nonetheless represent an effective use for the site. However, the proposal would introduce a development where the area to the front of the dwellings would be dominated by hard surfaces, with limited opportunity for substantive landscaping. When viewed alongside the adjacent commercial uses this aspect of the scheme would not result in a significant improvement to the environment or make a positive contribution to the visual qualities of the area.
7. Accordingly, on this main issue, the proposal would harm the character and appearance of the area, contrary to Policies SP1, SP24, DP1 and DP3 of the East Staffordshire Borough Council Local Plan 2012-2031 (LP) which, amongst other matters, seeks high quality design that respects the context of the site and surrounding area. It also conflicts with paragraph 128 of the Framework which supports high quality and beautiful development.

Living conditions (neighbours)

8. Properties in Holme Farm Avenue lie immediately to the east of the appeal site. They have modest sized rear gardens, which contain various outbuildings, and are enclosed with fences of varying heights. The dwellings located at Nos 6 and 8 are at a similar ground level to that of the appeal site and had windows in their rear elevations serving habitable rooms at both ground and first floor level.
9. Plot 1 of the proposed development would be within 1 metre of the rear boundary fences of Nos 6 and 8 and would extend over approximately 50 per cent of their respective garden width. The close proximity of the gable wall to the boundary, combined with the height of the proposed dwelling and the extent to which it overlaps the garden would result in the outlook from Nos 6 and 8 being dominated by the gable wall. Consequently, the accommodation would be less pleasant to use and enjoy.

10. Furthermore, whilst noting that no technical assessment of the impact on sunlight and daylight has been submitted, it is clear to me that the close proximity of the development to the common boundary would result in the rear gardens of Nos 6 and 8 being in shadow, particularly in the afternoon and evening. As a result, the gardens would be less agreeable places to spend time.
11. In light of my findings, on this main issue, I find that the proposal would materially harm the living conditions of the occupiers of Nos 6 and 8 because it would have an overbearing effect on outlook and result in a loss of light. Accordingly, there is conflict with Policies SP1, SP24, DP1, DP3 and DP7 of the LP and the Separation Distances and Amenity SPD. These policies and guidance seek, amongst other matters, to establish good relationships between buildings with acceptable standards of amenity. It also conflicts with paragraph 130 of the Framework which promotes health and well-being, with a high standard of amenity for existing and future users.

Living conditions (future occupiers)

12. Plot 4 sits immediately adjacent to the community hall which contains a number of first floor windows in its rear elevation. On my site inspection it was apparent that the rooms served by the windows were in active use.
13. The windows in the community hall face towards the gable end of the proposed dwelling on Plot 4, which contains a window serving a kitchen and a window and patio door serving a living/dining room at ground floor level. Three windows are proposed in the gable wall at first floor level serving two bedrooms and a bathroom. The separation distance between the windows in the community hall and those in the gable wall of plot 4 is approximately 13.5 according to the officers report.
14. The appellants assert that the adjoining building is not in residential use and therefore there is no need for a 21m separation between windows. In addition, they indicate that it would be their intention to provide a landscaped side garden which would address any concerns regarding overlooking. In my judgement, the requirement to secure privacy for future residents is not dependent on the neighbouring property being in residential use. Any overlooking, from whatever source, would lead to a loss of privacy.
15. The separation distance between the respective windows would be well below the measurement specified within the Council's guidance and the garden to plot 4 would also be directly overlooked. Given the relationship between the properties, the limited garden space available for planting, and the absence of full landscaping details it is unlikely that any overlooking could be reduced to an acceptable standard. Consequently, the dwelling and its associated garden would not be pleasant places to use.
16. I conclude, on this main issue, that the proposal would not provide acceptable living conditions for the future occupiers of plot 4, as a consequence of an unreasonable level of overlooking, resulting in inadequate levels of privacy. Accordingly, there is conflict with Policies SP1, SP24, DP1, DP3 and DP7 of the LP and the Separation Distances and Amenity SPD. These policies and guidance jointly seek, amongst other matters, to establish good relationships between buildings with acceptable standards of amenity. It also conflicts with paragraph 130 of the Framework which promotes health and well-being, with a high standard of amenity for existing and future users.

Highway safety

17. During my daytime site visit I was able to observe that Stanton Road was well used by vehicles and had a bus route running along it. A yellow hatched junction, where Woods Lane joins Stanton Road, was a short distance to the north, and local on street parking restrictions were in place.
18. The drive to the appeal site, which also provides access to the car park for the Tanning Shop, was in regular use, with drivers being able to enter and leave in a forward direction. There was reasonable visibility in both directions for drivers emerging from the drive. I acknowledge that these observations can only provide a snapshot of traffic conditions at a particular time of day, however, I have no evidence to suggest that they are not representative of typical traffic conditions.
19. I saw that level of activity generated by the Tanning Shop was limited and at no time did I witness any driver having difficulty parking, or two vehicles attempting to drive alongside the Tanning Shop in opposing directions. That said, the proposed development would generate an additional 32 and 40 traffic movements per day (according to the TRICS database), and as a result the potential for an interaction between vehicles would increase. Whilst the number of times this would occur is likely to be small, given current highway conditions, any reversing onto Stanton Road would increase risks to road users.
20. The access to the proposed development as it runs alongside the Tanning Shop is not of sufficient width to accommodate two vehicles running alongside one another. Therefore, in the event that there are two vehicles travelling in opposite directions it would be necessary for one driver to give way to the other. This would lead to vehicles potentially reversing onto Stanton Road to the detriment of highway safety.
21. I acknowledge that there would be an opportunity to improve the flow of vehicles by the removal of existing obstructions, including the gateway and refuse containers. However, in the absence of full details, showing what land is available to accommodate the refuse containers, and where vehicles would park whilst waiting to proceed along the drive, there is no certainty that this could be achieved on land in the full control of the appellant.
22. Accordingly, on this main issue, I conclude that it has not been demonstrated that there would be adequate provision for vehicular access to the appeal site, and therefore the proposal would result in an unacceptable increase in risk to the safety of road users. Consequently, the proposed development would be contrary to Policies SP1 and SP35 of the LP. These policies, along with the Framework, seek developments that, amongst other matters, do not cause highway safety issues.

Refuse facilities

23. The Council's guidance seeks to ensure that refuse facilities are provided within the curtilage of individual properties in a screened location to the rear of the building. The appellant has indicated a willingness to incorporate such provision and would accept a condition in this regard. All of the proposed properties would have a pedestrian route to the rear garden and therefore refuse bins could be located within the rear gardens without great difficulty. However, I have not been provided details of where the bins would be placed for collection.

Consequently, I am not persuaded that a location is available for bins to be presented for collection that would not have an impact on vehicular movement.

24. Accordingly, on this main issue, I conclude that it has not been demonstrated that there is adequate provision for the storage and collection of refuse. Consequently, the proposal would be contrary to the provisions of the Waste Storage and Collection SPD.

Other Matters

23. I note that the appellant sought pre application advice from the Council and in response to their comments reduced the number of units from 5 to 4. I acknowledge that this may have resulted in improvements to the proposed development. However, in the absence of full details of the preliminary scheme I cannot draw any definitive conclusions as to what benefits may have accrued.
24. I accept that the proposal would deliver 4 additional dwellings on an underutilised parcel of land in a sustainable location. Whilst this weighs in favour of the proposal it does not outweigh the significant harm that I have found with regards to its impact on the character and appearance of the area, the harm that would be caused to existing and future occupiers, the adverse impact on highway safety and the absence of adequate refuse facilities that I have identified above. The proposal before me is unlikely to be the only one that could provide a beneficial and effective use of the land.

Conclusion

25. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

John Gunn

INSPECTOR