



Appeal Decision

Site visit made on 6 February 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2024

Appeal Ref: APP/W3005/W/23/3324660

71 High Pavement, Sutton in Ashfield, Nottinghamshire NG17 1BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Rachael Oxspring against the decision of Ashfield District Council.
 - The application is Ref V/2022/0404.
 - The development proposed is demolition of existing commercial building and construction of a 3 storey apartment block and 9 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The scheme was amended during the Council's consideration of the application. The description of the development proposed in the banner heading is taken from the Council's decision notice and appeal form rather than the application form as it more accurately describes the proposal. The Council considered the proposal on this basis and so have I.
3. The National Planning Policy Framework (the Framework) was amended in December 2023. The Council has confirmed its position regarding the revisions made to the approach for maintaining a supply and delivery of housing. References in the decision are to the December 2023 Framework.
4. The appellant submitted several plans with the appeal. The 'proposed site section' plan (reference 22002-CBP-Z0-00-DR-A-6001-FP-P02), and the internal swept path analysis shown on the 'site access arrangement and highway layout' plan (reference 2304010/001) do not amend the proposal but support it in terms of demonstrating its effect on living conditions and internal manoeuvring. The changes shown on the revised 'proposed site plan' (reference Z0-00-DR-A-2001-FP-P05) are minor in nature. I am satisfied therefore that my consideration of these details would not cause prejudice or injustice to any interested party.
5. The appellant also submitted revised access proposals with the appeal as shown on the 'site access arrangement and highway layout' plan (reference 2304010/001). In my judgement, these revised access proposals would make fundamental changes to the scheme. They were not consulted on as part of the application stage and so I may prejudice the consideration of the Highway Authority and other interested parties if I were to accept them. Consequently, in so far as this plan relates to the revised access proposals, I have not taken it into account in my determination of the appeal.

Main Issues

6. The main issues are:

- the effect of the proposal on the safe and efficient use of the highway in the area and within the site including parking provision; and
- whether the proposal would constitute good design.

Reasons

Highway Safety Including Parking Provision

7. Access to the site would be from the existing access point onto High Pavement. The proposed site plan on which the Council made its decision¹ and the version submitted as part of the appeal² both show that this access point would be of the minimum required width for vehicles as set out in the Highway Authority consultation response³ and would include a separate footway.
8. The highway in the vicinity of the proposed access has central reservations and white chevron road markings. Given my position on the relevant plans as set out above, I cannot be certain that access to the site can be gained for vehicles approaching from the west that would be safe and not impede the efficient flow of traffic on the highway. It is also unclear whether appropriate visibility splays would be achievable, in particular having regard to the proximity of the bus stop to the site access.
9. The proposal makes provision for 12 parking spaces for the 12 flats which would include one disabled space and 2 electric vehicle charging spaces. This would potentially mean that not all the flats would have a useable space. The submitted plans show that each of the dwellings would be provided with two spaces each. Four visitor parking spaces are shown. The Council identifies a shortfall of 13+ spaces across the site, based on the guidance in the 2014 Residential Car Parking Standards Supplementary Planning Document (the Parking SPD).
10. There is a small, time limited parking area on High Pavement near to the site entrance. At the time of my site visit, which I acknowledge was just a snapshot in time, this area, along with the on-street parking on Silk Street had reasonable capacity. I appreciate that most dwellings on Silk Street appear to rely on on-street parking. However, there is little substantive evidence to demonstrate that the existing on-street parking situation has reached saturation point or that highway safety issues have occurred as a result of the current levels of on-street parking.
11. The Parking SPD states that in exceptional circumstances a more flexible approach may be required, and parking standards may be more negotiable. In particular, developments in areas within close proximity to major transport nodes, such as railway and bus stations, may warrant a more flexible approach where there are no implications for amenity or health and safety.
12. The site is located very close to bus stops which I observed as having regular services during the week and at weekends to destinations such as Nottingham,

¹ Z0-00-DR-A-2001-FP-P03

² Z0-00-DR-A-2001-FP-P05

³ Dated 14-07-22

Mansfield and Kirby in Ashfield, including well into the evening. The site is within a comfortable walking distance of the town centre with access to the bus station and a number of local schools. Provision for bicycle storage is included within the development for the flats and dwellings. Occupiers of the proposed development would therefore have a range of transport modes available to them other than private vehicle and would not necessarily have to rely on a vehicle for day-to-day requirements.

13. The Highway Authority consultation response indicates that the level of parking proposed for the flats would be acceptable given the proximity of the site to the town centre and regular bus services. This response was based on an earlier iteration of the proposal, which included the same number of 'general' spaces but for a larger number of two-bedroom flats than is now proposed.
14. Given this context, along with the evidence provided by the appellant on car ownership rates in the locality, I am satisfied that the proposal would make appropriate quantitative provision for onsite parking.
15. The appellant's swept path analysis demonstrates that a family sized car would be able to enter and exit most spaces without complex manoeuvring or reversing along the access road. However, the swept path analysis appears to show that, for the end space (P9-2), a slight encroachment into the adjoining space would be required when exiting. If larger/longer vehicles were parked in these two spaces, in my judgement, there would be a risk that additional manoeuvring would be required due to the lack of space around them.
16. The submitted plans show that the parking spaces would be 2.5 metres by 5 metres. However, the Council's officer report states that the spaces should be 2.5 metres by 5.5 metres with additional width space added if bound by a hard form of boundary treatment. Although the Council has not specifically identified the source of these figures, it appears to relate to the guidance referenced at paragraph 5.7 of the Parking SPD. The appellant's swept path analysis demonstrates that a family sized car would be able to park without projecting beyond the space limits. However, this may not be the case for larger vehicles, which could exacerbate the manoeuvring situation referenced above.
17. Bringing these points together, I am satisfied that appropriate provision for parking has been made in quantitative terms. However, it has not been satisfactorily demonstrated that a safe and suitable access would be provided to/from the site, or within the site with regard to the layout of the parking provision. Consequently, I conclude that the proposal would have an unacceptable impact on the safe and efficient use of the highway in the area and within the site. The proposal would therefore conflict with the highway safety requirements of Policies ST1 and HG5 of the 2002 adopted Ashfield Local Plan Review (the Local Plan) and paragraphs 114 and 115 of the Framework.

Design

18. The Council's first reason for refusal on its decision notice includes several issues which stem from its concern that the proposal would represent an over development of the site. I will deal with these under this single main issue of whether the proposal would constitute good design.

Design and Layout

19. Across High Pavement from the site is a sizeable three storey building which houses a care home. The terraced dwellings at the end of Silk Street nearest the site are two storeys with pitched roof front dormers. Further along Silk Street, the dwellings increase to three storeys. The dwellings fronting onto High Pavement just to the west and east of the site are a mix of two and three storeys as are those on Windmill Close to the east where many of the two storey dwellings have small flat roofed dormers to the front.
20. The location of the proposed apartment building and its massing would be similar to the existing building on the site where it fronts onto High Pavement, but it would have much less depth. The houses would comprise six semi-detached three storey dwellings and three two storey dwellings with accommodation in the roof space arranged as a terrace. The apartment building and the dwellings would be constructed in materials to match those in the area.
21. Given the street scene in which the proposal would be viewed, the scale and design of the apartment building and the dwellings would suitably reflect the scale and appearance of the built form in the surrounding area.
22. There would be no access to the apartment building off High Pavement. Nonetheless, the front elevation would have several windows serving habitable rooms including at ground floor level. This would avoid a dead frontage being presented to High Pavement.
23. The flat roofed dormers proposed on the three terraced dwellings would be inset from the edges and bottom of the roof and would be set well below the ridgeline, and so would take up only a small part of the front roof plane. Given their small scale and the appearance of the surrounding built form in which these properties would be viewed, the flat roofed dormers would not stand out as an inharmonious design feature.
24. The site is relatively long and narrow. Consequently, the dwellings would be arranged on just one side of the access road. The parking areas would be on the opposite side but there would be opportunities for surveillance from the dwellings. The access road would follow a similar line to Silk Street and Windmill Close. The linear form of development proposed would not therefore appear incongruous.
25. Consequently, in terms of the design and general layout of the site, I am satisfied that the proposal would appropriately reflect the context of the locality and would integrate harmoniously with it.

Indoor and Outdoor Space

26. The Council's 2014 Residential Design Guide Supplementary Planning Document (the SPD), while guidance rather than policy, provides advice on internal and external space requirements for new dwellings and separation distances.
27. The appellant's evidence demonstrates that the flats and dwellings would satisfy the guidance in the SPD and the 2015 Nationally Described Space Standard in terms of overall internal floor area.

28. Two of the three terraced dwellings would have a garden less than the 70 square metres (sqm) advised in the SPD for three-bedroom dwellings, at 64.5sqm and 66sqm. The other terraced dwelling would be substantially above the SPD figure. The average garden size of the semi-detached dwellings would be around 76sqm, which would be below the SPD figure of 90sqm for 4+ bedroom dwellings.
29. The rear gardens would not be large for three- and four-bedroom dwellings, especially as they could provide accommodation for families. However, the rear gardens would all have a reasonable depth such that they would not appear confined and would be broadly west facing and so would be capable of receiving sunshine. Despite being below the figures in the SPD, the gardens would be able to comfortably accommodate the range of uses reasonably expected of these spaces such as sitting out, hanging out washing, storage, and the placing of residential paraphernalia. As such, occupiers' enjoyment and use of the spaces would not be unduly impacted.
30. The SPD advises that there should be 25sqm of outdoor amenity space per flat. No outdoor amenity space is proposed for the flats other than small pockets of landscaping, which would not provide an appropriate outdoor amenity space for future occupiers. There would be scope for occupants to use nearby recreational spaces which are within a comfortable walking distance. However, this would not be a reasonable alternative to the use of at least some appropriate onsite outdoor amenity space, regardless of whether the flats may be less likely to be occupied by families with children.
31. I am aware that the planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended) (the s106 Agreement) that the appellant has entered into includes a financial contribution towards improvements at nearby public open spaces. However, in my view, good design involves an integrated approach involving green space as a key component rather than being solely reliant on provision elsewhere.

Interface Distances

32. Based on the submitted evidence, the separation distance of 21 metres identified in the SPD as normally expected between habitable rooms would be met for the nearest dwelling on Windmill Close. In those cases where windows in the proposed dwellings would face the side gables of properties on Windmill Close, there would be a separation distance of around 13.5 metres. Based on these separation distances, I am satisfied that the proposal would not cause an unacceptable loss of privacy, outlook, or natural light for residents of the nearest dwellings on Windmill Close. Equally, they would ensure satisfactory living conditions for future occupiers of the proposed development.
33. The 'proposed block plan' identifies that the separation distances between the proposed dwellings and those on Silk Street range from around 21.3 metres to 22.6 metres. However, these measurements appear to be taken from the main rear elevation of the dwellings on Silk Street. Most of these dwellings have single storey rear outriggers. The appellant identifies these as containing kitchens and bathrooms, which tallies with what I observed during my site visit. The SPD classes kitchens as habitable rooms. Based on the information shown on the submitted plans, and without clear evidence to the contrary, the separation distances between the rear of the outriggers and those of the proposed dwellings would likely fall short of the 21 metres set out in the SPD.

34. Nevertheless, in my judgment, given the garden depths proposed, the separation distances would reduce inter-visibility to an acceptable degree such that there would not be an unacceptable loss of privacy. For the same reason, the proposal would not result in a harmful loss of light or outlook for the residents of the dwellings on Silk Street.
35. Based on the submitted evidence and what I observed during my site visit, any differences in land levels would not have a material bearing on my position.

Conclusion

36. Drawing these points together, the overall design of the dwellings has taken its cue from the surroundings and would integrate appropriately with the built form of the area. The development would have an acceptable effect on most aspects relating to the living conditions of future occupiers and neighbouring residents. However, the proposal would not provide adequate living conditions for the future occupants of the proposed flats having regard to outdoor amenity space.
37. I appreciate that schemes often have to take account of various site constraints and make cost-efficient use of land. However, this point, together with the concerns I have about the parking layout above, are indicative of a scheme that would represent an over development of the site. As such, it would fall short of the expectations in the Framework regarding achieving well designed and beautiful places. Consequently, I conclude that the proposal would not constitute good design.
38. The proposal would therefore conflict with Policies ST1 and HG5 of the Local Plan, which require development to not adversely affect the amenity of the environment and to protect the amenity of neighbouring properties including providing adequate private garden space. There would also be conflict with the design objectives of chapter 12 of the Framework.

Other Matters

39. The significance of the Grade II listed United Reform Church is due in part to the aesthetic value of its Gothic architecture. Given the separation distance and intervening properties, I am satisfied that the proposal would not harm the setting of the listed building or its significance as a designated heritage asset.
40. Based on the submitted evidence, it is difficult to conclude that all the obligations contained within the completed s106 Agreement would meet the tests in paragraph 57 of the Framework. For example, my attention has not been drawn to the policy justification for requiring a commuted sum equivalent to 40% of the open market value for two of the houses on the site, and while Policy TR6 of the Local Plan states that contributions towards active travel measures will be negotiated where a development exceeds 0.4 hectares or 50 bedrooms, the development would not exceed either of those triggers. However, given my overall conclusion below, I have not pursued this matter.

Planning Balance and Conclusion

41. Although I have not been provided with all relevant figures, I have been advised that, based on the Council's Housing Land Monitoring Report (2022 – 2023), adjusted for a 20% buffer, there is just under a three year housing land supply. Given the context provided by paragraphs 77 and 226 of the

Framework, as the local planning authority cannot demonstrate a four-year supply of deliverable housing sites, paragraph 11 d) of the Framework is engaged.

42. The proposal would provide 21 additional homes on previously developed land and in a location with good access to services and facilities. The provision of these additional houses would make a positive contribution to the shortfall in deliverable housing sites in the area and to the Government's objective of significantly boosting the supply of homes. I therefore give this matter considerable positive weight.
43. The proposal would lead to some, albeit time-limited, economic benefit during the construction phase. Future occupiers may make a more general economic and social contribution towards supporting services and facilities in the local area. These factors, although not quantified, weigh positively for the development in the planning balance.
44. Conversely, I have found harm to highway safety and in relation to the living conditions of future occupiers. These are matters of overriding concern to which I attribute substantial weight. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would not therefore be sustainable development.
45. While there would be some beneficial aspects of the scheme, considered overall it would cause harm which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, that would indicate a decision other than in accordance with the development plan.
46. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR