



Appeal Decision

Site visit made on 1 May 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Appeal Ref: APP/X3405/W/23/3333965

4 Anglesey Street, Hednesford, Cannock WS12 1AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Lomas of Hightown Estates Co Limited against the decision of Cannock Chase District Council.
 - The application Ref is CH/23/0124.
 - The development proposed is outline application for the erection of 1 no. dormer bungalow with all matters reserved except for access and layout.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was made in outline with matters of appearance, landscaping and scale reserved. As such, I have regarded all elements of the drawings submitted as indicative apart from the access and layout details.
3. The revised National Planning Policy Framework (Framework) was published in December 2023. I do not consider in this case that this raises any matters that require me to seek any further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.

Main Issues

4. The main issues are:
 - whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to noise and disturbance, daylight, sunlight, odour and light pollution.
 - the effect of the proposal on the living conditions of the neighbouring occupiers of 4 and 4a Anglesey Street and Anglesey Court, with regard to external amenity space and privacy; and,
 - the effect of the proposal on highway safety, with particular regard to the proposed access and parking arrangements.

Reasons

Living conditions of future occupiers

5. The appeal site relates to a rectangular area of land to the side and rear of 4 Anglesey Street. The main body of the site is a rear garden and parking area associated with No 4. The garden sits at a lower level than the host property

and is bordered by the Hednesford & District Ex-Servicemen's Club and Anglesey Court to the western side, by the rear garden of 4a Anglesey Street to the eastern side, and by a bowling green to the north, beyond which lies Hednesford Railway Station. Access to the site is obtained via the existing driveway between No 4 and Anglesey Court.

6. The proposed dwelling would be sited within the existing garden, adjacent to the boundary with the Ex-Servicemen's Club and very close to the side wall of that building. During my visit in the early afternoon of a weekday, a function was taking place at the adjacent club. A large number of customers were present and had gathered in and around the outside seating area to the front of the building, a short distance away from the appeal site. Noise from customers' conversations was clearly audible from the site. Although my observations are only a snapshot at a particular time of day, I have no substantive evidence to suggest they are not representative of a typical day.
7. Based on my observations and the evidence before me, the club is a source of noise and there is potential, given its proximity, for that noise to be transmitted to the proposed dwelling through the building fabric and through the window openings. In addition to noise arising from within the adjacent building, including live music, I consider that activity and noise around the outside of the premises, caused by customers using the outside seating area and smoking shelter or when dispersing around closing time late at night, would have the potential to result in intrusive noise and disturbance to both the dwelling and its garden.
8. The appellant's noise assessment concludes that the requirements of British Standard: BS8233:2014 would be achieved with appropriate acoustic glazing and vents and that the adjacent club would not have a significant impact upon the proposed dwelling. It also recommends new fencing for that part of the site boundary adjacent to the smoking shelter to further mitigate noise impacts associated with the club. However, a significant limitation of the assessment is that the club was not fully operational when the survey was conducted due to the restrictions that were in place at the time of the Covid-19 pandemic. For example, no live music events were then taking place. While measured sound levels based on other venues of similar size have been provided as part of the assessment, I cannot be satisfied that these are representative of the specific noise climate at the site itself. Consequently, the assessment does not provide sufficient clarity and robustness to enable me to conclude that living conditions for future occupiers would be acceptable.
9. Despite the lack of objection from the Environmental Protection Team, based on the evidence before me and my observations on the site I consider that the activities associated with the adjacent club would be likely to lead to unacceptable levels of noise and disturbance for future occupiers. The conditions suggested by the appellant would not sufficiently mitigate the harm I have identified. The Council has also referred to noise from the railway station and bowling green. However, these are further away from the proposed dwelling and would not likely be significant sources of noise in this instance.
10. Whilst the appellant argues that there is no evidence to suggest that the use of the club is causing harm to the existing flats at Anglesey Court or dwellings at Railway View, these have a materially different relationship to the premises and I cannot be sure that noise levels within those existing properties are

acceptable. The appeal property has a particularly close relationship with the club, with very little separation between the two. The existing residential properties in the area therefore do not justify the compromised living conditions that would result from the appeal proposal.

11. Given my conclusion in respect of noise and disturbance from the adjacent club, it is not possible to ascertain whether the proposed development would result in any future restrictions on the use and operation of the premises through justifiable complaints from future occupiers of the proposed dwelling. Such complaints could lead to enforcement action restricting activities at the premises and threaten its future viability.
12. The Council has also suggested that the use of the smoking shelter to the rear of the club could give rise to odour nuisance. However, there is no substantive evidence before me to indicate that this would present a significant nuisance given the proposed fencing between the site and the adjacent premises. A further concern raised relates to light spillage from the adjacent bowling green. The floodlights around the bowling green are not especially high and are situated a reasonable distance from the proposed dwelling. Therefore, I am not convinced that light pollution would be sufficient to cause significant harm to the living conditions of future occupiers.
13. Anglesey Court is a three storey building lying to the south of the site. Whilst this neighbouring building would partly overshadow the front of the proposed dwelling, the indicative plans show that the majority of the habitable rooms, including the living room, kitchen and main bedroom would be served by rear windows. The rear windows and the rear garden would enjoy a relatively open aspect towards the bowling green and would not likely be significantly affected by Anglesey Court or the adjacent club in terms of overshadowing.
14. For the above reasons, I conclude that there would be no significant effects in terms of daylight, sunlight, odour and light pollution. However, the proposed development would fail to provide satisfactory living conditions, having particular regard to the effect of noise and disturbance on future occupiers. Thus, it would conflict with Policy CP3 of the Cannock Chase Local Plan (Part 1) 2014 (Local Plan) which seeks to promote high quality design and ensure, amongst other things, that proposals have regard to existing uses with potential to generate pollution which could have an unacceptably detrimental effect on proposed development. The proposal would also be contrary to paragraph 135 f) of the Framework, which requires that development provides a high standard of amenity for existing and future users.

Living conditions of neighbouring occupiers

15. The occupiers of No 4 currently have access from the rear of the property to the garden at the rear. That is in line with the previous planning permission for the subdivision of the building into two apartments¹. The proposed development of the rear garden would leave the occupiers of No 4 with a parking area and a small garden to the front of the property which is not private due to its position adjacent to the road. Therefore, the residents of No 4 would not have access to a sufficiently useable and private outdoor amenity area for sitting out or hanging out washing, for example.

¹ Council Ref. CH/16/290

16. While the appellant contends that the rear garden is unkempt and not currently used as amenity space by the occupiers of No 4, the land is clearly associated with the property and future occupiers could use it as a garden. The loss of the garden space for No 4 would therefore be harmful to the living conditions of the occupiers of that property.
17. No 4a is situated to the rear of No 4 and contains several openings to the rear elevation, including glazed patio doors, which obliquely overlook the appeal site from an elevated position. The plans indicate that most of the windows in the new dwelling would be positioned to the rear elevation. The view from any of the windows to the front of the dwelling towards the neighbouring property and its rear garden would likely be at an oblique angle with a boundary fence in between and thus not significantly intrusive.
18. A further concern raised in the delegated report, though not referred to in the reasons for refusal, is the effect of the proposal on the occupiers of the flats at Anglesey Court as a result of intensification of the site access. The side elevation of Anglesey Court contains several windows which overlook the appeal site from higher level. It is unlikely that a single dwelling with two parking spaces would result in a significant intensification in the use of the site to the extent that would unduly diminish the living conditions of the occupiers of Anglesey Court. I note the Council's reference to the previous Inspector's comments on this and other matters². However, I do not have details of that scheme before me and so I cannot be sure that it represents a direct parallel to the appeal proposal, which I have considered on its own merits.
19. Notwithstanding this, the loss of the rear garden would diminish the living conditions of the occupiers of No 4. Therefore, the proposal would have a harmful effect on the living conditions of No 4, with particular regard to external amenity space. It would conflict with Policy CP3 of the Local Plan and paragraph 135 f) of the Framework, which seek to protect the amenity enjoyed by existing properties.

Highway safety

20. The development would be accessed via the existing driveway from Anglesey Street. It is a narrow access between the gable end of No 4 and the boundary fence to the side of Anglesey Court. Two vehicles are not able to pass each other until further into the site to the rear of No 4.
21. Two parallel parking spaces are proposed to the front of the new dwelling. This number of spaces would be sufficient for a dwelling of this size. Due to the restricted width of the driveway manoeuvring within the site would be difficult. However, the submitted tracking plans indicate that it would be possible for vehicles to manoeuvre out of these spaces to enable them to leave the site in a forward gear. There is also additional turning space to the rear of No 4, albeit this area is outside of the site and cannot be relied upon for manoeuvring, particularly if occupied by other vehicles. Thus, I see no reason why a vehicle would need to reverse out of the site onto Anglesey Street and it is reasonable to assume that a driver would be dissuaded from doing so by the substantial distance between the parking spaces and the street.

² Appeal Ref. APP/X3405/A/09/2101302

22. I acknowledge the Council's concern that the proposal would increase the likelihood of vehicles entering and leaving the site simultaneously. However, the number of trips generated by two vehicles would be unlikely to result in a significant conflict between vehicles entering and leaving the access at the same time. Even if a vehicle would need to wait on the road while another vehicle leaves the site, there is no substantive evidence before me to suggest that this would have a detrimental effect on highway safety given the good level of intervisibility in both directions along Anglesey Street.
23. Consequently, I am not persuaded that the intensification of the use of the site access would compromise highway safety. The proposed access and parking arrangements would be satisfactory. Thus, the proposal would comply with Policy CP3 of the Local Plan and paragraph 115 of the Framework, which seek to promote ease of access and mobility and ensure that development does not unacceptably affect highway safety.

Planning Balance and Conclusion

24. The appeal proposal would not be significantly harmful to highway safety having regard to the access and parking arrangements. This is a neutral matter rather than one weighing in favour of the proposal. The Council has raised no concerns about the effects of the proposal on the character and appearance of the area, landscape, heritage assets, ecological interests or flooding and I do not disagree with that assessment based on the evidence before me. Compliance with policies in respect of these matters is also neutral in the planning balance. I have found that the proposal would fail to provide satisfactory living conditions for future occupiers and it would be harmful to neighbouring occupiers' living conditions. These matters weigh significantly against the proposal.
25. I have had regard to the benefits of the proposal, including the provision of a new dwelling on a windfall site in an accessible location, in accordance with the general aims of Policy CP1 of the Local Plan, Policy H1 of the Hednesford Neighbourhood Plan 2017-2028 and paragraph 70 of the Framework. It would also represent an effective use of land. Employment opportunities created during the construction phase of the development and support for local services provided by future occupiers would be likely to benefit the local economy. However, the weight attributable to these matters is limited given that the development is for one dwelling and would be significantly outweighed by the adverse impacts identified above.
26. I conclude that the proposal does not accord with the development plan as a whole and there are no other material considerations of sufficient weight that indicate that I should take a different decision other than in accordance with this. For these reasons the appeal is dismissed.

M Ollerenshaw

INSPECTOR