



Appeal Decision

Site visit made on 6 June 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/X1118/W/22/3309934

Land Adjacent to 80 Silverwood Heights, Silverwood Heights, Barnstaple EX2 7RL

- 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 Loosemore Chartered Building Company against the decision of North Devon District Council.
 - The application Ref 75269, dated 28 April 2022, was refused by notice dated 20 June 2022.
 - The development proposed is the erection of a 2 bedroom dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has confirmed that it has withdrawn the reason for refusal on the decision notice concerning off-street parking for the proposed development. Therefore, I have determined the appeal based on the remaining disputed issues.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of occupiers of the adjacent flatted development with particular regard to amenity space and No 52 Silverwood Heights relating to daylight, sunlight and outlook; and
 - the character and appearance of the area.

Reasons

Living conditions

4. The appeal site is located between a flatted development and 52 Silverwood Heights. Although a snapshot in time, at the time of my site visit the paved part of the appeal site was being used by occupiers of the flatted development for drying washing, children's play and bin storage. Despite noting the presence of a small amount of rubbish and discarded household items on the paved area, this was not of a scale to alter my view that the site serves a useful purpose as open space for the flatted development. Thus, I do not accept the appellant's characterisation of the site as a 'dumping ground'. Based on the evidence before me and my observations during my site visit, no other private amenity space is available to the occupiers of the flatted development.

While a small children's play area is located nearby, this serves the wider Silverwood Heights development. Consequently, the proposed development would lead to the unacceptable loss of the only private amenity space available to the existing occupiers of the flats.

5. A modest-sized window is located in the side elevation, at ground floor level, of No 52 facing onto its driveway and towards the appeal site. Whilst the side elevation of the proposed dwelling would be positioned on the site boundary, the front building line would be set further back from the road than the window. Therefore, although the upper floor of the proposed dwelling would be visible from this window, the new building would not have a detrimental impact on the outlook of occupiers of No 52. Furthermore, given the setback of the front building line and its window's northerly orientation, it has not been demonstrated that there would be a loss of daylight to this window as a result of the proposed development. Any reduction in the amount of sunlight reaching the outdoor spaces of No 52 would also be minimal due to the southerly orientation of the garden and the similar rear building line of the proposed dwelling. As such, the proposed development would not cause harm to the living conditions of occupiers of No 52 with particular regard to daylight, sunlight and outlook.
6. Nevertheless, I conclude that the proposed development would cause significant harm to the living conditions of neighbouring occupiers of the flatted development, with particular regard to amenity space. It would conflict with Policy DM01 of the North Devon and Torrington Local Plan 2011-2031 (the Local Plan) which supports development where it would not significantly harm the amenities of any neighbouring occupiers. Although not identified on the decision notice in relation to this main issue, the proposed development would also conflict with Policy DM04 of the Local Plan where it seeks to ensure the amenities of existing neighbouring occupiers are safeguarded.

Character and appearance

7. The wider development of Silverwood Heights comprises two and three-storey terraced and semi-detached buildings with the taller forms located towards the edges of the estate. The stepped-back alignment of part of the frontages of the semi-detached houses provides relief from the built form on the same side of the road as the appeal site, in contrast to the consistent frontage line of the townhouses opposite.
8. Reference has been made to the lack of built form on the site resulting from the careful design of the wider Silverwood Heights development. Whilst the narrow gaps between the townhouses opposite provide 'breathing spaces' to the built form in the estate as a whole and views from the appeal site towards the open countryside are possible through one gap, this is only possible from a small section of the parking spaces allocated to the flats. Based on my observations during my site visit therefore, given the limited views between the built form towards the open countryside in this location, the prime function of the appeal site is to provide amenity space for the occupiers of the flatted development.
9. The proposed development would result in the loss of an area of planting. However, given its location within the parking court combined with the small scale and scrubby condition of the existing landscape features, its removal would not have a significantly harmful effect on the character and appearance

of the area. Furthermore, additional planting could be required by condition, albeit to the highways side of the site, had I been minded to allow the appeal.

10. I conclude that the proposed development would not cause harm to the character and appearance of the area and would accord with policies ST04 and DM04 of the Local Plan in respect of this main issue. Together, these policies seek to provide development that supports the creation of successful, vibrant places through achieving a series of design principles, amongst other provisions.

Other Matters

11. My attention has been drawn to another appeal¹ at 37 Silverwood Heights which was dismissed, in part, due to the proposed development therein being sited within one of the few gaps between buildings within the development. However, as that site is located opposite a gap between buildings which provides a visual and physical link across the inner area of Silverwood Heights and to an area of open space beyond, it has an important role in providing pedestrian permeability in addition to breaking up the built form. As such, there are materially different circumstances between the two schemes.
12. The proposed development would contribute to the Council's supply of housing. Although the Council was unable to demonstrate a five-year supply of deliverable housing sites when the appeal application was determined, the situation has now changed, and the Council has provided uncontested evidence to show that it now has a 5.9-year supply of deliverable housing land. Therefore, I have not undertaken the presumption in favour of sustainable development, as set out in paragraph 11dii of the Framework, in this case. Notwithstanding this, any social or economic benefits from the construction and occupation of a single dwelling and any environmental benefits would be limited given the scale of the development. Overall, these modest benefits would not outweigh the harm I have identified above and the associated development plan conflict.
13. The site is located within the Zone of Influence of the Braunton Burrows Special Area of Conservation (SAC). The Council's decision notice included a reason for refusal relating to the SAC as it had not been demonstrated that the proposed development would not cause harm to this European Site. Although the appellant has confirmed a willingness to enter into a legal agreement in this respect, I have not been provided with one, nor have I been presented with evidence of a financial contribution having been made. If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the proposed development upon the SAC, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issue above, I have not found it necessary to consider such matters any further as this would not alter the outcome of the appeal.

Conclusion

14. The proposed development conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, that

¹ Appeal ref: APP/X1118/W/20/3245371

suggest a decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

Juliet Rogers

INSPECTOR