



Appeal Decision

Site visit made on 8 October 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/K2420/W/24/3346306

**Barwell Constitutional Club, 20 Chapel Street, Barwell, Leicestershire
LE9 8DD**

- 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 Mr D Richardson against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 23/00716/FUL, dated 19 July 2023, was refused by notice dated 29 April 2024.
 - The development proposed is 3 residential dwellings with associated vehicular access, parking, amenity space and other works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of development as it appears on the Council's Decision letter and the appeal form which reflect the changes made to the scheme after the original planning application was submitted.

Main Issue

3. The main issue is whether the proposal would provide suitable living conditions for residents of the development in terms of outlook and light.

Reasons

4. The appeal site is land adjacent to Barwell Constitutional Club which is sometimes used as outdoor amenity space by the club. The site is located within a mixed use area comprising residential, schools, shops, places of worship, community centre, public houses and restaurants within close proximity. The site is located within the settlement boundary of Barwell where development of the kind proposed is supported in principle.
5. The property occupied by plot one would have a poor outlook from the kitchen window and living room window. The kitchen window would face directly onto the parking area in close proximity and the outlook from the high level living room window would face the 2 storey side elevation of the club in very close proximity, dominating the outlook from the window. In addition, the position of the dwelling relative to the club would lead to a breach of the 45 degree rule to the living room patio window. In the absence of evidence to the contrary, there

would be a harmful loss of sunlight to the occupants of the property as a consequence.

6. The bedroom windows of plot 2 would face onto a 1.8m high fence that separates plot one from plot 2. The close proximity would create a poor outlook and have an enclosing effect, especially given the close proximity with the neighbouring club to the side and the accompanying 3.4 metre high boundary fence.
7. Overall, the layout of the scheme and the positioning of the 3 dwellings in relation to each other and to the neighbouring development would create a cramped, overbearing development.
8. The development would significantly harm the living conditions of occupants of the properties in terms of outlook and light. It would conflict with Policy DM10 of the Site Allocations and Development Management Policies DPD (SADMP) and Policy 22 of the Earl Shilton and Barwell Area Action Plan (ESBAAP). Both policies, amongst other things, require new development to not have a significant adverse effect on the amenity of the occupiers of development.

Other Considerations

9. The proposal would deliver 3 new dwellings which would make a contribution to the Government's objective of significantly boosting the supply of homes. It would do so in a location that is identified in the development plan as being sustainable and in an area where development is already present.
10. The appellant says the development would be suitable for older residents making larger family accommodation available elsewhere. However, there is nothing before me that would secure the development in this way. Overall, I give the benefits of the scheme moderate weight due to the limited scale of the development.
11. I note the appellant's frustrations with the manner in which the Council dealt with the planning application. However, the appeal has been determined on its own planning merits.
12. The appellant has cited another scheme in support of their proposal. However, the schemes are not directly comparable. Differences include the location, the neighbouring uses and layout to the scheme before me. In any event, each proposal is determined on its own merits and that is what I have done.
13. I note the appellants reasons for the proposed development. However, I have little information before me to substantiate that the funds raised by the proposal are necessary to improve the Constitutional Club. In any event, this is outweighed by the harm of the scheme to the living conditions of future residents.

Planning Balance

14. At the time the Council made its decision it acknowledged that it could not demonstrate a 5 year housing land supply and so for decision making purposes paragraph 11d) of the National Planning Policy Framework (NPPF) was engaged. As part of the appeal the Council identified that it could now demonstrate a 5 year supply but that paragraph 11d) was still engaged because of the age of the relevant housing policies.

15. Policy 22 of the ESBAAP and Policy DM10 of the SADMP are the most relevant in considering the proposal. The trigger of paragraph 11d) does not mean that the policies carry no weight. The policies are broadly consistent with the NPPF as a whole which aims to ensure development provides a standard of amenity for its future occupiers. As such I have given conflict with these policies significant weight in this appeal.
16. Paragraph 11d) of the NPPF requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The harm to living conditions arising from the poor outlook and light would mean that the proposed development would fail to provide a high standard of amenity for its future occupiers which is an aim set out in the NPPF.
17. The adverse impacts relating to living conditions would be significant and long lasting in their impact and they would significantly and demonstrably outweigh the benefits associated with the provision of 3 new dwellings. As such the presumption in favour of sustainable development set out in paragraph 11d) of the NPPF does not apply.

Conclusion

18. For the reasons identified I find that the moderate benefits of the proposal would not outweigh the significant harm to the living conditions of the occupants of the development, when assessed against the policies of the NPPF taken as a whole. The appeal should therefore be dismissed.

K Ford

INSPECTOR