The Planning Inspectorate

Appeal Decision

Site visit made on 14 February 2012

by Malcolm Rivett BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 February 2012

Appeal Ref: APP/H1033/A/11/2158918
The Poplars, Talbot Road, Glossop, Derbyshire, SK13 7DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr and Mrs Austin against the decision of High Peak Borough Council.
- The application Ref HPK/2011/0123, dated 4 March 2011, was refused by notice dated 23 May 2011.
- The development proposed is outline application for the erection of 38 Senior Living 50+ Category II sheltered housing apartments with associated communal facilities, car parking and landscaping primarily accessed from Talbot Road with all matters reserved.

Decision

1. The appeal is dismissed.

Applications for Costs

2. Applications for costs were made by High Peak Borough Council against Mr and Mrs Austin and by Mr and Mrs Austin against High Peak Borough Council. These applications are the subject of separate Decisions.

Main Issues

3. The main issues of the appeal are the effect of the proposal on (i) the character and appearance of the area; (ii) the living conditions of neighbouring residents, having particular regard to outlook, light, privacy and disturbance; (iii) bats; (iv) highway safety; and (v) affordable housing provision.

Reasons

4. The application was made in outline with all detailed matters reserved for future consideration. I have determined the appeal on this basis although have had regard to the submitted detailed drawings. Whilst these are marked as illustrative only and the appellants have emphasised that they are seeking an 'in principle decision' only, they have given no clear indication of any other possible way in which they would wish to implement the scheme. Although the DAS discusses other initial options considered, many of these appear to be basically very similar to that shown in the illustrative drawings which is implicitly identified as the best option. Moreover, having regard to the various other initial options set out in the DAS, it appears to me unlikely that it would be possible to develop the steeply sloping site for the 38 apartments for which permission is sought without it involving a building of broadly the footprint and scale of that shown in the illustrative plans.

Character and Appearance

5. The eastern part of Talbot Road is predominantly characterised by large period stone-built houses, of which the dwelling on the appeal site is one. The more modern school buildings on the south side of the road are of different character, although they are typical of a school in an urban area and their prominence is limited by their position below the level of the road.

6. The development would occupy the vast majority of the site and, the school aside, its frontage would be by far the largest of any building in the area being more than double the width of the neighbouring pair of semi-detached houses. Although the overall height of the front part of the building would be about the same as the existing house, and the street's building line would be maintained, it is indicated that the development would lack the house's varied roofscape - ie gables set in a roof receding from the front elevation. As a result of its inevitable size, the proportion of its plot it would occupy and its position squashed between existing houses it would have an obtrusive and incongruous appearance, dwarfing the neighbouring dwellings. It would thus be harmful to the character and appearance of the area. In this respect the development would therefore conflict with policies GD4 and H11 of the adopted *High Peak Local Plan* which require that residential development reflects its setting and is sympathetic to the character of the area, having particular regard to its scale, siting and layout. It also conflicts with the guidance in *Planning Policy Statement 3 – Housing* (PPS3) that new residential development should be well integrated with, and complement, neighbouring buildings.

7. The Council also expresses concern about the architectural style of the proposal. However, its appearance is a reserved matter and, whilst I consider a building of the size indicated is almost inevitable, I envisage that it would be feasible for it to have a very different architectural style to that shown in the illustrative drawings. I agree with the Council that the submitted arboricultural assessment is a relatively limited one, although based on my site visit I consider that only the larger trees close to the road are of particular significance to the character and appearance of the area as appreciated from the public realm. The illustrative plans suggest the removal of the large specimen in the middle of the frontage of the site and I consider some harm to the appearance of the area would be likely to result from this. However, it appears to me that it would be feasible to develop the site for 38 apartments and for this, and the other frontage trees, to be retained. Consequently, subject to appropriate conditions to ensure their retention, I find that the outline application has no conflict in relation to trees with Local Plan policies GD4, GD6 and OC10.

Living Conditions

8. In the absence of a firm detailed design it is not possible to be absolutely certain about the effects of the scheme on the living conditions of neighbouring residents. However, it is almost inevitable that the development would comprise a very large building stretching across the vast majority of the site, including its raised level northern part, and that it would be positioned in relatively close proximity to the neighbouring houses and their gardens. Such a building would be likely to be very dominant in the outlook from the rear of the houses to either side and from their back gardens and would also result in a loss of reflected light and some sunlight in the gardens. It is also almost inevitable that at least some of the apartments' windows would face towards

the neighbours' gardens. Notwithstanding the intention that these would be at least 21m from the windows of the neighbouring houses, bearing in mind the raised level of the rear part of the scheme, the development would be likely to result in overlooking of, and a significant loss of privacy for, the residents to either side, particularly when using their gardens.

9. I also envisage that the noise associated with the general comings and goings of the occupants of 38 apartments and from the apartments' open windows/balconies would be hugely more than that ever likely to result from the site at present. And, given the development's inevitable proximity to the neighbouring houses and gardens, this would have the potential to cause their residents significant disturbance.

10. Consequently, whilst the precise effect of the development cannot be determined at this stage, in the absence of an indication as to how the scheme could be otherwise developed, I conclude that it would be likely to result in significant harm to the living conditions of the neighbouring residents. The scheme is thus contrary to the requirement of Local Plan policies GD5 and H11 that residential development should not result in an unacceptable loss of amenity.

Bats

11. As the appellants themselves point out *ODPM Circular 06/2005* indicates that the presence of protected species (which includes bats) should be established before the grant of planning permission and to my mind it makes sense that that includes outline planning permission. However, it advises that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and being affected by the development. The evidence before me gives an uncertain picture as to the presence of bats in the area: whilst the appellants refer to information from Natural England's website which indicates there are no records of various species of bats in the area, Derbyshire Wildlife Trust has records of bats within 1km of the site, including at a property on Talbot Road. Moreover, neighbours report sightings of bats and, notwithstanding the appellant's submitted checklist, it appears to me that the site is one on which there is a reasonable likelihood that bats would be found. Consequently, given the limited but conflicting evidence on the matter, and bearing in mind the scale of the proposed development, I conclude that I cannot be adequately assured that bats would not be adversely affected by the scheme. Thus, the scheme potentially conflicts with the guidance in *Planning Policy Statement 9 – Biodiversity and Geological Conservation* that development should not result in harm to biodiversity.

Highway Safety

12. The submitted plans indicate two ground level and 20 basement level car parking spaces, the latter accessed by a lift. Although the plans are illustrative, the constraints of the site are such that it appears unlikely to be possible to provide significantly more than 22 off-street parking spaces, which equates to little more than one space per two apartments. The proportion of the development's residents with cars would depend on their age, health and economic status about which there is no certainty. However, the Design and Access statement indicates that users of the facility could be "in full time employment when they first move in, with social habits much more in-line with

the wider population", which implies to me that many of the apartments would be likely to be occupied by households with a car, or even two. On this basis, and despite the site's location close to local facilities, it is reasonably likely that 22 off street parking spaces would not accommodate the development's parking demands. Moreover, whilst relatively few details are provided, it appears to me that the use of the lift to access the basement car park would be, at best, a time consuming inconvenience and that many residents returning home, but intending to use their cars again that day, would be most likely to park on-street. Consequently, there is potential for the development to lead to significant levels of on-street parking on Talbot Road.

13. Within a 100m or so of the appeal site there are two bus stops, two vehicular entrances and one pedestrian entrance to the school, sections of school hazard 'no parking' restrictions and two road junctions. The accesses to the other dwellings along the road further limit on-street parking capacity and the width of the road is such that if cars were to park on both sides of it vehicles could not pass one another. In view of these hazards and restrictions I conclude that the significant levels of on-street parking likely to result from the development would have the potential to present an unacceptable danger to highway safety, particularly at the start and end of the school day when there will be a large number of children in the area. I find therefore that the scheme conflicts with the requirement of Local Plan policy TR5 that development makes appropriate provision for the private car.

14. The appellants refer to the statement in *Planning Policy Guidance Note 13 – Transport* that developers should not normally be required to provide more parking space than they themselves wish. However, this must be considered in the context of para 51 of the more recent PPS3 which indicates that local authorities should develop residential parking policies for their areas taking account of (amongst other things) expected levels of car ownership. I note the reference to another recently approved residential scheme for the elderly which I understand has fewer parking spaces per unit than the appeal scheme. However, in the absence of details indicating that the nature/lifestyle of the residents of that development is comparable with this scheme, this has had little bearing on my decision.

Affordable Housing

15. The appellants argue that the scheme, described as Category II sheltered housing apartments, would fall within Use Class C2, as opposed to Class C3, and that, thus, the Council's requirement for housing development to include an element of affordable accommodation would not apply. The distinction between the two use classes can be somewhat of a grey area, dependent on the precise nature of the scheme. Whilst para 73 of *ODPM Circular 03/2005* states that sheltered housing development will usually fall within Class C3, the appellants point out in the Design and Access Statement (DAS) that the provision of 'a significant element of care' suggests a Class C2 use. Para 4.33 of the DAS describes some of the intended characteristics of the scheme as being similar to a nursing home. However, the illustratively shown/listed communal facilities (which beyond what would normally be expected in any apartment block are essentially limited to a social room and a laundry), the self-contained nature of each 'unit' of living accommodation and the seeming absence of significant central cooking facilities suggest to me a development much more akin to Class C3 warden controlled sheltered housing than to a

nursing home. In reaching this conclusion I have also borne in mind para 5.4 of the DAS which, as previously indicated, refers to the potential for residents to be in full-time employment when they first move in and to para 1.2 which states that the accommodation is "specifically designed to meet the needs of independent retired people".

16. On this basis I conclude that Local Plan policy H9 is applicable to the scheme, that, in principle, it should incorporate an element of affordable housing and that the absence of this would be likely to hinder the provision of such accommodation in the borough. However, policy H9 and the related *Housing Needs in High Peak Supplementary Planning Document* indicate that the level of affordable housing provision will be negotiated between the Council and developer. Notwithstanding their, in principle, opposition to its provision, the appellants have submitted an economic appraisal which suggests a reasonable contribution towards affordable housing would be between nil and £183,119. Although this is disputed by the Council it does not suggest any other figure. Were I otherwise minded to allow the appeal I would have sought views on ways in which an appropriate level of affordable housing could be secured in connection with the outline approval, although in view of my findings on other aspects of the scheme this is unnecessary.

Other Matters and Conclusion

17. I have given consideration to the cited benefits of the scheme including its environmental sustainability (albeit that there is little indication of the likely extent of this) and its potential to free-up under-occupied larger homes in the area (and the capital tied up in them). However, I consider that these benefits do not outweigh the overall harm I have identified that the development would be likely to cause. The appellants argue that the scheme would make efficient use of a brownfield site, although in the light of the amendment to PPS3 it appears to me that the vast majority of the site is not previously-developed.

18. For the above reasons, and having regard to all other matters raised including the comments about the way in which the Council processed and considered the planning application, I conclude that the appeal should be dismissed.

Malcolm Rivett

INSPECTOR