

NEWBURY 19/01084/FULD Pins ref: 3237061	Brook House 60 - 62 Northbrook Street Newbury	Erection of a mansard style roof extension to facilitate the provision of 4 no. self- contained dwelling houses comprising 2 no. 1 bed flats and 2 no. studios.	Dele Refusal	Dismissed. 19.12.2019
--	---	--	-----------------	--------------------------

Application for costs

An application for costs was made by Mr James Sieradzki against West Berkshire Council. This application is the subject of a separate Decision.

Procedural Matters

The application form only refers to the company that made the submission. The appeal form does the same in addition to a named representative. For completeness the Inspector referred to the details in the appeal form in the banner heading above.

A signed and dated unilateral undertaking (UU) was submitted by the appellant following the submission of the appeal and relates to a contribution towards a car club for use by future residents. The Council has been given the opportunity to comment on the UU. He had considered this further below.

The Inspector determined the appeal on its own merits. However, he noted that the appeal proposal is a resubmission of the scheme previously determined at appeal. He had had regard to this decision, where the development of four self-contained flats/studios was dismissed on the grounds that no acceptable mitigation was offered to offset the parking deficiency the Inspector identified. He also had regard, in his assessment, to evidence submitted by the Council that was not before the previous Inspector.

Main Issue

The main issue is the effect of the proposed parking arrangements on highway safety.

Reasons

The appeal site, a large three storey building, incorporating a mix of retail, commercial and residential uses is located in Newbury town centre amongst shops and amenities and in close proximity to rail and bus services. The proposal would involve the construction of a mansard style roof extension that would incorporate 4 self-contained residential units.

The streets surrounding the appeal site and those in the town centre generally, have parking restrictions such as yellow lines and resident parking bays. Parking provision in the town centre is largely limited to pay and display parking. Recognising parking capacity issues in the town centre, the Council's policy on residential parking states that residents of new development will not be eligible for parking permits. Nevertheless, they can obtain season tickets at public car parks, however, based on the Council's evidence, availability is limited currently with applicants being placed on a waiting list. Other parking options include a nearby multi-storey car park that closes at 19:00.

Although only a snapshot in time, the Inspector observed during his lunchtime site visit that the town centre car parks around the appeal site were largely at or nearing capacity.

Policy P1 of the Council's Housing Sites Allocation Development Plan Document (DPD) sets out appropriate parking levels for new residential development. It recognises that central locations have good accessibility to other modes of transport and therefore the level of parking required is lower than in other parts of the town. In this case the proposal generates a requirement for 3 parking spaces. Whilst the proposal would not make provision for any parking at the site, Policy P1 (iii) recognises that there may be exceptional circumstances for

providing parking that does not accord with the expected levels and allows for consideration of cases on an individual basis.

The previous Inspector considered that the availability of public car parks and the use of a car club was an exceptional circumstance in this case. However, he stopped short of allowing the appeal on the basis that there was no mechanism in place to secure a financial contribution towards membership of a car club.

The car club operated locally has 5 vehicles located in the town centre area. Three of the cars are in use by the Council during working hours in the week, whereas the nearest available car during these hours is located approximately 680m away from the appeal site. All the vehicles would be available to future residents of the appeal site on weekends and outside of the hours allotted to the Council. The Inspector recognised the benefits of a car club and the contribution it would have to the provision of alternative modes of transport, therefore, he attached weight to the availability of this mode of transport.

The Inspector acknowledged that the previous Inspector was satisfied that a legal agreement would contribute towards future residents' membership of a car club, which in turn would mitigate the parking shortfall. He also accepted the convenience and monetary benefits associated with car club membership. However, based on the evidence relating to the availability of cars within the scheme during the working week, this, in his view, greatly reduces the reliability of having access to a vehicle. The reduced availability of cars he believed would then make private car ownership a more reliable alternative. The Inspector accepted that the car club could grow the provision of vehicles thereby increasing availability for its members, however, he could not be certain that this would be the case. Furthermore, the recent residential permissions referred to would likely place considerable demand upon the car club's existing vehicle stock. Therefore, he was not convinced that it would be acceptable mitigation to the proposal's parking deficit.

Against this background, the submitted planning obligation would not satisfy all of the tests in Section 122(2) of the Community Infrastructure Regulations 2010 and paragraph 56 of the Framework. Moreover, in the absence of satisfactory mitigation the Inspector had not identified any exceptional circumstances that would allow the proposal to proceed with the current parking shortfall.

Without acceptable mitigation in place and despite the appeal site's town centre location and proximity to a range of alternative modes of transport to the private car, it would be realistic to expect that some future occupiers would own a vehicle. This is highlighted by historic increases in demand for parking permits following the approval of dwellings in the town centre. Moreover, the Appellant has provided details of future trip generation which accepts that some of these would relate to journeys by car. Consequently, the Inspector considered that the proposal's location and access to other modes of transport would not completely negate future car ownership amongst future occupiers.

The central position of the appeal site would mean residents would favour parking in the town centre within convenient walking distance. However, the limited parking opportunities would likely result in car owning future residents parking on nearby streets in restricted areas with consequent risks to highway safety. This would add to existing capacity issues which would in turn erode the quality of the local environment. The Inspector acknowledged that future residents could park further afield away from the town centre where restrictions are not in place, however, this would be inconvenient and less attractive.

The proximity of public pay and display car parks would provide a convenient location for parking for future visitors and residents. However, regular use would involve a cost that would likely deter the use of those facilities, particularly by the future residents. Other nearby parking

opportunities, such as the on street parking bays opposite the appeal site, would further limit the ability to park as these spaces can only be used for a short period of time.

Reference has been drawn to the precedent established by other permissions that approved residential dwellings in the town centre without complying with the parking standards and relying on car clubs to mitigate the under provision. However, the Inspector did not have full details of the circumstances that led to these proposals being accepted, so he could not be sure that they represent a direct parallel to the appeal proposal. He was unable to attach significant weight to these decisions either for or against the appeal scheme. In any event, each proposal should be considered on its own merits, as he had done in this instance and that other developments did not lead him to a different conclusion in respect of the appeal proposal.

The parking arrangements proposed are inadequate and would have an unacceptable impact on highway safety. Consequently, the proposal would be contrary to Policy P1 of the DPD, Policy CS13 and Saved Policy TRANS.1 of the West Berkshire Core Strategy (2006-2026). These policies, require, amongst other considerations, new developments meeting parking standards that transportation needs are met by the provision of a range of different transport modes and that impacts of development on the local transport network are mitigated. The proposal also fails to accord with the Framework, where it requires developments to be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matter

The appeal property is located within the Newbury Town Centre Conservation Area (CA), and close to listed buildings. The previous Inspector found that the development would not harm the setting of the listed buildings, while it would preserve the character and appearance of the CA. As this current proposal remains unaltered in terms of its design, he had no reason to disagree with his view. Notwithstanding the lack of harm identified this is a neutral factor that weighs neither for or against the appeal.

Conclusion

For the reasons given above and taking into account the other matter, the Inspector concluded that the appeal should be dismissed.

Application for costs

Decision

The application for the award of costs is refused.

Reasons

Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

The application for an award of full costs is made on substantive grounds. The Appellant's case essentially rests on the Council affording no weight to the conclusions in the previous Inspector's decision¹, where it was stated that a planning obligation could overcome the harm identified in respect of parking arrangements. The Appellant in turn prepared a planning obligation which the Council went on to consider would be unacceptable in determining the planning application.

In response, the Council say that they took into consideration new evidence that was material to the assessment of highway matters, which was not before the Inspector when he determined the previous appeal. In assessing the new evidence, they also had regard to the previous Inspector's decision and the comments made in respect of the planning obligation relating to a car club.

The Inspector was satisfied that the Council's evidence that related to the general provision of parking represented material changes in circumstances since the previous appeal. This in turn led them to come to a different conclusion than the previous Inspector on the effect on parking provision. He was also satisfied that the Council provided detailed and robust evidence to support its reason for refusal.

The Inspector therefore concluded that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

DC