Appeal Decision

Hearing held on 11 May 2006
Site visit made on 11 May 2006

by Neil Pope **BA (Hons) MRTPI**

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

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Date
18 MAY 2006

Appeal Ref: APP/T3915/A/05/1172804
Land at the rear of Grove House Hotel and Ye Old Well Cottage, Ludwell, Shaftesbury, Dorset, SP7 9ND.

- 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 John Samtani against the decision of Salisbury District Council.
- The application Ref. S/2004/1843, dated 23/8/04, was refused by notice dated 20/10/04.
- The development proposed is the erection of a single detached dwelling.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The appellant submitted additional drawings in support of the application showing sections and levels (Plans B1 and B2 below). These were not received by the Council until after it had refused permission. I agree with the Council that no party would be prejudiced if my decision were made on the basis of these plans. I have determined the appeal accordingly.

2. The appeal site lies within Wiltshire but has a Dorset postal address.

Main Issues

3. There are three main issues:
   (a) the effect upon the character and appearance of the area, which forms part of the West Wiltshire and Cranborne Chase Area of Outstanding Natural Beauty (AONB);
   (b) the effect upon the living conditions of neighbouring residents, having particular regard to the outlook and privacy of the residents of 'Ye Old Well Cottage' and 'Hillside';
   (c) the effect upon highway safety along the A30, having particular regard to car parking.

Planning Policy

4. The development plan includes RPG10[1], the Wiltshire Structure Plan and, the Salisbury District Local Plan (LP) adopted in 2003. I consider that the most relevant policies to this appeal are C5, D2, G2, H16 and TR11 of the LP.

5. Policy C5 aims to protect the landscape qualities of the AONB. Under policy H16 Ludwell is identified as a village where infilling and small scale development is permitted subject to specified criteria. These include proposals that are not tandem or inappropriate backland development and, schemes that would not result in the loss of open areas that contribute positively to the character of the village. (The appeal site lies within the defined Housing

[1] Regional Planning Guidance for the South West

Policy Boundary for Ludwell.) Policy D2 permits street and infill development where it accords with specified criteria, including respecting building lines and the complexity and richness of materials. Policy G2 includes a requirement for proposals, in essence, to safeguard the living conditions of existing occupiers. Policy TR11 relates to off-street car parking and policy R2 to open space.

Reasons

Character and Appearance

6. The appeal site lies within the village of Ludwell and the AONB. It is situated to the south of the A30 and to the rear of the houses known as 'Ye Old Well Cottage' and 'Hillside'. The site is accessed from a driveway that served the former Grove House Hotel. This hotel has now been converted into two dwellings. A terrace of four houses has been built within the car park and on the site of a previous extension at the rear of this former hotel. This new terrace adjoins the western boundary of the site.

7. Ludwell is a dispersed settlement with housing on either side of the A30. Whilst in part this can be described as having a linear pattern of development, dwellings have also been built to the rear of some properties fronting this main road. This existing backland development includes the adjoining terrace and other properties elsewhere in the village. All of these dwellings form part of the character of Ludwell.

8. The proposal would add to the row of existing houses built to the rear of the former hotel. It would not extend development into the surrounding countryside and in my opinion it would not appear at odds with the mixed character of the settlement. From the network of surrounding public footpaths, and in more distant views from the south, the proposal would appear as an integral part of the village. This small-scale development would neither detract from the special landscape qualities of the AONB nor result in the loss of an open area that makes a positive contribution to the character of the village. In the context of LP policy H16 it would not comprise inappropriate backland or tandem development.

9. The proposed dwelling would have an 'L' shaped plan. The ridge height of the main part of the building would be well below that of the end of terrace house to the west. The ridge height of the dining room and bedroom 'wing' would be set even lower. This new gable roofed dwelling would be positioned so that its north elevation would be at an angle to the frontage of the terraced houses to the west. I consider that it would not be unduly prominent in views from the public domain or disrupt any important building line.

10. The mix of proposed cream coloured painted rendered walls and local greensand stone, together with brown coloured machine made plain tiles would be similar to the new terrace alongside. On behalf of the appellant it was conceded that these materials would harm the appearance and distinctive qualities of the area. PPS1[2] recognises the need to secure high quality design including development that creates or reinforces local distinctiveness. This is similar to LP policy D2. Both main parties agreed that the use of natural slate on the roof of the building and stone walls throughout would be appropriate and could be dealt with by means of a planning condition. I see no reason to disagree with the main parties on this matter and also consider that appropriate boundary fencing could be secured in a similar way.

[2] Planning Policy Statement 1 'Delivering Sustainable Development'

11. Concerns have also been expressed that the proposal could set a precedent in respect of adjacent land. Each case must however be determined on its own merits. The appellant has also drawn my attention to the potential constraints of developing neighbouring land. These include access difficulties arising from a significant difference in levels between the appeal site and neighbouring land, the route of an existing sewer and, the likely ransom strip that would exist across the appeal site. Whilst I note that a separate, narrow access serves 'Hillside' I understand that a vehicle using this was involved in an accident with a motorcyclist approximately four years ago. It is far from certain therefore that this would be a suitable access in the event of all other constraints and development control criteria being overcome. I consider that if this appeal were allowed the Council would not be bound to approve any subsequent applications elsewhere.

12. I conclude on the first main issue that subject to the inclusion of appropriate planning conditions the proposed development would not harm the character or appearance of the area, which forms part of the AONB. The proposal would accord with the provisions of LP policies C5, D2 and H16.

Living Conditions

13. During my site inspection I saw the relationship of the appeal site to 'Ye Old Well Cottage' and 'Hillside'. I noted from some of the south (rear) facing windows in 'Hillside' there are attractive and interesting views across the appeal site towards the surrounding countryside and the distinctive water cress beds. I consider that similar views would be likely from 'Ye Old Well Cottage'. The proposal would considerably change the outlook from these neighbouring windows. The owners of neighbouring properties are not however entitled to a view across neighbouring land. Nevertheless, the proposal would erode the pleasant enjoyment that these neighbouring residents derive from this outlook. Whilst my decision does not turn on this matter this change of outlook would be a harmful.

14. I also saw the relationship of the appeal site to the gardens of these neighbouring properties and the lower ground levels within 'Hillside'. I agree with the appellant's agent that it would be the residents of 'Hillside' that would be most affected by the proposal. The proposed dwelling would be built in very close proximity to the western boundary of the garden to 'Hillside'. I consider that when seen from the garden of this neighbouring property the height and large mass of proposed new building would appear overbearing and visually intrusive. The tall, solid flank wall of the proposed dining room and bedroom 'wing' would be especially dominant and overpowering. It would seriously detract from the outlook and pleasant enjoyment of this adjoining garden and would unacceptably erode the living conditions of the residents of 'Hillside'. To a much lesser extent the proposal would also detract from the outlook of the garden of 'Ye Old Well Cottage'.

15. I consider that the degree of separation between windows in these neighbouring houses and those intended for the proposed dwelling, together with appropriate boundary fencing, would avoid any harmful overlooking or significant loss of privacy.

16. I conclude however on the second main issue that the proposal would unacceptably harm the living conditions of the residents of 'Hillside' by reason of visual intrusion and loss of outlook. The proposal would conflict with the aims and objectives of LP policy G2.

Highway Safety

17. Although bus services operate along the A30 Ludwell is distant from main settlements. I consider that residents of the proposed dwelling would be likely to require the use of a car for accessing the numerous services that do not exist within the village. I note from the representations made by the Parish Council and some residents that there is a shortage in off-street parking to serve those properties along the A30. It is clear that this is of considerable concern to the local community. In my opinion the proposal should include off-street car parking to prevent increasing the pressure on the limited parking available and to avoid danger and interruption to the free flow of traffic along the A30.

18. The proposal does not include any additional car parking provision. The appellant however has argued that space exists within the site and adjoining land within his ownership/control to provide parking for this new dwelling. He has calculated that there would be a total of 15 car parking spaces as part of the scheme for the redevelopment of the hotel. This includes spaces in front of the recently completed terraced houses and some covered parking. I saw during my site inspection however that one of these covered spaces appeared to be in use by the occupier of 'Ye Old Well Cottage'. Furthermore, the majority of these new dwellings have yet to be occupied.

19. It is not unreasonable to assume that some incoming residents of this neighbouring scheme could have large vehicles and/or may wish to use trailers. If this were to arise it could curtail the amount of space that could be provided as car parking for the appeal scheme. In my opinion, there is some doubt as to whether adequate space would exist within this adjoining development for the parking and manoeuvring of 15 vehicles. It is likely that some additional space would need to be set aside to meet the parking requirements generated by the occupiers of the proposal dwelling. This could be provided within the area of the appeal site although it would necessitate some alteration to the proposed site layout. I share the appellant's view that this could be achieved by means of a planning condition.

20. The appellant's agent also informed me that his client would aim to provide car parking elsewhere within the village for contractors during the temporary construction phase of the development. I note that the Highway Authority is familiar with the local community's concerns regarding car parking and did not object. There are also no recorded road traffic accident records regarding the use of the access to the appeal site or the lay-by alongside.

21. I conclude on the third main issue that subject to the inclusion of an appropriate planning condition relating to car parking the proposal would not compromise highway safety interests along the A30. The development would accord with LP policy TR11.

Other Matters

22. The proposal would entail the more efficient use of previously-developed land as defined in PPG3[3]. It would be located within the defined settlement limits for the village and would accord with some aspects of the Government's housing policies. This lends support to the argument in favour of allowing the appeal.

23. LP policy R2 is aimed at addressing an identified shortfall for outdoor recreational facilities throughout the District. Residents of the proposed dwelling could reasonably be expected to use and increase the pressure on such facilities. The Parish and District Council's

[3] Planning Policy Guidance Note 3 'Housing'.

representatives and the local ward member all informed me that there was a continuing shortfall within the parish for such facilities. The Parish Council is also awaiting the outcome of an application to the District Council for funding towards extra facilities. Whilst I note the appellant's arguments I consider that there is a greater weight of evidence to support the Local Planning Authority's view that the proposal should make a contribution towards the provision of additional facilities within the area. The appellant accepts that the proposal would conflict with LP policy R2.

24. I note that the appellant intended to address this matter by way of a commuted payment in the form of a planning obligation under the provisions of section 106 of the Town and Country Planning Act 1990. There is however no completed obligation before me. Instead, the appellant has suggested that a planning condition, worded in the negative form, could be imposed. The Council does not object provided such a condition was legally sound. In my opinion, there may well be scope for resolving this matter by way of an appropriately worded planning condition. My decision does not therefore turn on this issue.

25. Some residents have drawn my attention to the relationship of the appeal site to the River Nadder and previous flooding that has occurred on part of the site. PPG25[4] provides that flood risk is an important consideration. The Environment Agency was not consulted on the application as the site was not identified by the Council as being at risk of flooding. The LP Proposals Map shows indicative floodplains and is based on the 1 in 100 year flood. This does not show the appeal site as being at risk of flooding. I am mindful of the close proximity of the site to the River Nadder and do not set aside lightly the anecdotal evidence of some residents. However on the basis of the technical information available to me, albeit limited, I consider on balance that there are insufficient grounds for withholding permission on this issue.

26. The effect upon property values would not be a sound reason for dismissing the appeal.

Conclusions

27. I have found that subject to the imposition of appropriate planning conditions the proposed development would not harm the character or appearance of the area or compromise highway safety interests. In addition, it may also be possible to impose a condition relating to a scheme for recreational open space provision. The development would accord with aspects of the Government's housing objectives and on balance, would not be at risk of flooding or increase the risk of flooding elsewhere. I consider however that these matters do not overcome or outweigh the serious harm that I have identified to the living conditions of the residents of 'Hillside'. For the reasons given above and having regard to all other matters raised, I therefore conclude that the appeal should not succeed.

Formal Decision

28. I dismiss the appeal.

Neil Pope

Inspector

[4] Planning Policy Guidance Note 25 'Development and Flood Risk'

APPEARANCES

FOR THE APPELLANT:

Mr M D Brown FRICS, DipTP, MRTPI, MEWI	Associate, Horsey Lightly Fynn, 3 Poole Road, Bournemouth, Dorset, BH2 5QJ.

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Madge	Planning Officer

INTERESTED PERSONS:

Cllr J Cole-Morgan	District Council Ward Member, Greenstone Byre, Charlton, Shaftesbury, Dorset, SP7 0EN.
Mr J Pendrill	Clerk to Donhead St. Mary Parish Council, Boscobel Cottage, Peckons Hill, Ludwell, Shaftesbury, Dorset, SP7 0PN.
Cllr P Lucas	Parish Councillor, Lillies Green Cottage, Donhead St. Mary, Shaftesbury, Dorset, SP7 9DS.
Ms H Kelly	3 Sunnybank Cottages, Donhead St. Mary, Shaftesbury, Dorset, SP7 9DL.
Mrs E Legg	Greenacre Farm, Ludwell, Shaftesbury, Dorset, SP7 9ND.
Mr and Mrs Scott	Hillside, Ludwell, Shaftesbury, Dorset, SP7 9ND.

DOCUMENTS:

Document 1	List of persons present at the Hearing.
Document 2	The Council's letters of notification of the Hearing and list of those notified.
Document 3	Responses to the Council's letters of notification.
Document 4	Statement by Mr and Mrs Scott.
Document 5	Appendix IV to the LP (Public Open Space Provision).

DRAWINGS:

Plans A1-A3	The application drawings.
Plans B1-B2	Sections and levels.