



Appeal Decision

Site visit made on 19 October 2009

by **B J Juniper** BSc, DipTP, MRTPI

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

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Decision date:
27 October 2009

Appeal Ref: APP/Y3940/A/09/2105980

Little Ridge, Southampton Road, Alderbury, Salisbury, SP5 3AG

- 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 Argyle Mansions Ltd against the decision of Wiltshire Council.
- The application Ref S/2008/1611, dated 15 September 2008, was refused by notice dated 16 December 2008.
- The development proposed is the change of use from a single dwelling to a five-bedroom guest house.

Application for Costs

1. An application for costs was made by Argyle Mansions Ltd against Wiltshire Council. This application is the subject of a separate Decision.

Decision

2. I allow the appeal, and grant planning permission for the change of use from a single dwelling to a five-bedroom guest house at Little Ridge, Southampton Road, Alderbury, Salisbury in accordance with the terms of the application, Ref: S/2008/1611, dated 15 September 2008, and drawings numbered L.103/D; 0519-PR-151/E and 0519-PR-152/C, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The use hereby permitted shall not commence until a scheme for the external lighting of the site to include levels of illuminance at the boundaries and the hours of operation of all external lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed and thereafter operated in accordance with the approved scheme.
 - 3) The use hereby permitted shall not commence until full details of landscape works for a vegetation screen along the eastern boundary of the site have been submitted to and approved in writing by the local planning authority. The works shall be carried out within nine months of the date of that approval. Any plants which are removed, die or become diseased shall be replaced in accordance with the approved scheme for a period of five years from the date of that approval.
 - 4) The use hereby permitted shall not commence until parking spaces No. 1 to 8 shown on drawing No. L103/D have been marked out on the site. These spaces shall thereafter be retained for their designed use.
 - 5) The use hereby permitted shall not commence until refuse storage accommodation has been provided in accordance with the details shown on drawing No. L103/D. The store shall thereafter be retained for its designed use.

Procedural Matter

3. Revised proposals, reducing the number of guest rooms to five and including amended drawings, were submitted during the processing of the application and are referred to in the formal decision in paragraph 2 above. I have taken them into consideration as they showed only modest changes from those originally sent to the Council and thus do not prejudice the interests of any party.

Main Issues

4. I consider that the main issues are the effect of the proposal on the living conditions of adjoining occupiers, with particular regard to privacy, noise and disturbance; and on highway safety.

Reasons

5. Dealing with the first main issue, 'Little Ridge' is a recently extended detached house which stands well back from Southampton Road on a large plot and is flanked by two other detached houses. The east side of 'Little Ridge' includes windows to two bedrooms at first floor level, one of which has a shallow balcony, facing towards 'Pinewood'. This house, which is at a noticeably lower level, has two windows facing towards 'Little Ridge' but these appear to be obscure-glazed. The level difference, and the fact that the fence between the properties is at the bottom of the slope which accommodates that difference, means that there is potentially a view from the garden of 'Little Ridge' into the garden of 'Pinewood'. However, that does not seem to me to be an unusual circumstance and I think it unlikely that patrons of the guest house accommodation would habitually walk around this part of the site. Nevertheless, the situation could be improved by appropriate landscaping and I agree with the appellants' suggestion that a condition to that effect would achieve the necessary mitigation. Whilst I accept that the occupiers of 'Pinewood' previously enjoyed the benefit of a more substantial screen of vegetation along the boundary, that was not subject to any protection and could have been removed at any time. The balcony is not large enough for sitting out on and, given that the windows are some 14m from the common boundary, I do not consider that relationship between the two properties would be unacceptable.
6. 'Little Ridge' is appreciably closer to 'Rushall', the house to the west, but the boundary between the sites is marked by a fence on a low wall which is more than sufficient to achieve mutual privacy for ground floor rooms. 'Rushall' has one first floor window facing the appeal site but its relationship to the side windows in 'Little Ridge' is such that only an oblique view would be possible, thus ensuring mutual privacy.
7. Much of the large front garden of 'Little Ridge' has been hard-surfaced and it is the appellants' intention to use this area for parking and servicing of the development. There is, therefore, the potential for manoeuvring vehicles to create noise and disturbance to neighbouring occupiers. However, whilst I accept that there would be likely to be more vehicle trips to and from the site than would arise from the use of the premises as a dwelling, the relatively small number of bedrooms means that the increase in trips would be modest, even if the guest house achieved high levels of occupancy. A landscaping screen close to the eastern boundary, as envisaged to enhance privacy, would also serve to reduce the impact of vehicle lights on 'Pinewood'.

8. I acknowledge concerns expressed by nearby occupiers about the external lighting of the site and I saw that a number of lights have already been positioned on the building. However, I agree with the Council's suggestion that their use could be controlled by a condition in such a way as to prevent nuisance arising. I am also conscious that objections have been received to the installation of air conditioning units on the site but this is not part of the development before me and is not relevant to my consideration of the scheme.
9. I conclude that the proposal would not harm the living conditions of adjoining occupiers or run contrary to the provisions of criteria (vi) and (viii) of Policy G2 in the Salisbury District Local Plan (LP) which seek to prevent overlooking, noise and light intrusion or other forms of disturbance.
10. Turning to the second main issue, the Council's reason for refusal of the scheme refers to the burden that increased from the development would place on the local road network. This effect is not, however, quantified in its statement. I saw that the access, which joins that to 'Pinewood House' and then emerges onto Southampton Road, has adequate visibility in either direction. Southampton Road itself is of a good standard and the site is within a 30mph speed limit on a length of road with speed-reducing humps. Since Alderbury is a substantial settlement, it seems to me that the proportional increase in traffic arising from the scheme would be modest and I have been presented with no evidence which would lead me to the view that the proposal would lead to danger or inconvenience to road users. I conclude that the proposal would not result in harm to highway safety or conflict with criterion (ii) of LP Policy G2 which aims to prevent development which would place an undue burden on local road networks.
11. As indicated above, I consider it necessary to require a landscaping scheme and to impose controls on external lighting with a view to minimising the impact of the scheme on adjoining occupiers. I agree with the Council that potential nuisance can be avoided by ensuring that refuse storage facilities are provided. Its suggested condition relating to parking spaces, altered to take account of the partially completed garage, is also necessary to ensure that adequate manoeuvring space is retained within the site. I have adapted some of the suggested conditions with regard to the advice in Circular 11/95 - *The Use of Conditions in Planning Permissions*.
12. I acknowledge that local residents have been concerned about a number of aspects of the development of the appeal site in recent years, but the only matter before me is the proposal to change the use of the premises. I have found that, subject to the imposition of appropriate conditions, no material harm would arise from the proposal and for that reason the appeal succeeds. I have taken into account all other matters raised in the representations but I have not found any evidence to outweigh the main considerations which have led to my decision.

B J Juniper

INSPECTOR



Costs Decision

Site visit made on 19 October 2009

by **B J Juniper** BSc, DipTP, MRTPI

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Decision date:
27 October 2009

Costs application in relation to Appeal Ref: APP/Y3940/A/09/2105980 Little Ridge, Southampton Road, Alderbury, Salisbury, SP5 3AG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Argyle Mansions Ltd for a full award of costs against Wiltshire Council.
- The hearing was in connection with an appeal against the refusal of an application for planning permission for the change of use from a single dwelling to a five-bedroom guest house.

Summary of Decision: The application is allowed in the terms set out below in the Formal Decision and Costs Order.

Reasons

1. Circular 03/2009 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 or wasted expense in the appeal process.
2. Paragraph B16 of the Circular requires authorities to produce evidence at the appeal stage to show why the development cannot be permitted. Elected members are not bound to accept the recommendations of their officers but, as paragraph B20 explains, if the professional and technical advice of the officers is not followed, authorities must show reasonable grounds for taking a contrary decision. I acknowledge that in this case there was vociferous local opposition to the proposal but it is made clear at paragraph B21 that this is not in itself a reason for withholding permission. Such opposition must be founded on valid planning reasons supported by substantial evidence.
3. The Council produced very limited evidence to support its reasons for refusal of the application. Whilst I accept that the assessment of alleged loss of privacy and of disturbance from noise or light pollution are to some extent a matter of subjective judgement, no material was submitted by the Council during the processing of the appeal which in any way substantively enlarged upon its reasons for refusal or the objections submitted by local residents and the Parish Council. The scheme did not attract an objection from the local highway authority and no evidence was provided to support the criticism that the proposal would place an undue burden on the local highway network. Paragraph B23 of the Circular requires Councils to give thorough consideration to advice from statutory consultees but I have no indication that this was undertaken in this case.

4. I am aware that there have been other planning issues arising from works carried out at the site and that enforcement action is being considered in relation to air conditioning units allegedly installed at the site. These were not matters covered by the appeal proposal, however, and should not have had any bearing on the Council's consideration of the scheme. In fact the Council's statement did no more than reiterate the planning history and policy background before simply reproducing the text of the reasons for refusal. It produced nothing to indicate why it had gone against the recommendations of its officers and the highway authority.
5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

Formal Decision and Costs Order

6. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Wiltshire Council shall pay to Argyle Mansions Ltd the costs of the appeal proceedings, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
7. The applicant is now invited to submit to Wiltshire Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.

B J Juniper

INSPECTOR