

BARNSLEY METROPOLITAN BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL MR P FIRTH

LAND ADJACENT TO 45 LOCKE AVENUE, BARNSLEY, S70 1QH

**APPEAL STATEMENT SUBMITTED
ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

**LPA REF: 2019/0800
INSPECTORATE REF: APP/R4408/W/19/3240980**

Introduction

This appeal is against the decision of Barnsley Metropolitan Borough Council to refuse planning permission 'Erection of 4 storey detached building to house 8 no. apartments (Outline seeking approval over layout, scale, access and appearance)'. The application was refused planning permission on the 10th September 2019 for the following reasons;

1. In the opinion of the Local Planning Authority the proposals would amount to overdevelopment of the site that would give rise to noise and disturbance issues harming the living conditions of adjacent properties as a result of the number of flats proposed to be accommodated within the building and the associated activity levels. In addition the flats would fail to deliver the adequate standards of amenity for future residents by virtue of them not being large enough to satisfy the minimum internal space standards set out in the South Yorkshire Residential Design Guidance, poor outlook natural daylight levels into the habitable rooms at lower ground floor level and inadequate provision of external amenity space for future residents. The proposals are therefore contrary to Local Plan policies GD1 'General Development', D1 'High Quality Design and Place Making' and the Designing New Housing Development SPD

2. In the opinion of the Local Planning Authority the proposed dwelling would be contrary to NPPF paragraphs 124 and 130, Local Plan policies GD1 'General Development', D1 'High Quality Design and Place Making' and the Council's Supplementary Planning Document 'Designing New Housing Development' in that its excessive four storey mass and design features would not relate sympathetically to existing development located abutting the site and would give rise to harm to the living conditions for the residents of adjacent dwellings via appearing overbearing, causing overshadowing and loss of privacy. As such, it is considered that the proposals would represent an incongruous addition to the locality that would be significantly harmful to the character and visual amenity of the street scene and residential amenity.

3. In the opinion of the Local Planning Authority the development fails to provide adequate levels of off street parking for a development of this size, resulting in an increased demand for off street parking in an area where on street parking space is already oversubscribed, resulting in further obstructions to the free and safe flow of traffic harming highway safety, contrary to Local Plan Policy T4 New Development and Transport Safety.

4. The development would result in the rear garden of 263 Park Road being reduced to a depth which would mean that habitable rooms would face the amenity space for the proposed development at below the minimum 10m separation distance that is required by the Designing New Housing Development SPD. Accordingly the development is contrary to the requirements of the SPD in that it would fail to deliver the required amount of privacy for both sets of residents. It would therefore have an adverse impact on the setting of that dwelling and the size of its remaining garden area also making the proposal contrary to Local Plan Policy H9 Protection of Existing Larger Dwellings which aim to prevent both of those impacts from occurring and as both of those factors would be contrary towards the H9 policy aim of re-establishing Houses of Multiple Occupation into family housing.

5. In the opinion of the Local Planning Authority the development has the potential to lead to the intensification of a substandard access to the rear of the site which is of inadequate width and two way visibility to accommodate movements associated with the land to the rear being utilised for parking proposes. Vehicle movements in such circumstances would create conditions prejudicial to highway safety by resulting in conflicts between passing traffic and reversing manoeuvres onto the highway and by creating noise and disturbance harming the living conditions of adjacent dwellings. The proposals are therefore contrary to Local Plan

Policy T4 New development and Transport Safety, Local Plan policy GD1 'General Development' and the Council's Supplementary Planning Document 'Designing New Housing Development'.

The Site and its Surroundings

The site currently forms part of the rear garden of 263 Park Road (a corner plot) and is located adjacent to 45 Locke Avenue which lies to the north.

Locke Avenue is located just off the A6133 Park Road and is to the north of Locke Park. The area is characterised by a mix of housing types and styles, however is predominantly Victorian in design.

The application site also includes an unadopted access way to the rear of the land from Blenheim Road that is shared with other properties that passes immediately by the side of 146 Blenheim Road.

Planning History

2016/0948 – Residential development of 1no dwelling (outline). Approved 20/11/2017. The application was in outline with all matters reserved, with the exception of access. A site plan was submitted with the application, demonstrating that a single dwelling can be sited on the land, which meets the required separation distances and provides the adequate parking standards.

2018/1281 – Erection of 3 storey detached building to house 6no apartments (Outline seeking approval over layout, scale, access and appearance).

The applicant sought outline permission for the erection of a 3 storey detached building to provide 6no apartments seeking approval for access, appearance, layout and scale. 118m² of amenity space to be provided to the south of the building at its side. The plans indicated 4 on-site parking spaces utilising the access to the rear which would be achieved via the demolition of a garage. In addition on street parking for 2 cars was indicated outside of the property.

The application was refused in April 2019 for the following reasons:

- 1. In the opinion of the Local Planning Authority the proposals would amount to overdevelopment of the site that would give rise to noise and disturbance issues harming the living conditions of adjacent properties as a result of the number of flats proposed to be accommodated within the building, the number of parking spaces proposed to be accommodated within the site and the associated external pedestrian activity from residents and visitors. In addition the flats would fail to deliver the adequate standards of amenity for future residents by virtue of flats 5 and 6 not being large enough to satisfy the minimum internal space standards set out in the South Yorkshire Residential Design Guidance. The proposals are therefore contrary to Local Plan D1 High Quality Design and Place Making and the Designing New Housing Development SPD.*
- 2. In the opinion of the Local Planning Authority the development would result in the intensification of a substandard access that it is of inadequate width and two way visibility to accommodate the amount of parking proposed. The development would therefore create conditions prejudicial to highway safety by resulting in conflicts between vehicles and reversing manoeuvres onto the highway. The proposals are therefore contrary to Local Plan Policy T4 New development and Transport Safety.*

3. *In the opinion of the Local Planning Authority the development would harm the living conditions of adjoining dwellings by giving rise to noise and disturbance issues arising from the parking area located to the rear of the building adjacent unrelated private gardens, the associating turning and manoeuvring and the intensification of a narrow private drive passing immediately next to an existing dwelling. Accordingly the proposed development is contrary to Local Plan policies Policy GD1 General Development, D1 High Quality Design and Place Making and Policy Poll1 Pollution Control and Protection.*
4. *The development would result in the depth of the rear garden of 263 Park Road being reduced to a depth of 6m which would mean that habitable rooms would face the amenity space for the proposed development at below the minimum 10m separation distance that is required by the Designing New Housing Development SPD. Accordingly the development is contrary to the requirements of the SPD in that it would fail to deliver the required amount of privacy for both sets of residents. It would therefore have an adverse impact on the setting of that dwelling and its remaining garden resulting in the proposal also being contrary to Local Plan Policy H9 Protection of Existing Larger Dwellings.*

Application proposals

The applicant seeks outline permission for the erection of 8no apartments within a 4 storey detached building with all matters to be considered with the exception of landscaping which is to be reserved for later consideration.

The building is to have a footprint of 11m by 12.7m and is to be sited in the rear garden of 263 Park Road and fronting onto Locke Avenue.

The scheme is to provide 2no apartments at lower ground floor, ground floor and first floor and 2no apartments within the roof space at second floor level.

No parking or amenity space has been provided as part of the application.

Planning Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making.

The new Local Plan was adopted at the full Council meeting held 3rd January 2019 after it was found to be sound by the appointed Planning Inspector following the examination process. This means that it now takes on full weight for decision making process in planning law terms as the development plan for the Borough, superseding the remaining saved policies from the Unitary Development Plan (adopted in the year 2000) and the Core Strategy (adopted in 2011).

The site is allocated as Urban Fabric within the Local Plan Proposals Maps and therefore the following policies are relevant:

Policy H4 Residential Development on Small Non-allocated sites

Proposals for residential development on sites below 0.4 hectares (including conversions of existing buildings and creating dwellings above shops) will be allowed where the proposal complies with other relevant policies in the Plan.

Policy H9 Protection of Existing Larger Dwellings

Development within the curtilage of existing larger dwellings will be resisted where it will have

an adverse impact on the setting of the original dwelling, and the size of the remaining garden area.

The loss of existing larger dwellings will be resisted. Support will be given to the re-establishment of Houses in Multiple Occupation into single family sized houses.

The supporting text to Policy H9 states:

As well as provision as part of our housing mix of some new low density, large dwellings and family housing, it is also important to ensure the endurance of existing housing stock of this type. In recent years dwelling conversions have been taking place at an increasing rate in the borough. These conversions have resulted in a loss of larger homes and an increase in the number of smaller homes contributing to the imbalance in the housing stock towards smaller homes. This has been a problem particularly in Urban Barnsley around the Town Centre. The Government has changed the designation of garden areas from 'brownfield land' to 'greenfield land', in an attempt to resist development of additional houses within the curtilage of larger homes, known as 'garden grabbing', as this has also had an adverse impact on larger housing stock. Often additional dwellings have been built within their curtilage, resulting in an adverse impact on the original dwelling. In order to further protect larger homes, we will resist the conversion of larger homes into flats and other non self contained housing such as Houses in Multiple Occupation and support their re-introduction into family-sized homes. Where this conflicts with policy GD1, this policy will take precedence if it maintains the existence of a large dwelling. This policy will also take precedence over any infill development that would normally be allowed under the Designing New Housing Development SPD, where that development would have an adverse impact on an existing large house. We will also resist development in gardens of larger dwellings where this will have an adverse impact on the original dwelling and its continued function. The definition of 'larger dwelling' will be contained in the Designing New Housing Development Supplementary Planning Document

Policy GD1 General Development

Proposals for development will be approved if:

- There will be no significant adverse effect on the living conditions and residential amenity of existing and future residents;
- They are compatible with neighbouring land and will not significantly prejudice the current or future use of the neighbouring land;
- They will not adversely affect the potential development of a wider area of land which could otherwise be available for development and safeguards access to adjacent land;
- They include landscaping to provide a high quality setting for buildings, incorporating existing landscape features and ensuring that plant species and the way they are planted, hard surfaces, boundary treatments and other features appropriately reflect, protect and improve the character of the local landscape;
- Any adverse impact on the environment, natural resources, waste and pollution is minimised and mitigated;
- Adequate access and internal road layouts are provided to allow the complete development of the entire site for residential purposes, and to provide appropriate vehicular and pedestrian links throughout the site and into adjacent areas;
- Any drains, culverts and other surface water bodies that may cross the site are considered;
- Appropriate landscaped boundaries are provided where sites are adjacent to open countryside;
- Any pylons are considered in the layout; and
- Existing trees that are to remain on site are considered in the layout in order to avoid overshadowing.

The supporting text to Policy GD1 states:

Further detail on some of these issues is set out in Policy D1 Design which sets the overarching design principles for the borough, and associated Supplementary Planning Documents on Residential Amenity and the Siting of Buildings, Designing New Housing Development and Advertisements.

We want to make sure that the living conditions and residential amenity of people are protected, that development is set within high quality landscaping and that land is used efficiently by making sure that new development does not reduce development opportunities on neighbouring land.

We will assess impact on living conditions and residential amenity in relation to:

- Noise, smell, dust, vibration, light, air, surface water, groundwater or other pollution and disturbance from any proposed activity, including traffic related noise and the comings and goings of visitors to premises particularly when late evening activity is involved.
- Overlook and privacy
- Outlook from dwellings including consideration of whether structures in close proximity to windows are considered visually over dominant.
- Daylight/sunlight and overshadowing and
- Landscaping and boundary treatments

Policy D1 High Quality Design and Place Making

Design Principles:

Development is expected to be of high quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and features of Barnsley, including:

- Landscape character, topography, green infrastructure assets, important habitats, woodlands and other natural features;
- Views and vistas to key buildings, landmarks, skylines and gateways; and
- Heritage and townscape character including the scale, layout, building styles and materials of the built form in the locality.

Through its layout and design development should:

- Contribute to place making and be of high quality, that contributes to a healthy, safe and sustainable environment;
- Complement and enhance the character and setting of distinctive places, including Barnsley Town Centre, Penistone, rural villages and Conservation Areas;
- Help to transform the character of physical environments that have become run down and are lacking in distinctiveness;
- Provide an accessible and inclusive environment for the users of individual buildings and surrounding spaces;
- Provide clear and obvious connections to the surrounding street and pedestrian network;
- Ensure ease of movement and legibility for all users, ensure overlooking of streets, spaces and pedestrian routes through the arrangement and orientation of buildings and the location of entrances;
- Promote safe, secure environments and access routes with priority for pedestrians and cyclists;
- Create clear distinctions between public and private spaces;
- Display architectural quality and express proposed uses through its composition, scale, form, proportions and arrangement of materials, colours and details;
- Make the best use of high quality materials;
- Include a comprehensive and high quality scheme for hard and soft landscaping; and
- Provide high quality public realm.

In terms of place making development should make a positive contribution to achieving qualities of a successful place such as character, legibility, permeability and vitality.

The supporting text to Policy D1 states:

Development should take account of the following design standards and guidance (and any future updates of these) which will be used (but not exclusively) to help assess the quality of design:

- Building for Life 12 (for residential developments of 10 or more dwellings).
- Secured By Design/ Safer Places- the Planning System and Crime Prevention.
- Manual for Streets (for residential developments).
- Manual for Streets 2- Wider Application of the Principles (which takes this guidance beyond just residential developments).
- The South Yorkshire Residential Design Guide.

Policy T3 New Development and Sustainable Travel

New development will be expected to:

- Be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cyclists;
- Provide at least the minimum levels of parking for cycles, motorbikes, scooters, mopeds and disabled people set out in the relevant Supplementary Planning Document;
- Provide a transport statement or assessment in line with guidance set out in the National Planning Policy Framework and guidance including where appropriate regard for cross boundary local authority impacts; and
- Provide a travel plan statement or a travel plan in accordance with guidance set out in the National Planning Policy Framework including where appropriate regard for cross boundary local authority impacts. Travel plans will be secured through a planning obligation or a planning condition.

Where levels of accessibility through public transport, cycling and walking are unacceptable, we will expect developers to take action or make financial contributions in accordance with policy I1.

If it is not possible or appropriate for the minimum amount of parking for cycles, motorbikes, scooters and mopeds to be met on site, the developer must provide, or contribute towards, off-site parking, or improve or provide other forms of travel.

Policy T4 New development and Transport Safety

New development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.

If a development is not suitably served by the existing highway, or would create or add to problems of safety or the efficiency of the highway or any adjoining rail infrastructure for users, we will expect developers to take mitigating action or to make a financial contribution to make sure the necessary improvements go ahead. Any contributions will be secured through a planning obligation or planning condition.

Policy Poll1 Pollution Control and Protection

Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.

We will not allow development of new housing or other environmentally sensitive development where existing air pollution, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.

Developers will be expected to minimise the effects of any possible pollution and provide mitigation measures where appropriate.

SPDs/SPGs

Supplementary Planning Document – Design of Housing Development (Adopted May 2019) – primarily supplements Local Plan Policy D1 High quality Design and Place Making, and sets out the principles that will apply to the consideration of planning applications for new housing development, including conversions, infill and backland development. It also provides the definition of ‘larger dwellings’

Section 7 page 8 states *“Local Plan Policy H9 Protection of larger Existing Dwellings resists development within the curtilage of existing larger dwellings where it will have an adverse impact on the setting of the original dwelling, and the size of the remaining garden area. For the purposes of this policy we consider ‘larger dwellings’ to be those that have four or five bedrooms, or are capable of accommodating four or five bedrooms without significant adaptation”*

Supplementary Planning Document – Residential Amenity and Siting of Buildings (Adopted May 2019)

Supplementary Planning Document – Parking (Adopted November 2019)

The South Yorkshire Residential Design Guide (SYRDG)

National Planning Policy Framework

The National Planning Policy Framework sets out the Governments planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise.

Chapter 12, Paragraph 127 states that:

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished

between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

Following the adoption of the Local Plan in January 2019 a series of Supplementary Planning Documents were produced and subsequently adopted in May 2019 and November 2019 and provide support in the implementation of the Local Plan Policies when assessing planning applications.

Justification of Reason 1 for refusal

In the opinion of the Local Planning Authority the proposals would amount to overdevelopment of the site that would give rise to noise and disturbance issues harming the living conditions of adjacent properties as a result of the number of flats proposed to be accommodated within the building and the associated activity levels. In addition the flats would fail to deliver the adequate standards of amenity for future residents by virtue of them not being large enough to satisfy the minimum internal space standards set out in the South Yorkshire Residential Design Guidance, poor outlook natural daylight levels into the habitable rooms at lower ground floor level and inadequate provision of external amenity space for future residents. The proposals are therefore contrary to Local Plan policies GD1 'General Development', D1 'High Quality Design and Place Making' and the Designing New Housing Development SPD

The site forms part of the rear garden associated with 263 Park Road and as such the surrounding residents will have come to expect some level of peace and tranquillity within their amenity space. The bin and cycle storage associated with the proposed building is to be located within the rear of the premises, along with the access for flats 1 and 2. It is considered that this will increase comings and goings and activity to the rear of the premises by residents and visitors which would not otherwise occur.

Paragraph 5.12 of the appellants grounds of appeal notes that the South Yorkshire Design Guide has been superseded by changes in national policy since the need to significantly boost the supply of new housing. It is acknowledged that there is a government objective to boost the supply of housing, however it is not considered that it should be at the expense of residential amenity.

The supporting text to Policy D1 states that development should take account of the following design standards and guidance (and any future updates of these) which will be used (but not exclusively) to help assess the quality of design including, amongst others The South Yorkshire Residential Design Guide. The Local Plan was adopted in January 2019 and went through extensive scrutiny at the Examination Stage, it is the opinion of the LPA that had this document been considered superseded it would not have been included within the Local Plan document.

In the same paragraph the appellant acknowledges the fact that the scheme is not 'perfect' and neither is the site due to its constraints however its sustainable location outweighs these concerns and that any future occupier would be very aware of these constraints. Nevertheless, this would not mitigate or overcome the harm identified or be an acceptable reason for such circumstances to exist.

The appellant states that the shortfall in terms of floor space is minimal, it is acknowledged that flats fall minimally short of the overall floor area for a dwelling of this type; between 4m² and 7m² and in some circumstances these floor areas may have been considered acceptable, however, in this instance, flats 7 and 8 are to be located within the roof space of

the proposed buildings and due to the design and pitch of the roof would significantly reduce the useable floor space of these units to a substandard level.

The appellant goes on to further say that the Supplementary Planning Document is largely targeted at new housing sites; paragraph 2.2 on page 4 of Supplementary Planning Document: Design of Housing Development states “...sets out the principles that will apply to the consideration of planning applications for new housing development, including conversions, infill and backland development”

The building has been designed to take into account of the level differences between the site and Locke Avenue which have resulted in two basement flats, where the amenity of the future occupants will be severely compromised. These bedrooms would have a single window in the east elevation and would be located approximately 3.9m from the eastern boundary of the site marked by a substantial retaining stone wall approximately 3.1m in height, resulting in a very limited outlook for future occupiers. Furthermore, given the proximity and height of the boundary, this would result in an oppressive and unacceptable sense of enclosure.

Justification of Reason 2 for refusal

In the opinion of the Local Planning Authority the proposed dwelling would be contrary to NPPF paragraphs 124 and 130, Local Plan policies GD1 'General Development', D1 'High Quality Design and Place Making' and the Council's Supplementary Planning Document 'Designing New Housing Development' in that its excessive four storey mass and design features would not relate sympathetically to existing development located abutting the site and would give rise to harm to the living conditions for the residents of adjacent dwellings via appearing overbearing, causing overshadowing and loss of privacy. As such, it is considered that the proposals would represent an incongruous addition to the locality that would be significantly harmful to the character and visual amenity of the street scene and residential amenity.

SPD 'Designing New Housing Development' States 'Development must respect local context, history, built heritage, character and communities, ensuring that proposed developments preserve or enhance local physical, environmental, social, cultural, historical and economic characteristics. The design of new developments must be based on an appraisal of existing landscape and settlement character. The primary design source for maintaining character should be the character area in which the site is located if this is a positive source.

Local Plan policy D1 goes onto state ‘*Development is expected to be of high quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and features of Barnsley.*’

The applicant's agents comments in paragraphs 4.5 - 5.7 are noted, however, even though there is a mix of properties within the wider area, the local area is dominated by modest two storey family homes and the design of the 4 storey apartment block would be out of character with the area, especially when viewed against the adjacent dwelling 45 Locke Avenue

The authority does not dispute the area is characterised by a mix of house types and it is worth noting that a similar scheme (2018/1281), whilst was refused, was not refused on visual amenity grounds. However, that scheme was of a smaller scale and provided a better-quality balance between 263 Park Road and 45 Locke Avenue than the scheme proposed. In addition to this the design of the fenestration was more subdued and did not include a

proliferation of Juliette balconies on the front elevation, which are not characteristic of the area. Notwithstanding the above, this scheme was still considered unacceptable on 4 other grounds and was not subject to a planning appeal.

The proposed building would be large in both height and depth and would be developed close to the boundary with 45 Locke Avenue, approximately 750mm. The proximity of the building to the habitable room windows would have an unavoidable and overbearing presence that would dominate the outlook, harming living conditions of the applicant.

Justification of Reason 3 for refusal

In the opinion of the Local Planning Authority the development fails to provide adequate levels of off street parking for a development of this size, resulting in an increased demand for off street parking in an area where on street parking space is already oversubscribed, resulting in further obstructions to the free and safe flow of traffic harming highway safety, contrary to Local Plan Policy T4 New Development and Transport Safety.

The proposal does not provide any off street parking which is contrary to Supplementary Planning Document – Parking which recommends 1 no. parking space per 2 bedroom unit. This could result in additional on-street parking on Locke Avenue adjacent to the junction with Park Road, a busy arterial route within Urban Barnsley. This area already experiences high demand and over subscription for on street parking given the neighbouring dwellings having limited off-street parking and the proximity of the site to Locke Park. Due to the visitor numbers to Locke Park on road parking in the vicinity of the site has been a historic issue and has resulted in double yellow lines being installed along the southern side of Park Road and at the junctions of the streets which project off Park Road to the north, such as Locke Avenue.

Paragraph 5.19 of the appellants statement states that there are car parking spaces available to the front of the site; space to the front of and within the vicinity of the site is at a premium and is available on a first come first served basis and cannot be relied upon.

The site is located approximately 580m from the defined Town Centre boundary as identified on the Adopted Local Plan Policies Map adopted 2019, 1km from the centre of the main shopping area and approximately 1.5km from the transport interchange and therefore cannot be considered to be located within a town centre location.

The appellant states in section 2.1 that the site is a relatively level walk from the town centre, the route is an uphill walk from the town centre and the authority would not consider the route relatively flat.

The highways department objected to the scheme at the time of the application and the appellant was requested to provide off street parking for the scheme and responded with *“there will be no off street parking provision, being town centre development, just parking for cycles in existing garage”*

Paragraph 5.16 of the appellants grounds of appeal state that the site is located within easy access on foot to the town centre and that *“some enlightened people may choose to live in such a location without a private car”* the authority would have no way to control that the scheme could only be occupied by residents with no vehicle and in reality this scheme could generate an additional 16 vehicles within the area, if each unit was occupied by a couple with two vehicles which would have an impact on the free and safe flow of traffic.

Justification of Reason 4 for refusal

The development would result in the rear garden of 263 Park Road being reduced to a depth which would mean that habitable rooms would face the amenity space for the proposed development at below the minimum 10m separation distance that is required by the Designing New Housing Development SPD. Accordingly the development is contrary to the requirements of the SPD in that it would fail to deliver the required amount of privacy for both sets of residents. It would therefore have an adverse impact on the setting of that dwelling and the size of its remaining garden area also making the proposal contrary to Local Plan Policy H9 Protection of Existing Larger Dwellings which aim to prevent both of those impacts from occurring and as both of those factors would be contrary towards the H9 policy aim of re-establishing Houses of Multiple Occupation into family housing.

The authority is aware dwelling is HMO which was referenced in the report, a 6 bedroom property can still allow for 6 people living together as a single householder under C3, however the authority, considers both C3 and C4 uses as residential properties and therefore outdoor amenity space is required.

It is on this basis that the location of the boundary be included to ensure that an appropriately sized garden area is retained for the existing dwelling, and would support the re-establishment of the HMO into a single family sized dwelling.

As mentioned in the officer report the agent was requested to submit an amended site plan showing the location of the boundary, however the agent responded with *“the site boundary is shown on the location plan in practical terms, on site there will be no physical boundary between the two properties”*

Justification of Reason 5 for refusal

In the opinion of the Local Planning Authority the development has the potential to lead to the intensification of a substandard access to the rear of the site which is of inadequate width and two way visibility to accommodate movements associated with the land to the rear being utilised for parking proposes. Vehicle movements in such circumstances would create conditions prejudicial to highway safety by resulting in conflicts between passing traffic and reversing manoeuvres onto the highway and by creating noise and disturbance harming the living conditions of adjacent dwellings. The proposals are therefore contrary to Local Plan Policy T4 New development and Transport Safety, Local Plan policy GD1 'General Development' and the Council's Supplementary Planning Document 'Designing New Housing Development'.

The only available space for parking provision within the site is to the rear of the development building, with the only access being located to the south of 146 Blenheim Road which is considered a substandard access and unsuitable for further intensification, it is acknowledged that the site is not providing off street parking, but it also doesn't provide the opportunity to include off street parking, hence the inclusion for this reason for refusal.

Other matters

Notwithstanding the approval of an earlier outline application for the erection of a single detached dwelling on the same plot, Local Plan Policy H9 'Protection of Existing Larger Dwellings' states 'development within the curtilage of existing larger dwellings will be resisted where it will have an adverse impact on the setting of the original dwelling, and the size of the remaining garden area.

This policy was formed off the back of the Government's stance on development within garden areas. The supporting texts associated with policy H9 states 'The Government has

changed the designation of garden areas from 'brownfield land' to 'greenfield land', in an attempt to resist development of additional houses within the curtilage of larger homes, known as 'garden grabbing', as this has also had an adverse impact on larger housing stock. This proposal is exactly the type of development the Government are trying to resist.

Conclusion

Whilst the site maybe considered to be located in a sustainable location; nevertheless, based on the arguments outlined above, it would be contrary to the objectives and principles of Local Plan Policies H9, GD1 and D1, SPD 'Designing New Housing Development' and the NPPF and it is therefore urged that the inspector dismiss the appeal