
Appeal Decision

Site visit made on 6 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 30 September 2016

Appeal Ref: APP/B3030/W/16/3151592

The Plough, Main Street, Coddington, Nottinghamshire NG24 2PN

- 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 Mr & Mrs D Burke against the decision of Newark & Sherwood District Council.
 - The application Ref 15/02253/FUL, dated 18 December 2015, was refused by notice dated 4 May 2016.
 - The development proposed is alteration of public house to form three first floor apartments, relocation of car park and erection of three dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the alteration of public house to form three first floor apartments, relocation of car park and erection of three dwellings at The Plough, Main Street, Coddington, Nottinghamshire NG24 2PN in accordance with the terms of the application, Ref 15/02253/FUL, dated 18 December 2015, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - Highway safety; and
 - The living conditions of the occupiers of neighbouring dwellings with particular regard to noise, disturbance and outlook.

Reasons

Highway safety

3. The appeal site comprises a vacant public house, its car park and an adjacent paddock. It is sited either side of Beckingham Road (C208) in close proximity to the junction with Main Street with the existing car park on the northern side and the public house and the paddock on the southern side of Beckingham Road. There is a speed limit of 40mph adjacent to the appeal site.
4. The proposal would involve the creation of a car park within the existing paddock utilising the field access from Beckingham Road. The visibility to the west of the site is restricted by the sweeping bend and topography which rises towards a brow to the west of the appeal site. There is a dispute between the two main parties as to whether the visibility splays available from the field access are substandard.
5. The Council has stated that a visibility splay of 2.4m x 120m would be required. The submitted highway plan¹ demonstrates that this can be

¹ Drawing No. DB 401-A108 rev P1

achieved. However, a hedgeline and the rising slope of the grass verge between the footway and the hedge reduces the available visibility on site to 2.4m x 99m to the west. The Council's required visibility splay is based on the geometric design standards required in the document Design Manual for Roads and Bridges (DMRB). Highway authorities have discretion to relax these distances if local circumstances permit.² These standards are generally higher than those appearing in Manual for Streets (MfS) and Manual for Streets 2 (MfS2).

6. Paragraph 1.5 of the introduction makes it clear that the DMRB sets a standard of good practice that has been developed principally for Trunk Roads. It goes on to say that it may also be applicable in part to other roads with similar characteristics. MfS2 recommends that MfS should be the starting point for schemes on non-trunk roads. It goes on to state it is only where actual speeds are above 40mph for significant periods of the day that DMRB parameters for SSD³ are recommended.
7. The appellant commissioned a speed survey and there is no dispute between the parties that the 85th percentile wet-weather speed is 43mph. However, the evidence from the speed survey illustrates that for significant periods of the day the actual speeds are below 40mph. Based on the SSD in MfS2 the recommended visibility splay would be 2.4m x 66.7m for eastbound traffic and this can be achieved. Furthermore, even if the predominant speed for significant periods of the day was above 40mph the available visibility would meet the relaxation or 'one step' below desirable minimum in DMRB of 2.4m x 90m. The appellant has shown that the DMRB approach to design speed and SSD in the local context allows for a relaxation and I have no reason to dispute this. I note that there have been 3 personal injury accidents and one serious accident to the east of the site within the last 5 years. However, I have not been provided with any further detail in relation to these accidents.
8. I have taken into account that a planning condition could be utilised to ensure that the 2.4m x 120m visibility splay would be provided before the development was brought in to use. However, I have found that the actual available visibility splay would meet the requirements of the DMRB and MfS2.
9. I am satisfied that visibility splays can be provided that would be in line with the DMRB and MfS2. I conclude that the proposal would not result in an increased risk to the safety of highway users and as such it would not cause harm to highway safety. As such the proposal complies with Spatial Policies 3 and 7 of the Core Strategy (the CS) and Policy DM5 of the Newark & Sherwood Allocations & Development Management DPD (DPD) in so far as they relate to highway safety. These policies seek, amongst other things, new developments that do not have an undue impact on local infrastructure including the transport network, and that provide safe, convenient, inclusive and attractive accesses for all. The proposal would also comply with paragraph 32 of the National Planning Policy Framework (the Framework) as a safe and suitable access can be achieved.

Living conditions

10. The proposal would involve the construction of 3 dwellings on the existing car park and the relocation of the car park into the paddock. Adjacent to the paddock and the existing car park there are residential properties on Mill Lane, Main Street and Hall Farm.

² DMRB paragraphs 1.22 to 1.24

³ Stopping sight distance

11. I have no evidence before me that the existing car park operated in a way, when the public house was open, to adversely affect the neighbouring residential occupiers on Main Street and Hall Farm in relation to noise and disturbance other than via the use of the recycling facilities. However, these facilities would not be relocated to the proposed car park. I noted at my site visit that vehicles constantly pass the site on Beckingham Road and as such this traffic generates an appreciable level of background noise. I acknowledge that at other times of the day the background noise level may be different.
12. Vehicles coming and going from the car park would generate some noise and disturbance but as the existing car park does not appear to have given rise to complaints in relation to its operation it is reasonable to consider that its relocation would be unlikely to give rise to a material increase in noise and disturbance. No technical evidence has been submitted, but my assessment of the appeal site and its relationship to the proposed development lead me to conclude that it is likely that the noise and disturbance generated by the comings and goings would not be significantly greater than the existing background noise levels.
13. The proposals do include a seating area adjacent to the proposed car park and this would be in close proximity to the adjacent dwellings. However, I note that the Council's Officer Report states that the paddock already forms part of the land associated with the public house and *"planning permission for use of this land as a beer garden including the temporary positioning of benches is unlikely to be required. As such, I do not consider the use of the land proposed by this permission to be materially worse than the potential use of the land for purposes ancillary to the public house building which could occur without planning permission."* I have no reason to disagree with this finding.
14. The decision notice is not specific in terms of the loss of amenity to properties on Main Street but the Council's statement outlines that the concern is in relation to the proximity of Plot 3 to the dwellings on Main Street. The flank wall of Plot 3 would be approximately 12m from the rear elevations of the dwellings on Main Street and the dwelling would be at a higher level. I have taken into account the condition suggested by the Council in relation to the finished floor levels to ensure that any difference in levels is minimised. As such, the proposed building would not have a significant overbearing effect on the occupiers of the dwellings on Main Street as the distance between the properties equates to that normally found acceptable on modern housing developments.
15. In conclusion the proposals would not result in an adverse impact to the living conditions of the neighbouring occupiers with particular regard to noise, disturbance and outlook. It follows that the development complies with Policy DM5 of the DPD and Core Policy 9 of the CS which, amongst other things, seek development that demonstrates a high standard of sustainable design and layout of an appropriate form to its context, to ensure that there is not an unacceptable reduction in amenity including overbearing impacts and that has regard to their impact on the amenity of surrounding land uses.

Other Matters

16. Spatial Policy 3 of the CS states that local housing need will be addressed by focusing housing in sustainable accessible villages. It goes on to state that proposals for new development will be considered against five criteria – location, scale, need, impact and character. The CS pre-dates the Framework,

- which requires that policies are given weight according to their degree of consistency with it (paragraph 215).
17. For homes that are not isolated, paragraph 55 of the Framework recognises that rural housing can contribute to sustainable development where it would enhance or maintain the vitality of rural communities. There is no specific reference to local need for housing within paragraph 55 and as such Spatial Policy 3 of the CS is more restrictive in this respect. Consequently, I find that Spatial Policy 3 is not fully consistent with the policies of the Framework and should only be given moderate weight in this case.
 18. The proposal would not fully comply with Spatial Policy 3 of the CS as the specific housing need for Coddington has not been identified. However, this policy conflict has reduced weight. Furthermore, the Council have stated that they will take a pragmatic view to development proposals within the main built up areas of villages including in circumstances where local need has not been demonstrated.
 19. S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that, the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. S.72(1) of the Act requires that in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The appeal site is within the Coddington Conservation Area (CCA) and the setting of All Saints Church which is a grade II* listed building.
 20. I note that the Council considered that the proposed development in relation to the relocation of the car park would result in less than substantial harm to the character, appearance and significance of the CCA. Based on the evidence before me I have no reason to dispute this finding.
 21. Paragraph 134 of the Framework says that less than substantial harm should be weighed against the public benefits of the proposal. In this case, those public benefits amount to the conversion and reuse of The Plough, the economic and social benefits arising from the occupation and construction works of the dwellings and improvement to pedestrian safety. Furthermore, the surfacing materials, the retention of landscaping and the transient nature of the use would minimise its impact on the CCA and the setting of the listed building.
 22. Accordingly, while any harm to a designated heritage asset must be given considerable weight and importance, the public benefits of the appeal scheme clearly outweigh the harm to the heritage asset in this case. As such the proposal would comply with paragraph 134 of the Framework and S.72(1) of the Act.
 23. Taking into account all of the above and due to the distance between the appeal site and All Saints Church the proposal would have a neutral impact on the setting of the listed building. Therefore the setting would be preserved and S.66(1) of the Act complied with.
 24. Local residents object to the proposal on a wider basis, including in respect of harm to the rural character of the village, the need for the public house, drainage capacity, light pollution and impact on wildlife. These did not form part of the Council's reasons for refusal and I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal.

25. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
26. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.
27. Two planning applications that have been refused on the appeal site have been referred to by a number of parties. In relation to the 1992 application I have only been provided with a copy of the decision notice and as such I cannot be certain that the circumstances are the same as the proposal before me. In relation to the 2016 application that has recently been refused planning permission I have not been provided with the full details of the scheme. In any case, I am required to determine the appeal on its own merits.

Conditions

28. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the suggested conditions has been amended.
29. I have imposed a condition specifying the relevant drawings as this provides certainty. The condition in relation to phasing is required to ensure the development comes forward in a timely manner. The conditions in relation to floor levels, materials, external features, mortar, repair and renovation works to the public house, boundary treatment, landscaping, bin storage, lighting and obscure glazing are necessary in the interests of amenity and character and appearance. Given the residential character of the area, it is appropriate that controls are placed upon hours of construction and delivery.
30. Highways conditions including provision of visibility splays, parking and turning areas and the discharge of surface water are necessary to ensure pedestrian and highway safety. The Council did not suggest the visibility splay condition but taking into account the main issues I consider that its exclusion was a clerical error.
31. I have imposed a condition in relation to the occupation of the new dwellings and the renovation of the public house to ensure the retention of the community facility and in the interests of character and appearance. To reduce the risk of flooding a condition in relation to drainage is necessary.
32. I have considered a condition in relation to the closure of the eastern access of the existing car park but in the absence of any evidence that identifies potential highway safety issues with that access I have not considered a condition to this effect necessary. Moreover, I find there to be no exceptional circumstances, in accordance with the PPG⁴, that would justify the removal of permitted development rights. As a result, I have not imposed the Council's suggested condition regarding this.

Conclusion

33. There would be social and economic benefits through the provision of four additional dwellings and the reopening of the public house. Four dwellings would provide a modest contribution to housing supply and local housing need. There would be sustainability benefits associated with the proposal.

⁴ Planning Practice Guidance ID: 21a-017-20140306

Specifically, the appeal site is within the village of Coddington where there is a range of services and facilities available.

34. The proposal would also make a contribution to maintaining the vitality of local services and facilities in Coddington. The development would result in economic benefits through the economic activity associated with the construction, occupation and operation of the dwellings and the public house. These social and economic benefits provide significant weight in favour of the appeal proposal.
35. I have found that the proposals comply with paragraph 134 of the Framework, S.66(1) and S.72(1) of the Act in relation to the designated heritage assets and that there would be no adverse impacts in relation to highway safety and the living conditions of the neighbouring occupiers. There is a dispute about whether the Council can demonstrate a 5 year housing land supply. However, the evidence is inconclusive and given my conclusions above the matter is not decisive. Although Spatial Policy 3 would not be fully complied with the policy carries reduced weight and the conflict would be outweighed by other material considerations.
36. For the reasons given above, and having regard to all other matters raised I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

Attached – Schedule of Conditions

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DB401-A100, DB401-A101, DB 401 - A102 REV P3, DB401-A103, DB401-A104, DB401-A105, DB 401- A108 REV P1, BSA82-A082, BSA83-A083 except in respect of the finished floor levels shown on plan DB 401 - A102 REV P3 and the visibility splay shown on plan DB 401 – A108 REV P1.
- 3) No development shall commence until a phasing scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing plan.
- 4) Notwithstanding the finished floor levels shown for Plots 1, 2 and 3 (the new dwellings) on the approved plan DB 401-A102 Rev P3, no development shall be commenced in respect of the new dwellings until revised details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings on Plots 1, 2 and 3, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) Demolition or construction works, including site clearance and delivery of materials, shall take place only between 07.30 and 18.00 on Mondays to Fridays, 08.30 and 13.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) Development shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 7) Notwithstanding the details of any materials that may have been submitted with the application, details of all materials to be used in the external surfaces of the development hereby permitted, shall be submitted to and be approved in writing by the Local Planning Authority before development is commenced for any phase pursuant to Condition 3. The relevant works shall be carried out in accordance with the approved details.
- 8) Notwithstanding the submitted details, no development shall be commenced for any phase pursuant to Condition 3 in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.
 - a) External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

- b) Porches
 - c) Chimneys
 - d) Treatment of window and door heads and cills
 - e) Verges and eaves
 - f) Rainwater goods
 - g) Any other external accretion including extractor vents, flues, meter boxes, airbricks and soil and vent pipes
- 9) No development shall be commenced for any phase pursuant to Condition 3 until details of the mortar to be used for all new build and any re-pointing (including materials and ratios, colour, texture and pointing finish) has been submitted to and agreed in writing by the local planning authority. The development shall thereafter be carried out in accordance with the agreed details, unless otherwise agreed in writing by the local planning authority.
- 10) Prior to the commencement of any conversion or renovation works to the public house building, a schedule of repair and renovation works for the public house building including the extent of any repairs/renovations shall be submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved schedule.
- 11) No development for any phase pursuant to Condition 3 shall be commenced until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, hedgerow, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. For the avoidance of doubt, new planting should consist of native species only and should provide replacement tree planting;
 - b) existing trees and hedgerows, which are to be retained including any protection measures;
 - c) means of enclosure;
 - d) surface materials for all vehicle and pedestrian access and circulation areas;
 - e) minor artefacts and structures for example furniture, play equipment, refuse or other storage units and signs;
- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development in that phase, or such longer period as may be agreed in writing by the Local Planning Authority; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping scheme

shall be completed prior to the first occupation of each phase pursuant to Condition 3.

- 13) No dwelling shall be occupied until bin storage facilities have been provided for that dwelling in accordance with design, siting and materials details, which have been first submitted to and approved in writing by the local planning authority. The bin storage facilities shall be provided prior to occupation of that dwelling in accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.
- 14) None of the dwellings on Plots 1, 2, and 3 identified on Drawing Number DB 401 - A102 REV P3 shall be occupied until the renovation/repair works to the ground floor of the public house are completed and it is available for use.
- 15) Notwithstanding the submitted details, no part of the development pursuant to Condition 3 shall be brought into use until details of all the boundary treatments proposed for that phase of development including types, height, design, materials and finish, have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be implemented on site prior to any uses within that phase being first brought into use.
- 16) No development for any phase pursuant to Condition 3 shall be commenced until details of any external lighting have been submitted to and approved in writing by the local planning authority for that phase. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.
- 17) No development for any phase pursuant to Condition 3 shall be brought into use until a visibility splay with an 'x' distance of 2.4 metres and a 'y' distance of 90 metres to the near edge of the public highway carriageway has been provided at the access to the car park hereby approved. Clear visibility over a height of 600mm above the carriageway level shall exist within the visibility splay at all times.
- 18) No development for any phase pursuant to Condition 3 shall be brought into use until the associated parking and turning areas contained within that phase have been provided in accordance with plan DB401-A102 REV P3. The parking and turning areas provided shall not be used for any other purpose other than parking, turning and unloading of vehicles.
- 19) No part of the development hereby permitted shall be brought into use until a scheme to control and prevent the unregulated discharge of surface water from the driveways and parking areas to the public highway is submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on site prior to first occupation of each phase, pursuant to condition 3, and shall then be retained for the life of the development.
- 19) The first floor window opening on the east elevation of Plot 3 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or

equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.