

Appeal Decision

Site visit made on 20 December 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/B3030/W/16/3156583

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 and Mrs D Burke against the decision of Newark & Sherwood District Council.
 - The application Ref 16/00782/FUL, dated 16 May 2016, was refused by notice dated 12 August 2016.
 - The development proposed is the 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 16/00782/FUL, dated 16 May 2016, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs D Burke against Newark & Sherwood District Council. This application is the subject of a separate Decision.

Procedural Matters

3. At the time of determination of the application from which the current appeal derives, the site was subject to another appeal for development of a similar nature¹. Since submission of the current appeal however, the previous appeal has been determined.
4. I note that whilst the question of whether or not it could be demonstrated that an identified and proven local housing need existed formed a reason for refusal, the recently determined first appeal provides a strong fall-back position for the appellant in this instance, and is a material consideration to which I attach significant weight. For this reason, and in light of the Council's subsequent resolution not to defend the three reasons for refusal in the current instance, I have not considered this matter further.

¹ Application ref: 15/02253/FUL and APP/B3030/W/16/3151592

Main Issues

5. Having regard to the above therefore, I consider that the main issues in this appeal are the effect of the proposal on:
- Highway safety; and
 - The living conditions of occupiers of adjacent dwellings on Main Street, with particular regard to noise, disturbance, outlook and privacy.

Reasons

Highway Safety

6. The existing car park has the appearance of a large layby, diagonally opposite the public house. It has two entry points, one at the eastern end of the layby adjacent to the rear of 39 Main Street, and one at the western end. As with the previous proposal, the current scheme proposes the construction of three dwellings within the existing car park area. So too, it proposes a replacement car parking area. However, unlike that scheme, this proposal involves the creation of a new car park within the paddock adjacent to the existing one on the northern side of Beckingham Road, rather than on land at the rear of the public house on the southern side. To do so, the western entry point to the existing car park would double up and provide access to and egress from both the three dwellings and the new car park. The eastern entry point would be closed off to vehicles.
7. It is acknowledged that the proposed car park would provide more spaces than the existing, somewhat informal layout that lacks markings and is restricted by the recycling facilities. However, even if it were to follow that a greater number of vehicles might be manoeuvring at any one time, the point of access to and from the highway would be no closer to the crossroads junction as a result of the current proposal. More significantly however, the proposal would remove the existing access point closest to the junction, and so movements, increased or otherwise, would be further from the crossroads junction than is currently the case. I note that there are no objections from technical consultees in relation to highways matters, whilst the Parish Council's concern regarding the potential for both the currently proposed car park, and the previously approved facility, to be constructed could be addressed by a suitably worded planning obligation, the detail of which I consider separately, below.
8. I am satisfied therefore that the proposal would not be in conflict with Spatial Policies 3 or 7 of the Newark and Sherwood Core Strategy (Core Strategy) or with Policy DM5 of the Newark and Sherwood Allocations and Development Management Development Plan Document (DPD) in so far as they relate to highway safety. Together, these policies seek to ensure that new developments do not have an undue impact on local infrastructure including the transport network, and provide safe, convenient, inclusive and attractive access for all. The proposal would also comply with paragraph 32 of the National Planning Policy Framework (the Framework) as it has not been demonstrated that a safe and suitable access would be achieved.

Living Conditions

9. The Council's refusal reason with regard to living conditions is somewhat vague in terms of what that loss of amenity would be, or what harm would be caused.

Although there would be a window at first floor level on the gable elevation of plot 3 this would serve an en-suite bathroom and as such a suitably worded condition would reasonably address any potential concerns regarding loss of privacy or overlooking between plot 3 and properties on Main Street.

10. The submitted plans suggest that there would be in the region of 14.8 metres between the side elevation of the closest of the proposed dwellings (plot 3) and the rear of the existing houses on Main Street, whilst the house at plot 3 itself would be set away from its eastern boundary by the width of two car parking spaces and a hedge. It is also noted in the Council's committee report that the house at plot 3 would be in the region of 2.5 metres further away from the rear of the Main Street properties than was the case with the previous scheme.
11. However, I have not been directed towards any policies or guidance that seeks to establish minimum separation distances between adjacent properties. I have taken into account the Council's suggested condition regarding finished floor levels for the proposed dwellings to mitigate an existing difference in ground levels between the appeal site and the rear of Main Street properties and, as such, I am satisfied that the proposal would not lead to a loss of privacy or overlooking, or have an overbearing impact upon adjacent properties on Main Street.
12. With regard to potential for noise and disturbance, the existing eastern entry point into the layby would be closed off, with access to the three parking spaces for plot 3 taken along a driveway running parallel to the site frontage. Vehicle movements for this plot would be limited, and I have no evidence to lead me to conclude that such movements would be harmful to the living conditions of occupiers of the adjacent property on Main Street. Moreover, I noted a steady flow of traffic along Beckingham Road at the time of my site visit, generating appreciable background noise levels. I appreciate that this will vary depending upon time of day, but equally it is noted that local residents also refer to the road as being busy.
13. Thus, for the reasons set out, I conclude that the proposal would not result in an adverse impact on the living conditions of, or undue loss of amenity to, occupiers of adjacent properties on Main Street. The proposal would therefore accord with Core Strategy Core Policy 9 and DPD policy DM5 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.
14. Although not cited within the refusal reasons, residents have also objected to the relocation of the car park to west of the existing layby entrance, as it would be sited closer to properties on Hall Farm, resulting in noise, disturbance from comings and goings and light pollution from car headlights. Whilst it is true that it would be closer to the properties located towards the head of that cul-de-sac, it follows that it would also be further away from properties on Main Street, as a consequence. Moreover, I have no evidence before me that the existing car park operated in such a manner, when the public house was operational, so as to adversely affect adjacent residential properties on Main Street, or indeed Hall Farm, and nothing I have seen or read persuades me that that should be the case in its relocated location.

15. I have considered the relationship between the proposed dwellings and existing properties on Hall Farm and note that the submitted plans show the rear of properties on Hall Farm to be some 37 metres distant from the rear of the proposed dwellings. Although the garden plots for proposed plots 2 and 3 are smaller than that associated with plot 1, I am satisfied that this relationship would not result in a level of harm that would justify dismissal of this appeal. In reaching this conclusion, I have noted that this matter did not form part of the Council's reasons for refusal.

Other Matters

16. The appeal site lies within the Coddington Conservation Area, whilst the grade II* listed All Saints Church lies to the southwest of the public house and to the south of the proposed car park area, beyond a paddock area on the southern side of Beckingham Road. The Council have concluded that the proposal would cause no harm to the character or appearance of the conservation area, or to the setting of All Saints Church.
17. I have had special regard to the desirability of preserving or enhancing the character or appearance of the conservation area and to the desirability of preserving the listed building or its setting, in line with the statutory tests set out in sections 72(1) and 66(1), respectively, of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Nothing I have seen or read leads me to reach a different conclusion to the Council in this respect, and the proposal would be consistent with the statutory requirements of the Act, and with the Framework.
18. Local residents object to the proposal on a wider basis, including in respect of the detailed design and appearance of the proposed dwellings, the effect of the proposal on the character of the village and the encroachment of the houses into the countryside. I note that these matters did not form part of the Council's reasons for refusal, and I am satisfied they would not result in a level of harm which would justify dismissal of the appeal.
19. The issue of whether there is a need for additional houses or flats in Coddington, and the possibility of the future conversion of the public house to housing have also been raised. However, I have considered the appeal on its own merits, whilst the recently allowed planning appeal² is a strong material consideration such that I have not considered the matter of need further.

Section 106 Agreement

20. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
21. It is noted above that planning permission was recently granted on appeal for a development of a similar nature to that proposed in this instance. However, that proposal included the construction of a car parking area in an existing paddock on the southern side of Beckingham Road. If successful, the current proposal would entail the construction of a car park on the northern side of

² APP/B3030/W/16/3151592

Beckingham Road. The appellant has submitted a signed and completed unilateral undertaking which seeks to ensure that, in the event of the current appeal succeeding, only one of the relocated public house car parks would be constructed and used.

22. To ensure against the possible construction and use of both car parks, and having considered the unilateral undertaking that has been submitted, I find that its provisions would meet the tests set out in paragraph 204 of the Framework and Regulation 122 of the CIL Regulations . I therefore find it necessary and directly related to the development in the interests of the character and appearance of the conservation area, and the surrounding area and can reasonably take it into account in reaching my decision.

Conditions

23. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance (the Guidance). I have, where necessary, and in the interests of conciseness and enforceability, amended the wording of some of the suggested conditions.
24. In addition to a time limit condition, I have imposed a condition specifying the approved drawings in order to provide certainty. The condition in relation to phasing is required in order to ensure that the development comes forward in a timely manner whilst conditions in relation to floor levels, materials, external features, mortar, repair and renovation works to the public house, boundary treatments and landscaping, bin storage, lighting and obscure glazing are necessary in the interests of character and appearance, and living conditions.
25. Although the main road through the village is relatively busy, the character of the surrounding area is predominantly residential, and so conditions regarding hours of construction and deliveries are appropriate in the interests of living conditions. Highways conditions regarding the provision of parking and turning areas, the construction of an appropriate footway along the site frontage and the control and discharge of surface water are necessary in the interests of highway and pedestrian safety.
26. Having regard to the Guidance, I find there to be no exceptional circumstances that would justify the removal of permitted development rights from the three proposed dwellings. I have not therefore imposed the Council's suggested condition in this respect.

Conclusion

27. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

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: DB 401-A102 Rev P8; DB 401-A105 Rev P5; BSA 83-A083; BSA 82-A082 M; DB 401-A104; and DB 401 A112 except in respect of the finished floor levels as required by condition 3, below.
- 3) The development shall be implemented in accordance with the phasing scheme shown on drawing DB 401 A113 Rev. P1 (Phasing Plan) received 19th July 2016.
- 4) Notwithstanding the finished floor levels shown for Plots 1 to 3 (the new dwellings) on the approved plan DB 401-A102 Rev P8, no development shall be commenced within phases 3 or 4 pursuant to condition 3 until a revised plan showing amended finished floor levels and ground levels have been submitted to and approved in writing by the local planning authority. The amended levels shall align as far as possible with the land and finished floor levels to the west (Main Street) and the approved levels shall be implemented on site.
- 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) 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.
- 7) 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 and bays, 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.
- 8) Notwithstanding the submitted details, 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) have 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.
- 9) 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.
- 10) 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 in accordance with the agreed details.
- 11) Prior to the commencement of any conversion or renovation works to the public house building, a schedule of works should be submitted to and agreed in writing by the local planning authority. The schedule of works must comprehensively address all repairs and renovations including the extent of any repairs, the specification for repainting works including colour, detailed specifications for all timber joinery (to be retained), chimneys (to be retained), facing materials and detailing (brick bonding, dentil courses, verges etc.). For the avoidance of doubt, the schedule of works shall include the replacement of all existing upvc public house windows with timber. All building works hereby agreed shall be carried out in accordance with the schedule of works.
- 12) No development shall be commenced for any phase pursuant to condition 3 until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. 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. In particular the new planting should relate to the boundaries of the public house car park and to the western boundary of the site;
 - b) existing trees and hedgerows, which are to be retained including any protection measures;
 - c) boundary treatments/means of enclosure (details to include the types, height, design, materials and finish where appropriate);

- d) car parking layout and materials. For the avoidance of doubt, the car parking shall be formed with a grass-crete or grass grid product;
 - e) other vehicle and pedestrian access and circulation areas;
 - f) hard surfacing materials;
 - g) minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.)
- 13) The approved soft landscaping shall be completed during the first planting season following the commencement of the development within its respective phase, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping elements of the scheme shall be implemented on site prior to first occupation or use of each associated phase.
- 14) No development 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. 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 in accordance with the agreed details.
- 15) No part of the development for any phase pursuant to condition 3 shall be brought into use until the parking and turning areas contained within that phase have been provided in accordance with plan DB401-A102 Rev. P8. The parking and turning areas provided shall not be used for any purpose other than the parking, turning and unloading of vehicles.
- 16) No development shall commence on any part of the application site until a footway is provided along the site frontage of Plot 1-3 along the line of the existing grass verge, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The approved and implemented footway shall be retained for the lifetime of the development in accordance with the agreed details.
- 17) 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 in accordance with the agreed details.
- 18) Prior to first occupation of Plot 3, the existing easternmost access (which served the public car park) shown on drawing DB401-A102 Rev. P8 shall be stopped up and no longer used, the details of which shall be first submitted to and approved in writing by the local planning authority and thereafter retained in accordance with the agreed details.

- 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 in accordance with the agreed details.