



Appeal Decision

Site visit made on 24 October 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 15th November 2017.

Appeal Ref: APP/R1038/W/17/3180085

Horse and Jockey, Brackenfield Lane, Wessington DE55 6DW

- 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 David Ashley Developments against the decision of North East Derbyshire District Council.
 - The application Ref 17/00173/FL, dated 12 October 2016, was refused by a notice dated 22 May 2017.
 - The development proposed is to construct 2no 3 bed detached dwellings (revised scheme of 16/01071/FL).
-

Decision

1. The appeal is allowed and planning permission is granted for 2no 3 bed detached dwellings (revised scheme of 16/01071/FL) at the Horse and Jockey, Brackenfield Lane, Wessington DE55 6DW in accordance with the terms of the application, Ref 17/00173/FL, dated 12 October 2016, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of the proposed development set out in the banner header above is taken from the Council's decision, and it is also the description used on the appeal form. The appellant agrees that this is a more accurate description of the proposal than that used on the application form. It removes narrative text unrelated to the development itself. The Council based its decision of this amended description, and so shall I.
3. The North East Derbyshire Local Plan (2011-2033) was published for consultation in February 2017. It has not been submitted for Examination, and is still in its early stages of preparation. Accordingly, having regard to paragraph 216 of the National Planning Policy Framework (the Framework), this Plan can only be afforded very limited weight.

Main Issue

4. The main issue in this case is the effect on the character and appearance of the area.

Reasons

5. The appeal site lies within the village of Wessington which is dissected by the busy Matlock Road, A615. It forms part of the existing curtilage to the Horse & Jockey Hotel, Pub and Restaurant, and at the time of my visit the site was laid as lawn and had a large marquee and some outdoor seating placed on it.
6. The Horse and Jockey is set well back from Matlock Road and at its junction with Back Lane. Its frontage is dominated by a large tarmacadam car park which adjoins the appeal site. A traditional low stone boundary wall clearly defines the Horse & Jockey's existing site curtilage, including the appeal site, and separates it from the deep grass verge which runs alongside the A615.
7. The appeal site is located at the heart of the village where historic buildings are situated around the distinctive village green and an area of open space where the war memorial is sited. The deep verge in front of the appeal site reinforces the sense of spaciousness along this stretch of Matlock Road. The appeal site is however physically separated from the open space by the stone boundary wall, and the large conifers at the front of the appeal site obscure views of the site from Back Lane, when travelling west along the A615. On approaching the village centre from the east, it is the expanse of the Horse & Jockey's car park which dominates views along the road, with the appeal site in the background. Consequently, whilst the site is currently free from built development, I am not convinced that it contributes significantly to the village's distinctive open green space which I have described above.
8. The proposed dwellings would be constructed in the local vernacular using traditional materials. The dwellings would have some contemporary elements; however the Framework makes it clear that planning decisions should not attempt to impose architectural styles or particular tastes. The overall scale and design of the dwellings would not be uncharacteristic of development in the village. The car parking to the front of the houses would be seen in the context of the adjoining car park, and would be partially obscured by the original boundary wall that would be retained. Whilst the vehicular access would cut across part of the verge, it would be at a point where the verge is not as deep. Furthermore, the verge would remain open, and it is not unusual for verges to be cut across by pavements and driveways.
9. Moreover, the dwellings would front towards the open space on the corner of Matlock Road and Back Lane, and in that sense they would reflect the existing pattern of development. The siting of the dwellings would respond to the open space and Back Lane, and to my mind they would contribute to the setting of the village core. With the exception of a break in the wall to provide vehicular access, the original boundary wall would be maintained and the proposed dwellings would not obscure views of the Horse & Jockey on the approach to the village. I accept that the existing conifers provide some greenery, however they are not native species, and I do not consider that their removal would be significantly harmful to the visual qualities of the area.
10. I recognise that the Council is concerned about the proposed boundary treatment along the site's western boundary, and I share their concern that the fencing proposed may appear harsh. However, the Council has suggested a condition which would allow them to negotiate further on this matter, and the appellant has not raised any objection to this. I am satisfied that in the

interests of safeguarding the visual qualities of the area, a condition to require further details of the boundary treatment would be reasonable and necessary.

11. I conclude that the proposed development would not have a harmful effect on the character and appearance of the area. It would not therefore conflict with the development plan, and in particular there would be no conflict with Policies GS5, BE1 and H12 of the adopted North East Derbyshire Local Plan, 2005 which seek to ensure, amongst other things, that new development respects the character of the site and its surroundings, and maintains and contributes to local distinctiveness.

Other Matters

12. I have taken into consideration third party concerns relating to highway safety and parking congestion. However, the Highway Authority has not raised any objections to the proposal, and although the site lies close to a road junction, the development would provide sufficient onsite parking space for future residents and allow cars to enter and leave the site in a forward gear. The neighbouring fish and chip shop would appear to have some off-street parking space available, and the Horse & Jockey has a substantial car park for its customers. There may be some congestion in the village on occasions, for example when community events are held; however I am not convinced that would be a sufficient reason to withhold planning permission.
13. I recognise that neighbouring residents consider that the proposed development would have a harmful effect on their living conditions, in particular with regard to privacy and overshadowing. However, from what I saw on my site visit, and taking into account the siting of the proposed dwellings and their distance from the neighbouring property on Back Lane, I would concur with the Council's view that those effects would not be significant.
14. The appeal proposal would remove an area of open space which is currently used in connection with the Horse & Jockey as amenity space. However, I saw on site that there is a further area of grassland laid out at the rear of the site as an area for sitting out. I have not been provided with any substantive evidence to suggest that the current use of the appeal site is critical to the health and vitality of these commercial premises, and indeed from the evidence I have before me, it would appear that the Horse & Jockey is a thriving enterprise.
15. I understand that third parties do not consider that the village needs any further housing development. However, I have found that the proposal would not cause any harm to the character or appearance of the area, and in the absence of any other adverse impacts being demonstrated, I consider the appeal proposal would be a sustainable form of development that would contribute to the Council's currently unmet housing supply requirement and would support local services and facilities.

Conditions

16. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guide. As a result I have amended some for clarity, and omitted others.

17. I have imposed a condition specifying the approved plans as this provides certainty.
18. Pre-commencement conditions requiring a Written Scheme of Investigation in relation to archaeology and further site investigations in relation to coal mining are necessary to safeguard heritage assets, the environment, and to protect the living conditions of future residents.
19. A pre-commencement condition requiring details of surface water drainage is necessary to safeguard the environment and protect the living conditions of future residents.
20. Conditions requiring details of materials, landscaping and boundary treatments are necessary to safeguard the character and appearance of the area.
21. I have imposed conditions to require the access and parking areas to be constructed and maintained in the interest of highway safety.
22. The Council has suggested conditions to remove permitted development rights for fences, gates, walls or other means of enclosure and for extensions or alterations to the proposed dwellings, including additions or alterations to the roof, or any building or enclosure incidental to the enjoyment of the dwellinghouses. The conditions are recommended in the interests of minimising the impact of the development. The Planning Practice Guide advises that conditions to restrict the future use of permitted development rights should only be used in exceptional circumstances. The site is not situated within a Conservation Area, and the dwellings would not be sited on a constrained plot. I do not therefore consider that this condition is reasonable or necessary to minimise the impact of the development.
23. The Council has further suggested a condition to specify finished floor levels. The appeal site is completely level and the proposed development does not indicate that there would be any changes to existing ground levels. It is not therefore necessary to require any additional information with regard to site levels, as the development is required to be carried out in accordance with the approved plans.

Conclusion

24. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

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: Location Plan A16-006 Page 2; Proposed Site Plan A16-006 Page 5; Proposed Ground Floor Plan A16-006 Page 6; Proposed Second Floor Plan A16-006 Page 7; Proposed Roof Plan A16-006 Page 8; Proposed North and East Elevations A16-006 Page 9; Proposed South and West 01 Elevations A16-006 Page 10; Proposed

Street Scene South and West 02 Elevations A16-006 Page 11;
Perspective Visuals A16-006 Page 12; Front Iso A16-006 Page 13; Rear
Iso A16-006 Page 14.

- 3) No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of the archaeological significance of the site and shall include:
 - i the programme and methodology of site investigation and recording;
 - ii the programme for post investigation assessment;
 - iii the provision to be made for analysis of the site investigation and recording;
 - iv the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.No development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition.
- 4) No development shall take place until details of the design, implementation, adoption, maintenance and management of a sustainable drainage system have been submitted to and approved in writing by the local planning authority. The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 5) Before the commencement of development a scheme for intrusive site investigations as recommended in the Coal Mining Risk Assessment undertaken by GeoDyne, Project No: D37062, dated 28 April 2017 shall have been submitted to and approved in writing by the local planning authority. The scheme shall provide for the submission of a report of findings and the implementation of any necessary remedial works with timescales. The remediation scheme (if necessary) shall be implemented in accordance with the approved details and timescales.
- 6) Before any other operations are commenced a new vehicular access to Back Lane shall have been laid out and constructed in accordance with the approved drawings. It shall thereafter be retained free from any impediment to its designated use.
- 7) No development above slab level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 8) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. A16-006 Page 5 for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for those purposes.
- 9) Notwithstanding the details shown on the approved plans, no dwelling shall be occupied until boundary treatments have been provided in

accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The details shall provide for the retention of the stone wall to the site frontage (except the part required for access) together with treatments for the other boundaries of the site. The boundary treatments, as approved, shall be retained as such thereafter.

- 10) No dwelling shall be occupied until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of any dwelling or the completion of the development, whichever is the sooner; 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.