
Appeal Decision

Site visit made on 7 November 2017

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

Decision date: 12 December 2017

Appeal Ref: APP/G2815/W/17/3181795

Car park rear of High Street, St Peter's Way, Irthlingborough NN9 5SD

- 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 David Mander of Resham PLC against the decision of East Northamptonshire District Council.
 - The application Ref 16/02285/FUL, dated 25 November 2016, was refused by notice dated 30 June 2017.
 - The development proposed is residential development of 9 dwellings adjacent to St Peters Way.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the proposal on:
 - the character and appearance of the surrounding area, including heritage assets;
 - the living conditions of existing and future occupiers; and
 - highway safety including parking, loading and servicing.

Reasons

Character and appearance

3. The appeal site currently forms a car park within the town centre of Irthlingborough which lies to the rear of Nos 13-29 High Street. The car park is privately owned and most recently associated with the former 'Select and Save' convenience store which occupied Nos 13 – 17 High Street. At the time of my site visit Nos 13-21 High Street were vacant, whereas the four retail units at Nos 23-29 were still occupied. High Street lies to the north-west; it has a linear form of development and is home to the main town centre uses. This commercial character is in direct contrast to the predominantly residential uses that are found in the streets and areas behind High Street. Due to the position of the appeal site it currently provides an area of transition between these commercial and residential uses. It is not disputed that the site lies within an accessible location where in principle appropriate residential development can be supported.
4. To the west of the appeal site is a vehicle repair and MOT garage. To the south lie the Louisa Lilley Homes (Almshouses), identified by the Council as a non-

designated heritage asset. To the east lies Nos 2-24 St Peter's Way contained within a single large apartment building with associated car park. The access to the appeal site is in the south-eastern corner from St Peter's Way and here the site is adjacent to Nos 1-4 Oak Terrace which lie to the south.

5. As a consequence of the site layout and the surrounding context the appeal site can conveniently be split into 2 parts with contrasting characteristics. For convenience in this appeal I will describe these 2 parts as 'the entrance' and 'the main part'.
6. The entrance to the appeal site from St Peter's Way encompasses an access road set within an undeveloped area of road frontage flanked on both the northern and southern sides by scrub vegetation including some self-seeded trees which are more substantial on the southern side. This scrub vegetation would be lost if the development were to be permitted. However, this vegetation does not make an important contribution to the character and appearance of St Peter's Way.
7. The semi-detached pair of dwellings forming Plots 8 and 9 would be sited at the entrance. Due to their orientation, Plot 9 would provide a visually prominent blank gable wall due to the sloping topography of St Peter's Way and the elevated nature of this part of the site and consequently would not make a positive contribution to the street scene of St Peter's Way. Its dominance would be at odds with the prevailing character which is formed from the neighbouring apartment block and the large building to the south-east, both of which have active frontages to St Peter's Way and as such make a positive contribution to the street scene.
8. I acknowledge that the end dwellings on both Oak Terrace and Oak Way have a blank gable facing towards St Peter's Way. However, they are single storey bungalows set within in a more spacious and open setting and therefore do not appear as a dominant feature in the street scene. Consequently, I find that the proposed layout of Plots 8 and 9 would harm the character and appearance of the surrounding area.
9. The main part of the appeal site has no clear relationship to the surrounding streets. It has a sense of being a private space whose function is to operate as a car park and rear service yard to the retail units along the adjacent High Street. Due to the north to south sloping topography the main part of the appeal site is approximately 4.5 metres higher than the entrance from St Peter's Way.
10. A terraced row of 7 two-storey houses is proposed on the main part of the appeal site. Due to the topography, they would be elevated and appear as a dominant form of development in relation to the Louisa Lilley Homes which by contrast is a low density small crescent of single storey dwellings with only roofs and chimneys visible from the appeal site. The finished floor level of plots 1-7 would be at approximately the same height as the eaves level of the Louisa Lilley Homes. The dominance of Plots 1-7 would be accentuated by the single massing and bulk of the terraced row. This would result in harm to the character and appearance of the surrounding area.
11. The proposed layout incorporates a total of 35 car parking spaces with 18 proposed for the dwellings; 6 parking spaces are identified for 'apartments' and the remaining 11 are proposed for the existing commercial units along the High

Street. With up to 12 cars being parked in front of Plots 1 to 6 and directly opposite the 11 spaces for the existing commercial units, I find that the layout would appear very car dominated.

12. The proposed layout lacks creativity and fails to take the opportunity to enhance the site and make a positive contribution to the area. Paragraph 64 of the National Planning Policy Framework (the Framework) identifies that permission should be refused for development of poor design that fails to take the opportunity available for improving the character and quality of an area and the way it functions. The appeal site would be trying to perform 2 competing roles of residential environment and parking and servicing area for existing commercial uses. As such it would not provide a satisfactory quality of residential environment.
13. The appellant has made reference to the layout and relationship of commercial and residential uses on Warrens Close. I saw on my site visit that it is a smaller scale of development to the appeal scheme. The incorporation of the setback garages for Nos 2 to 6 Warrens Close, together with their driveways allows for a visually less car dominated environment, even when taking into account the car parking potential to the rear of the commercial units. I do not consider the circumstances to be directly comparable to the appeal proposal.
14. I conclude that the appeal proposal would harm the character and appearance of the surrounding area. This would conflict with Policy 8(d) of the North Northamptonshire Joint Core Strategy (JCS), which seeks amongst other things, development to respond to the site's immediate and wider context and local character.

Heritage

15. The Irthlingborough Conservation Area (ICA) includes the main part of the appeal site and whilst the entrance falls outside of ICA, it forms part of its setting. I have not been provided with a Conservation Area Character Appraisal. However, the significance can be drawn from the presence of 19th Century buildings, particularly on College Street and High Street, which were associated with the boot and shoe industry. St Peter's Church is a Grade I Listed Building, which lies to the south-east of the appeal site, and the Manor House together form some evidence of a medieval core to the settlement.
16. The sense of openness arising from the undeveloped nature of the main part of the appeal site makes a contribution to the character or appearance of the ICA. Whilst it has no direct street frontage, the introduction of the terraced row of 7 two-storey dwellings would be visible from the public realm of St Peter's Way across the existing car park which serves the apartments Nos 2-24. Although this view would be from outside of the ICA, it would form part of the gateway setting to the ICA. I find that the unimaginative plain design of the proposed terrace together with its elevated nature resulting from the existing topography and the car dominated layout would not preserve or enhance the character or appearance of the ICA.
17. Although Plots 8 and 9 at the entrance to the appeal site would be outside of the ICA, they would lie close to the edge of the ICA boundary which runs along the eastern side of St Peter's Way. Given this proximity, Plots 8 and 9 would be seen as part of the gateway setting to the ICA along St Peter's Way. Given their prominence and orientation with a blank gable wall facing St Peter's Way.

I find that plots 8 and 9 would harm the character and appearance of the setting of the ICA.

18. A well designed scheme on the appeal site could offer the opportunity to enhance the character and appearance of the ICA. The appeal scheme fails to take this opportunity.
19. St Peter's Church is located to the east of St Peter's Way and has an open setting, which includes a car parking area to the north and graveyards to the south. The entrance to the appeal site is the closest part of the appeal site to the church grounds. The church building itself is located at the eastern side of its grounds furthest away from the appeal site. A large modern building lies to the south-west of the church fronting onto St Peter's Way, this building whilst being off-set, effectively lies between the church grounds and the appeal site. The church has a strongly defined curtilage, although its setting does extend beyond that curtilage. Significant views of the church are available from St Peter's Way and from within the appeal site itself.
20. The introduction of new built development would not adversely affect public views or detract from the prominence of the church as a focal point. The proposal would not harm the setting of St Peter's Church.
21. The Council has identified the Louisa Lilley Homes to be a non-designated heritage asset. Paragraph 3.5 of the JCS refers to non-designated heritage assets being identified through a Local List.
22. There is no statutory protection for non-designated heritage assets, including those on any Local List compiled by a Council. The Framework in paragraph 135 identifies that the significance of a non-designated heritage asset should be taken into account in decision making. The Louisa Lilley Homes as almshouses have some architectural merit. Their significance is however limited by the enclosed nature of their curtilage. The proposed siting and elevated nature of plots 1-7 would result in a dominant form of development which would harm the setting of the Louisa Lilley Homes.
23. I have had regard to the statutory duties set out in s66(1) and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I conclude that the appeal proposal preserves the setting of the Grade I Listed Building, namely St Peter's Church. The appeal proposal would fail to preserve the character and appearance of the ICA. This harm would be less than substantial when considered against paragraphs 132 and 134 of the Framework. I acknowledge that the proposal would provide 9 homes, as such resulting in some economic and social benefits. However, there are no public benefits that would outweigh the harm to the ICA in this case. In addition, harm would arise to the setting of the Louisa Lilley Homes.
24. Accordingly, the appeal proposal would conflict with Policy 2 of the JCS, which seeks, amongst other things, that development should conserve, and where possible, enhance heritage assets.

Living conditions

Neighbouring occupiers and overlooking

25. The Council is concerned about the impact on the living conditions of the occupiers of neighbouring dwellings, with particular regard to overlooking.

Nos 1 and 2 Oak Terrace lie to the south of Plots 8 and 9 and would be the nearest existing neighbouring dwellings. The intervening distance between the rear elevations of plots 8 and 9 and the front elevation of Nos 1 and 2 Oak Terrace would be approximately 15 metres.

26. No indication of the proposed finished floor levels for Plots 8 and 9 are given on drawing no. 7338-01. The existing ground level within the site at this point results in the large stone retaining wall to the footpath of Oak Terrace being a relatively low boundary wall to the rear gardens of Plots 8 and 9. Consequently, direct overlooking of Nos 1 and 2 Oak Terrace would be likely to occur from the rear windows of Plots 8 and 9 at both ground and first floor levels. The elevated nature of the appeal site would further enhance the perception of overlooking. I find that there would be significant harm to the living conditions of the occupiers of Nos 1 and 2 Oak Terrace from overlooking.
27. I note that the Council has not raised any concerns regarding Plots 1-7 and the impact on the living conditions of occupiers of any neighbouring properties. I see no reason to disagree.

Future occupiers and noise

28. The proposed terraced of Plots 1-7 would be sited to the rear of commercial units on High Street and directly to the east of a vehicle repair garage. These uses could potentially lead to noise which could adversely affect the living conditions of the future occupiers of Plots 1-7. Given these surrounding uses it is reasonable to expect some form of noise assessment. Such an assessment would, if necessary, set out specific noise attenuation measures to make the proposal acceptable. At the time of my site visit, which only represents a snapshot in time, noise from the adjacent garage was clearly audible from within the appeal site. I did not witness any deliveries to any of the commercial retail units. However, deliveries in the form of HGVs are a source of potential noise and disturbance and can be reasonably expected at the retail units.
29. The appellant recognises that noise may be an issue and suggests that the details of the sound proofing can be controlled by condition if necessary. However, impact on the living conditions of the occupiers needs to be considered not only in relation to the inside of the properties, but also to their use of external private gardens. I agree that it can be appropriate to use conditions. However, such conditions need to be precisely written based upon the specific mitigation that was deemed to be necessary to mitigate the noise. As no assessment has been undertaken it cannot be accurately established what mitigation, if any, would be required. Accordingly, I am not able to attach such a condition. I find that the appeal proposal has failed to demonstrate that the living conditions of future occupiers would not be adversely affected by noise from the surrounding commercial uses.

Future occupiers and internal space

30. The plans indicate that 3 plots (nos. 1, 4 and 5) would be house type 1 which is a 2-storey, 2 bedroom dwelling with an internal floor area of just under 64 square metres. House type 2 is proposed for the remaining 6 plots (nos 2, 3, 6, 7, 8 and 9) this is also a 2-storey, 2 bedroom dwelling, but there is a room described as an office which would be capable of being used as a third

- bedroom. House type 2 has an internal floor area of approximately 61 square metres. I note that these figures have not been disputed by the appellant.
31. The Council has a local policy on housing standards. Policy 30 of the JCS requires new dwellings to meet the National Space Standards.¹ Accordingly, the Council has adopted and used these national space standards in their assessment of the proposal.
 32. According to the nationally described space standards a 2 storey, 2-bedroom dwelling requires a minimum of 70 square metres of gross internal floor area. If occupied by 4 people, this requirement increases to 79 square metres. Both house types would fall short of this standard.
 33. The appellant argues that the proposed units are comparable in size to a number of dwellings in the area. However, no cogent evidence has been presented to set out what properties are being referred to, their planning history and circumstances. As such this limits the weight that I can give to this argument.
 34. In the absence of any other evidence, I find that both proposed house types would have insufficient internal space. Therefore, they would constitute a cramped form of development which would harm the living conditions of future occupiers, with particular regard to lack of internal space.

Crime

35. I have had regard to the concerns raised by Northamptonshire Police. I agree that the design and layout, specifically the passageway behind plots 1-7, could present an opportunity for anti-social behaviour and crime. Although I observed several other similar pedestrian passageways within the built form in Irthlingborough, including from Oak Terrace to the High Street, I did not find them to generate a sense of safety and have natural surveillance. However, I have no specific evidence before me which would lead me to find that this would result in criminal activity or anti-social behaviour.
36. The passageway could be locked and be available only to occupiers to address any potential for misuse. Had I been minded to allow the appeal this could have been secured by a suitable planning condition.
37. The proposed dwellings on Plots 1-7 would introduce additional natural surveillance into the rear of the commercial premises on High Street. This could be of potential benefit when the commercial premises are closed.
38. Plots 8 and 9 are more isolated and their parking would lack natural surveillance. However, as they are located at the entrance to the appeal site it would be expected that there would be some vehicle and/or pedestrian activity such that some surveillance would occur.
39. Consequently, neither of these matters are sufficiently harmful to warrant the refusal of permission. I agree with the Council that other concerns regarding boundary screening and access to the west could be controlled by condition had I been minded to allow the appeal.
40. In relation to living conditions as a whole, I conclude that the appeal proposal would harm the living conditions of existing and future occupiers in relation to

¹ Technical housing standards – Nationally described space standards, DCLG, March 2015 (as amended in 2016).

the overlooking to Nos 1 and 2 Oak Terrace and insufficient internal space within the proposed dwellings. The proposal has also failed to demonstrate that the living conditions of future occupiers would not be adversely affected by noise from the surrounding commercial uses. Accordingly, the appeal proposal fails to meet the space standards set out in Policy 30(b) of the JCS. It also fails to comply with Policy 8(e) of the JCS, which seeks, amongst other things to ensure a quality of life and safer and healthier communities.

Highway safety

Parking and servicing

41. The appeal proposal incorporates sufficient car parking provision to meet the needs of the 9 proposed dwellings. In addition, a further 11 car parking spaces are shown for the use of commercial units, although it is unclear whether this only applies to Nos 13-21 High Street which are controlled by the appellant, or also Nos 23-29 High Street which also back onto the appeal site. An additional 6 car parking spaces are illustrated for being to serve 'apartments.' The appellant identifies these spaces to be those approved under a first floor extension to create 2 flats above the existing retail units on High Street².
42. Existing parking provision on the appeal site has approximately 35 spaces. Although the car park was primarily intended to serve the 'Select and Save' store, now no longer trading, at the time of my site visit there were cars parked there. I have no cogent evidence to demonstrate that the overall parking provision is insufficient to meet the needs of the appeal proposal. Sufficient parking is provided to meet the obligations required by the consent for the 2 apartments above the retail units. I note that the appellant identifies that there is no obligation to provide car parking for the commercial units on High Street. The commercial units form part of the town centre and there is a public car park available a short distance to the east along High Street. Neither the Council nor the Highway Authority have demonstrated that the appeal proposal incorporates insufficient car parking spaces or that it fails to meet any standards set out in the development plan.
43. The main parties do not agree on the dimensions for the parking spaces to be provided. The Council in its determination has referred to the Northamptonshire Parking Standards 2016 (NPS). However, these standards do not form part of the statutory development plan. The NPS appear to be those of the Highway Authority and there is no evidence before me to indicate that they have been adopted by the local planning authority as a supplementary planning document. It is not clear from the evidence submitted that the NPS has been subject to any consultation or any form of independent scrutiny. Accordingly, I attach limited weight to its contents and I find the parking provision to be sufficient to meet the needs of the appeal proposal.
44. The proposed layout incorporates the retention of 2 existing ramps together with a reduced size loading platform for the former 'Select and Save' unit. I share the concern of the Council that insufficient information has been provided in relation to the servicing needs of all the commercial units, Nos 13-29. I saw on my site visit that each of these individual units had a rear access. The proposed layout does not allow for the opportunity for units 19 – 29 to be

² Planning application 15/01953/FUL for two 2-bedroom flats, however, the extract of the approved layout in the appellant's statement illustrates 5 spaces.

served from the rear. The submitted plans do not illustrate whether it would be possible for vehicles associated with servicing, including HGVs if appropriate, to satisfactorily manoeuvre within the identified turning area. As such the proposal fails to demonstrate that it has an acceptable relationship to these adjoining uses. In addition, the absence of a swept path analysis does not clearly demonstrate that the appeal site can be adequately served by waste collection vehicles.

45. The appellant suggests that the servicing requirements for the commercial units could be undertaken from the High Street frontage. I have no details before me regarding the servicing requirements of the existing premises to determine whether this would be a realistic or practical alternative. I note that interested parties have raised concerns about the impact of servicing activity elsewhere on High Street.

Access

46. The submitted plans indicate that the proposed access road is intended to meet the standards for adoption. The appellant has subsequently suggested that the access does not need to be adopted. The access is intended to serve 9 proposed new dwellings, in addition to the 2 existing permitted apartments and as a minimum the servicing of the former 'Select and Save' retail unit. To serve the proposed number of premises an adopted highway is required in order to meet the relevant standards to ensure highway safety.
47. The submitted plans show two different forms of highway layout. The proposed site layout plan (drawing number 580-01 Rev B, dated 14.11.16) appears to illustrate a highway width and footway arrangement that differs substantially to that shown on drawing number 7388-01 Rev A, dated 18.11.16.³ Both of these submitted plans formed part of the planning application. The latter of these plans does not incorporate sufficient information, including all relevant dimensions, to be certain that the appeal proposal would meet all of the relevant highway standards.
48. I conclude that the appeal proposal incorporates sufficient car parking provision, however, insufficient information has been provided to demonstrate that the proposed access road and the servicing requirements are satisfactory and meet the standards to ensure highway safety. As such it is contrary to Policy 8(b) of the JCS, which seeks, amongst other things, that development results in safe and pleasant streets and spaces.

Other matters

49. A number of other matters have been raised in addition to those covered within the main issues, including the loss of car parking to the shops and the town centre more generally. The appellant has confirmed that the car park was for the customers of the former 'Select and Save' supermarket. Whilst it would appear that interested parties may use this car park for a variety of purposes, it does not form part of the public parking provision for the town. I am aware that there is a public car park available elsewhere. I have been provided with no cogent evidence to demonstrate a lack of car parking capacity within the town centre; therefore I can only give this matter limited weight in my decision.

³ This plan is titled "junction layout, visibility splays, drainage scheme and existing & proposed levels."

50. A comment has been made regarding the quantity of housing being built or built recently within the town without infrastructure. I note that the Council does not raise any concerns regarding the impact of the development on the general infrastructure available within the town. No specific details of infrastructure concerns has been presented, as such this generalised comment can only be given limited weight within the decision making process.
51. The appellant suggests that many of the deficiencies of the proposal could be dealt with through the use of planning conditions. However, these concerns largely relate to the acceptability or not of the development in principle. As such, they are not matters which can be dealt with satisfactorily through the use of planning conditions.
52. There are several references made by the parties regarding the processing of the planning application. These are not relevant matters for this appeal.

Conclusion

53. For reasons given above and taking all matters into consideration, I conclude that the proposal does not constitute sustainable development and accordingly the appeal should be dismissed.

Rachael A Bust

INSPECTOR