



Appeal Decision

Site visit made on 2 July 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05th August 2019

Appeal Ref: APP/K2420/W/19/3226202

Barrack House, The Barracks, Barwell LE9 8EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nirad Solanki against Hinckley & Bosworth Borough Council.
 - The application Ref 18/01266/FUL, is dated 13 December 2018.
 - The development proposed is the part demolition of an existing factory and conversion to 4 no. two bedroom apartments and erection of 4 no. two bedroom houses and a further 9 no. two bedroom apartments.
-

Decision

1. The appeal is allowed, and planning permission is granted for the part demolition of existing factory and conversion to 4 no. two bedroom apartments and erection of 4 no. two bedroom houses and a further 9 no. two bedroom apartments at Barrack House, The Barracks, Barwell LE9 8EF, in accordance with the terms of the application Ref 18/01266/FUL, dated 13 December 2018, subject to the schedule of conditions to this decision.

Application for costs

2. An application for costs was made by Mr Nirad Solanki against Hinkley & Bosworth Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the assessment and conclusions submitted in the Council officer's report to Planning Committee dated 28 May 2019 and the related minutes of that meeting. It was resolved that the application would have been approved and therefore the appeal has not be contested by the Council. I have treated this as the basis of the decision the Council would have made, had it been empowered to do so.
4. Interested parties and the officer report identified a number of issues during the course of the application, including the consistency with local planning policy and the effect that the proposed development would have on the character and appearance of the area, living conditions, and highway safety. I have drawn upon these, together with the evidence before me, to inform the main issues to be dealt with in this appeal.

5. The application has been subject to revisions and additional supporting information during the course of its consideration by the Council. These were before the planning committee at the time they made their resolution, and I am satisfied that no party would be prejudiced if I determine the appeal on this basis.

Main Issues

6. The main issues are 1) whether the proposal would be an appropriate form of development in this location, having regard to relevant local planning policies; 2) the effect of the development on the character and appearance of the area with particular regard to Barwell High Street Conservation Area; 3) the effect of the development on living conditions; and 4) Highway Safety.

Reasons

Local Plan Policy

7. The appeal site is identified as existing employment land in the Earl Shilton and Barwell Area Action Plan Development Plan Document (ESBAAP) and the Site Allocations and Development Management Policies Development Plan Document (SADMP), the Council are of the opinion that the site plays a minor employment role and that its loss would be insignificant to the employment needs of the area. Policy DM19 of the SADMP allows for uses to be considered if it accords with the most up to date Employment Land and Premises Review (ELPR). The Council have concluded in its latest ELPR that due to its isolated village centre location surrounded by residential areas with limited commercial demand and poor access, that the site should be considered for alternative uses.
8. I have visited the site and considered all relevant information before me and agree with the Council's position in relation to this matter, that the site should be considered for an alternative use. I therefore conclude that the proposal accords with Policy 23 of the ESBAAP and policy DM19 of the SADMP, which collectively seek to ensure that the most appropriate sites continue to be safeguarded for employment use, whilst not stifling alternative development on land which is no longer appropriate for employment use.
9. I also assess that given the site's close proximity to the centre of Barwell, and taking into account that the surrounding land uses are predominantly residential, I find the proposed development to accord with Policy 3 of the Core Strategy and DM1 of the SADMP, which collectively seek to provide sustainable forms of development, to provide new dwellings within the settlement boundary of Barwell, and to diversify the existing range of housing available.

Character and Appearance

10. The appeal site partially lies within the Barwell High Street Conservation Area. The proposed development would consist of part demolition and part conversion of an existing factory building. The officer report explains that the part of the building to be retained falls within the Conservations Area and is known locally as the former Bennett & Co. boot and shoe factory, and dates back to the Victorian period. The building is considered to be of historic and architectural interest and makes a positive contribution to the Barwell High Street Conservation Area. Only a small part of the Victorian building would

need to be demolished, the main parts to be demolished are later additions which are of limited significance and appear to be in a relatively poor condition, detracting from the character of the area.

11. The proposal is to convert the remaining building into 4 apartments, retaining the gabled frontage of the original building would ensure the special features that contribute to the Conservation Area are retained. And the demolition of the poorer quality buildings to the side and rear to construct 4 new houses and 9 new apartments, would enhance the character and appearance of the Conservation Area, and benefit the appearance of the area in general.
12. I have assessed the submission made by the Council and the appellant, and I consider the proposals design and appearance to be acceptable, and furthermore it would not cause any harm to any views in or out of the Conservation Area. Overall the proposal would represent an enhancement in the appearance of the site, which is currently somewhat degraded. For these reasons I conclude that the proposed development would conserve and enhance the historic environment with particular regard to the Conservation Area, and the proposed development accords with Policy DM11 and DM12 of the adopted SADMP, paragraph 193 of the Framework, which collectively seek to ensure that new developments respects local character, preserve and enhance Conservation Areas and prevent harm to designated heritage assets.

Living Conditions

13. During my site visit I observed that the two storey factory building extends from the very front of the site, to almost the full depth of the site, I was also able to see the numerous windows on the south east facing elevation close to the boundary of neighbouring residential property of No. 11 The Barracks. The windows at the first floor level face out across the rear gardens of Barrack Terrace. Although only two storeys, the factory's high ceilings, mean that it is noticeably taller and has a relatively imposing appearance compared to the adjacent terrace properties.
14. The majority of this building would be demolished, resulting in a significant reduction in the overbearing nature of the building, and removing most of the overlooking windows. Two windows at the first floor on the south east facing elevation would be retained, due to the proximity of the end gable of Barrack Terrace only one of these would remain overlooking the adjacent garden. The submitted plans show that the window would serve a kitchen diner, and that the window would have obscured glazing and the opening be restricted so as not to cause overlooking to the neighbouring occupiers.
15. I have assessed the effect on living conditions, and I support the Council's conclusions, that the proposal would not result in any significant overlooking and loss of privacy to adjacent occupiers. Furthermore, I am satisfied that there would be sufficient separation distances between the new buildings and the existing properties on the surrounding streets including The Barracks, Shoesmith Close and Jersey Way. I also assess the provision of onsite private amenity space to be acceptable, given the proximity to nearby open space, and the benefits of the proposals with regards to the redevelopment of an unsuitable employment site, and the provision of housing.
16. I conclude that the proposed development would not have an unacceptable effect on the living conditions, and the proposal accords with policy DM10 of

the SADMP which seeks to ensure that the living conditions of neighbouring occupiers or future occupiers are not harmed as a result of new development.

Highway Safety

17. The proposed new vehicle access would be positioned in the north eastern corner of the site, closer than the existing access to the shared boundary with the adjacent Barwell Medical Centre, and the pedestrian through route connecting The Barracks to Jersey Way. Both Parties have submitted that a previous planning permission (15/00638/OUT) has been granted with a similar access approved in detail. I am not aware of the full details of this permission and have considered this current proposal on its own merits.
18. I note from the officer's report that the appellant has submitted a Highways Assessment and relevant amended plans, including offsite highways improvements which include widening of the carriageway, new footway, crossing points and visibility splays. Leicestershire County Council as the Local Highway Authority have assessed these drawings and consider the proposed development to be acceptable in highway safety terms. I have visited the site and assessed the proposal on all the relevant submitted information, and I am satisfied that the proposed access and site layout would provide safe access for future residents and existing residents in the area.
19. I understand that there would be a small short fall in off street car parking provision. However, the site is located in a sustainable location and is a reasonable walking distance to Barwell town centre and the associated shops, services and public transport. I therefore find the level of car parking to be acceptable in this context.
20. I have taken account of the concerns raised by local Councillors and the Parish Council relating to safety and to potential conflict between vehicles accessing and existing the site and passing pedestrians and cyclists. I am satisfied that the improvements considered by the Council will satisfactorily address these concerns and can be secured by planning condition to ensure they are implemented and retained.
21. I conclude on this matter that the proposed development would not have any significant highway safety impacts, and that it accords with policies DM17 and DM18 of the SADMP which collectively seek to ensure safe access and satisfactory parking provision in new developments. The proposal also accords with paragraph 108 to 110 of the Framework which promotes safe and suitable access to the site for all users, and to mitigate any significant impacts on the transport network.

Other Matters

22. The appellant has provided the Council with a viability report which concludes that any affordable housing or infrastructure contributions would render the development unviable. The Council have had an independent third party appraise the viability report, which I understand confirms the conclusions of the viability report. Furthermore, the Council minutes from the meeting on 28th May 2019, state Committee Members would have supported the officer's recommendation, which did not seek any affordable housing or infrastructure contributions. With this in mind and the absence of any evidence to contest

the findings of the viability report, I conclude that no affordable housing or infrastructure contributions are required.

Conditions

23. I have considered the Council's recommended conditions in the officer report, altered where necessary for clarity and to ensure compliance with the relevant tests. I have imposed a condition specifying the approved plans as this provides certainty. Conditions relating to access, parking, site layout, and restriction on gating the access and off-site highways works to ensure safe and suitable access, necessary to address highway safety. The construction management plan conditions are necessary to ensure the satisfactory operation of the construction phase. Conditions relating to contamination and drainage are necessary to safeguard the health and safety of future occupiers, and ensure the site is satisfactorily drained. Conditions relating to materials, levels and tree protection measures are necessary in the interests of the character and appearance of the area.
24. I have omitted the officer's recommendation of a condition for a scheme to remediate the building if the development does not commence within 6 months. This would fail the relevant tests as it is not necessary to make the proposed development acceptable in planning terms, and therefore unreasonable.

Conclusion

25. For the reasons given above and having regard to all other matters, I conclude that the appeal allowed, and planning permission granted.

R Cooper

Inspector

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Site Location Plan Drawing No. VD/NS/001/FP/019
- Units 13 - 17 Floor Plans Drawing No. VD/NS/100/FP/003 Rev A
- Root Protection Areas Drawing No. VD/NS/100/FP/012
- Cycle Storage Details Drawing No. VD/NS/100/FP/018
- External Construction Materials details dated December 2018

all received by the local planning authority on 4 January 2019;

- Units 1 -12 Elevations Drawing No. VD/NS/100/FP/004 Rev B
- Units 13 - 17 Elevations Drawing No. VD/NS/100/FP/005 Rev A
- Landscaping Plan Drawing No. VD/NS/100/FP/008 Rev A

all received by the local planning authority on 20 February 2019;

- Units 1 - 12 Ground Floor Plan Drawing No. VD/NS/100/FP/001 Rev B
- Units 1 - 12 First Floor Plan Drawing No. VD/NS/100/FP/002 Rev B

both received by the local planning authority on 21 February 2019;

- Proposed Site Plan Drawing No. VD/NS/100/FP/009 Rev B
- Proposed Highway Design Drawing No. VD/NS/100/FP/011 Rev B
- Revised Site Access Drawing No. VD/NS/001/FP/023 Rev C

all received by the local planning authority on 28 February 2019.

3. The demolition works and residential redevelopment works hereby permitted shall be implemented in full accordance with the details submitted within the Construction Management Plan (dated December 2018), Demolition Plan Drawing No. VD/NS/001/FP/022, CMP Phase 1 Demolition Plan Drawing No. VD/NS/001/FP/013, CMP Phase 2 Construction Plan Drawing No. VD/NS/100/FP/014 and details within the letter from Vickers Developments Limited dated 29.01.2019 regarding amended Saturdays construction hours for the full duration of the proposed demolition and construction works.
4. No part of the development hereby permitted shall be occupied until such time as the access, parking, turning and layout arrangements shown on Revised Site Access drawing VD/NS/001/FP/023 Rev C received by the local planning authority on 28 February 2019 have been implemented in full.

Thereafter the onsite parking provision shall be permanently so maintained at all times thereafter.

5. No part of the development shall be occupied until such time as the offsite highway works shown on Revised Site Access drawing VD/NS/001/FP/023 Rev C received by the local planning authority on 28 February 2019 have been implemented in full.

6. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.
7. The development hereby permitted shall be implemented in accordance with the submitted Geo-Environmental Assessment by Ecologia (Ref: 18.062.1) dated 18 April 2018, Ecologia Screening Criteria, Asbestos Survey by Clearview Environmental Limited (Ref: J015578 issue 1 dated 9 August 2016 and additional information within the letter from Vickers Developments Limited regarding Construction, Asbestos and Land Contamination dated 29.01.2019.
8. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the local planning authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
9. All garden areas shall be filled with imported soil to a depth of 600millimetres. Prior to the soil being imported onto site, a report validating and detailing the source of all imported soil shall be submitted to and approved in writing by the local planning authority and a subsequent further report shall be submitted to the local planning authority validating the imported soil depth in each garden.
10. The development hereby permitted shall be implemented in accordance with the submitted Drainage Assessment Rev A, Micro-drainage calculations, Drainage Layout Drawing No. VD/NS/100/FP/010 Rev A, Paving Overlay Drawing No. VD/NS/001/FP/020 Rev A and Paving Plan Drawing No. VD/NS/001/FP/015 Rev B received by the local planning authority on 28 February 2019 and the approved drainage system shall be completed and fully operational prior to first occupation of any of the dwellings hereby permitted and permanently so maintained at all times thereafter.
11. The development hereby permitted shall be implemented at all times in complete accordance with the tree works, tree protection measures and tree mitigation and management measures detailed within the submitted Tree Impact Assessment, Arboricultural Method Statement and Tree Protection Plan by RJ Tree Services Limited (Ref: The Barracks Barwell/01) dated October 2018 received by the local planning authority on 4 January 2019.
12. The development hereby permitted shall be implemented in accordance with the ground and finished floor levels submitted on Drainage Layout Drawing No. VD/NS/100/FP/010 Rev A received by the local planning authority on 28 February 2019.
13. The materials to be used on the external elevations of the dwellings and boundary walls hereby permitted shall be in accordance with the details submitted within the approved External Construction Materials letter dated December 2018 received by the local planning authority on 4 January 2019 and Units 1 -12 Elevations Drawing No. VD/NS/100/FP/004 Rev B and Units 13 - 17 Elevations Drawing No. VD/NS/100/FP/005 Rev A received by the local planning authority on 20 February 2019.