



Appeal Decision

Site visit made on 16 March 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2020

Appeal Ref: APP/H2835/W/19/3243835

34 Castle Street, Wellingborough NN8 1LW

- 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 Holmwood Properties Ltd against the decision of Wellingborough Borough Council.
 - The application Ref WP/19/00273/FUL, dated 6 May 2019, was refused by notice dated 18 October 2019.
 - The development is described on the application form as proposed dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed dwelling at 34 Castle Street, Wellingborough NN8 1LW in accordance with the terms of the application, Ref WP/19/00273/FUL, dated 6 May 2019, and the plans submitted with it, subject to the attached schedule of conditions.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The description of development above is taken from the planning application form. The Council gave a different description on the decision notice as follows:

Proposed 2.5 storey dwelling – re-submission following withdrawn application ref: WP/18/00748/FUL - changes to design and siting; blocking up of side windows serving 34 Castle street (Amended plans and description)

4. The appellant has used that description on the appeal form. In the formal decision I have used the description from the application form as it is a more precise and accurate reflection of the development.

Background and Main Issues

5. The application is a resubmission of a previously withdrawn scheme¹. The original application was withdrawn due to concerns relating to design and parking arrangements for the site. The appeal proposal was deferred by members at the Planning Committee in August 2019 to enable further parking

¹ WP/18/00748/FUL

surveys to be carried out and was re-presented to the Committee in October 2019.

6. The main issues are the effect of the proposal upon:

- i. The character and appearance of the area;
- ii. The living conditions of the occupants of No. 34a and 34, having regard to outlook and light; and
- iii. Highway safety, having regard to parking provision.

Reasons for the Recommendation

Character and Appearance

7. Castle Street is an attractive tree-lined, residential street. This section of Castle Street is largely characterised by Victorian dwellings of various types. There are also small flatted developments within the vicinity of the site. The properties are generally set back from the highway behind a low brick wall and small front garden. The appeal site currently forms part of No.34's garden. I note that the Council's Design and Conservation Officer did not object to the proposal and considered that the proposal would complement the character and appearance of the street.
8. The appeal site does not make a significant contribution to the character of the area as it is enclosed by a fence and large gaps to the side of properties are not a common feature within the surrounding area. The design of No. 34 and No. 34a are different. However, within Castle Street there are dwellings of various types siting amongst one another. For example, on the opposite side of the road, No. 19a, appears to be an infill property which does not reflect the design of the adjoining dwellings. Similarly, to the south of the site is No. 46 which has a similar appearance to the host property with a double frontage and lower ridge height compared to the adjacent 2.5 storey end of terrace, No. 44. There is also a small gap between No. 46 and 44 which have differing appearances. Accordingly, the appeal site does not form an essential gap and the proposed dwelling would not appear cramped in the context of the surrounding area.
9. Although the dwelling would be detached, the scheme has clearly been designed to respond to the established character and appearance of the surrounding area. The width of the proposed plot would be undoubtedly smaller than No. 34's. Nonetheless, No. 34 is wider than the majority of dwellings within the street and, as highlighted above, within Castle Street it is not uncommon for dwellings of differing types to sit amongst one another. The width of the proposed dwelling would be similar to the surrounding terraces. The building line and front dormer window would also be sympathetic to the local area.
10. A balcony is proposed to the rear of the proposed property. Although balconies are not characteristic of the area, given its position to the rear, it would not be prominent from public vantage points.
11. Within the street scene, there are a mix of two, two and a half and three storey properties. The proposed dwelling would be two and a half storey which would not appear out of character within the context of its surroundings. The

staggered ridge height would also not unduly detract from the street's character because of the differing heights of dwellings and land level changes within the area. Overall, the design, height and massing of the proposed development would appear neither cramped nor out of keeping with the street scene.

12. Adjacent to the appeal site is an established Lime Tree. The tree makes a positive contribution to the area and forms part of a row of trees. The Council's Landscape Officer did not object to the scheme and was satisfied that the development would not adversely affect the tree. The proposal seeks to remove a number of trees towards the front of the appeal site to accommodate the development. Although the removal of these trees is regrettable, they are not protected and do not significantly contribute to the character of the area.
13. For these reasons, I find that the development would not have a materially harmful effect on the character and appearance of the area. Accordingly, the proposal would not conflict with Policy 8 d) i) and ii) of the North Northamptonshire Joint Core Strategy 2011-2031 (2016) (CS). This Policy seeks, amongst other matters, to ensure new development responds to local character.

Living Conditions

14. The Council is concerned that the development would have a detrimental impact upon the side windows of No. 34 and No. 34a. On my site visit, I observed that the side windows of No. 34 have been bricked up and therefore the proposal would not cause harm to the living conditions of the occupants of that property.
15. From the evidence before me, the Council is primarily concerned with the impact of the development upon the north facing side window in No. 34a, directly adjacent to the boundary wall. This window is made up of a number of obscured glass blocks. The occupants of No. 34a have submitted photographs which demonstrate that this is a secondary window serving a dining room.
16. I visited the site late morning and observed that the north facing, side window is already shadowed. The main outlook of the dining room is not obtained from this window. The proposal would not reduce levels of light to the dining room to a material degree because the window in question is not the principal window. Thus, given that this window currently has obscure glazing and the principal window does not face the appeal site the proposal would not have an overbearing, oppressive nor dominating impact. The principal window would continue to provide an open outlook and suitable levels of light.
17. For those reasons, the proposed development would not have an unacceptable effect on the living conditions of the occupants of No. 34a and 34, having regard to outlook and light. Accordingly, it would not conflict with Policy 8 e) i) of the CS. This Policy seeks, amongst other matters, to ensure new development does not have an unacceptable impact on the amenities of neighbouring properties.

Highway Safety

18. The scheme makes no provision for off road parking. The appellant submitted a parking survey with the planning application to demonstrate that there is

sufficient on road parking within the vicinity of the site. A number of local residents have raised highway safety as an issue.

19. Framework Paragraph 109 states developments should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy 8 b) ii) of the CS seeks to ensure that new development provides safe and pleasant streets and spaces by ensuring a satisfactory means of provision for parking.
20. From the evidence before me, I understand that Northamptonshire County Council (NCC) act as the local highway authority and has not objected to the scheme. NCC has confirmed that the submitted parking survey accords with their required specification. The survey results indicate that on Tuesday 19 March 2019 there were 33 unrestricted parking spaces available within the locality of the site, and on the Sunday 24 March 2019 there were 28. Thus, the survey results indicate that on street parking accommodation can be found in the vicinity of the proposed development. Residents have submitted photographs of parking within the local area, but I am not convinced that these provide a true reflection of parking within the vicinity of the site and meet NCC's required specification for such surveys.
21. At the time of my site visit there were numerous on-street parking spaces and traffic flow was low. I acknowledge that this was only a snapshot during the day and there may well be less available spaces and increased traffic flow at other times. A limited number of dwellings benefit from off-street parking and therefore the reliance of on-street parking is not unusual within the area.
22. The Council consider that the parking survey did not accommodate for events at the nearby facilities such as the theatre and Wellingborough School. The appellant declined to undertake an additional parking survey, as requested by the Planning Committee in August 2019, because the highway authority confirmed that a further parking survey was not a requirement. The Council has not provided any compelling evidence of its own to demonstrate how often such events take place or to indicate that there is not sufficient on-street parking in normal circumstances.
23. Local residents have suggested that the flow of traffic on Castle Street has increased and can get gridlocked which can result in arguments between drivers. Residents have also reported damage to cars and consider parking elsewhere to be unsafe and not convenient. However, the information presented is to some extent anecdotal and is less comprehensive than the parking survey which was completed in accordance with the guidance of the highway authority. I do not doubt that there may be occasions when the street becomes busy and parking spaces are in high demand but from the information before me I am satisfied that sufficient space will be available most of the time to accommodate the limited additional parking associated with a single dwelling.
24. On occasions when no spaces are available residents may need to park further afield on nearby streets. I visited Castle Road on my site visit and observed that the majority of the highway is overlooked by properties. Consequently, on the limited occasions when parking may be required in that location I am satisfied that it would not lead to anti-social behaviour or crime. A large

proportion of Irthlingborough Road has restricted parking due to double yellow lines and parking is therefore unlikely to occur in that location.

25. I can understand why residents would prefer to park on Castle Street, however parking on a nearby road is not uncommon in an urban area where there is limited off-street parking. On the information before me I am satisfied that sufficient on street parking will generally be available on Castle Street to accommodate the additional demand from a single dwelling and, even in occasions where that would not be the case, provision would be available in nearby streets. Whilst that may lead to occasional inconvenience, the small amount of additional parking demand can be accommodated satisfactorily on the highway network.
26. For the reasons above, the proposal would not have an unacceptable impact on highway safety, having regard to parking provision. Consequently, it would accord with Policy 8 b) ii) and 8 e) iv) of the CS. This Policy seeks, amongst other matters, to ensure that new development provides suitable and safe parking provision.

Other Considerations

27. The site is located within 3km of the Upper Nene Valley Gravel Pits Special Protection Area (SPA) and Ramsar Site, both of which are designated sensitive areas as defined by the EIA Regulations. The SPA covers approximately 1358 hectares across four local authorities in Northamptonshire. It is a composite site comprising 20 separate blocks of land and water fragmented by roads and other features. The SPA was designated for its wintering habitat for wildfowl and wading birds (in particular bittern, gadwall and golden plover) and its assemblage of over 20,000 non-breeding water birds. These species are the qualifying features for the SPA.
28. The evidence before me is clear that the proposal, particularly when combined with other development in the area, would have a significant effect on the SPA due to an increased disturbance through recreation activity. Most visits are made by people who live within 3km of the SPA, who visit very frequently for relatively short periods of time. An increase in visitors would in turn increase the level of disturbance to the wintering water birds, particularly through dog walking. As such it is necessary to undertake an Appropriate Assessment to consider whether the proposal would adversely affect the integrity of the habitat site.
29. As noted, without mitigation the proposal would be likely to have adverse effects on the integrity of the SPA, in combination with other planned development. The appellant has made a mitigation payment to the Council in accordance with Upper Nene Valley Gravel Pits Special Protection Area: Supplementary Planning Document (2015) (SPD). This financial payment would be put towards various measures to reduce the impacts of the proposed development including screening areas from public access, raising awareness and funding on site wardens. Natural England (NE) has an agreement with the Council that they do not need to be consulted upon planning applications of less than 10 dwellings within the 3km buffer. Moreover, NE has confirmed that it does not need to be consulted on Appropriate Assessments for planning applications within the buffer zone for residential developments of that scale. Accordingly, they have not provided a site-specific response to the proposed

development and I have not consulted them prior to carrying out this assessment.

30. The SPD has been developed with Natural England and the RSPB; the contribution is an agreed approach between the parties. There is a well-established steering group made up of the Local Authorities, Natural England and the Local Wildlife Trust which monitor the mitigation money and authorise the mitigation work to go ahead based on disturbance data and access data collected across the SPA. Consequently, whilst the financial contribution has been made through section 111 of the Local Government Act 1972, as opposed to a s106 agreement under the Town and Country Planning Act 1990, I am satisfied that sufficiently robust measures are in place to ensure that the necessary mitigation measures will be undertaken.
31. I therefore find that, subject to the proposed mitigation, towards which a proportionate contribution has been made, the proposal would not result in an adverse effect on the integrity of the SPA and Ramsar Site.
32. The appeal site is also situated outside but in proximity to the boundary of the Wellingborough Conservation Area (CA). The Council raise no concerns in respect of the effect of the development on the setting of the CA, and I have no reasons to consider otherwise. To the rear of the site is dense vegetation which screens the site from the CA. The scheme would not unduly interrupt views of the CA, nor would it have any notable impact on how the heritage asset is experienced. I am satisfied that the development would have a neutral impact on the designated heritage asset and would preserve the character and appearance of the CA.
33. I note that the occupiers of No. 34a are concerned that the development would cause issues with repairs and general maintenance given the proximity of the proposed dwelling to the side of their property. The Council did not raise this as an issue and no substantive evidence has been provided to demonstrate that this would amount to a reason to withhold planning permission. The occupants of No. 34a do not own the land to the side of their property and therefore it is outside of their control. The planning system operates in the public interest and does not seek to protect private interests.
34. I sympathise that interested parties have found the process stressful. However, those concerns do not amount to planning matters. Residents have also stated the dwelling is not needed due to housing developments elsewhere in the town. However, I have not been provided with any supporting information with respect of the housing needs of the district. Notwithstanding that point, there is no cap on housing numbers within the area. If a policy compliant proposal is put forward there would be no reason to withhold planning permission on account of development being brought forward elsewhere.

Conditions

35. Several conditions have been suggested by the Council. These have been assessed in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity and precision.
36. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plan in order to provide certainty. In the interest of visual amenity, conditions relating to materials and boundary

treatment are necessary. Policies 30 c) and 9 of the CS require compliance with standards on accessibility and water use. Therefore, conditions to secure these aspects are considered reasonable.

37. The Council has suggested conditions which seeks to remove permitted development rights and to prevent the change of use of the C3 (a) dwelling. Such conditions can only be imposed in exceptional circumstances and where there are clear reasons for imposing them. The dwelling would be a normal sized property on a reasonably sized plot of land and its relationship with neighbouring properties is not out of the ordinary in an urban area. There is nothing to indicate that the intention is to convert it to any other use or that any harm would result if that did occur. Based on the evidence submitted, these conditions are unjustified and unreasonable.
38. Additionally, the suggested condition relating to infilling windows on the southern elevation of No. 34 is unnecessary as these have already been infilled. A condition restricting construction and delivery hours, is also considered unjustified and unreasonable given the nature and scale of the development within an urban environment.

Conclusion and Recommendation

39. For the reasons given above I recommend that the appeal should be allowed, subject to the imposition of all necessary conditions.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

40. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be allowed subject to the conditions attached.

Chris Preston

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 plan: 03-18-01 C.
- 3) No development above slab level shall take place until a sample panel of the materials to be used in the construction of the external surfaces have been prepared on site for inspection and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No development above slab level shall take place until a plan indicating the position, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved boundary treatment has been provided. The approved boundary treatment shall be retained thereafter.
- 5) The dwelling hereby approved shall be built to meet the requirements of the national Accessibility Standards in category 2 (accessible and adaptable dwellings) in accordance with the schedule of the Approved Document M of the Building Regulations (2015).
- 6) The dwelling hereby approved shall incorporate measures to limit water use to no more than 105 litres per person per day within the home and external water use of no more than 5 litres per day in accordance with the optional standard 36 (2b) of Approved Document G of the Building Regulations (2015).