



Appeal Decision

Site visit made on 9 March 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2020

Appeal Ref: APP/G2815/W/19/3242441

13-21 High Street, Irthlingborough NN9 5TE

- 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 Mander of Resham PLC against East Northants District Council.
 - The application Ref 19/01077/FUL, is dated 12 June 2019.
 - The development proposed is the extension & conversion of retail to residential (6No Flats) including access, parking & amenity space.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. It is clear from the evidence that the proposed development concerns 13-21 High Street, rather than 13-19 High Street as listed on the application form and the appeal form. I have, therefore, amended the address of the proposal accordingly in my formal decision.

Background and Main Issues

3. The proposed development was not determined within the appropriate time period. However, from the information before me, including the Council's Statement of Case and its email to the Planning Inspectorate dated 24 February 2020, there are no matters of dispute between the main parties.
4. However, the appeal site is largely within the Irthlingborough Conservation Area (ICA). There is a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires me to pay special regard to preserving or enhancing the character or appearance of a conservation area.
5. The proposed development is also within the zone of influence of the Upper Nene Valley Gravel Pits Special Protection Area (UNVGPSPA). Co-terminus with the boundary of the UNVGPSPA is the designation of a Wetland of International Importance (a Ramsar site), and with a slightly larger area, a Site of Special Scientific Interest (SSSI).
6. In determining this appeal, I am the *competent authority* identified at Section 7(1)(c) of the Conservation of Habitats and Species Regulations 2017 (the Regulations).

7. Therefore, the main issues are the effect of the proposal on:

- The significance of the ICA
- Designated natural habitat sites

Reasons

Significance of the ICA

8. Very little original information is before me in relation to the ICA, other than a map showing its location. Nevertheless, it is a designated heritage asset and its significance is derived in part from the buildings it contains, together with the traditional street pattern at the centre of the settlement.
9. The appeal site comprises part of a mid-20th century, 2-storey, flat-roofed brick building, which includes a parade of shop-type uses at ground floor level. These ground floor units face onto a landscaped area next to High Street, where a number of trees partly screen the building from view.
10. The shop-type units within the appeal site are vacant and shuttered. At first floor level, a number of windows are missing or broken, and only some have surrounds. Overall the front of the building has an appearance of some disrepair, without a strong visual-relationship between the ground and first floors. To the rear, the building has a functional, somewhat bland appearance, and is seen in the context of a surface car park. In my view, the appeal building does not currently make a positive contribution to the ICA.
11. The proposed development would not significantly alter the appearance of the building. It would entail a rear extension at first floor level, which would be of a similar height and design to the existing building, but with windows inserted. A new pedestrian access and bin storage area would be provided to the rear, together with six dedicated car parking spaces for the flats. At the front of the building, a new doorway would be inserted at No 13, to serve as the principal access to the upper floor flats. The existing first floor front elevation would be altered so as to remove the six existing windows and surrounds and to create eight new, regularly-spaced windows.
12. In views along High Street, the limited changes to the fenestration at first floor level would not be out of keeping with the streetscene. To the rear, the design, scale and massing of the proposed extension would not be inappropriate at this location.
13. For these reasons the proposal would not adversely affect the significance of the ICA and would thereby conserve it. Consequently, it would accord with Policy 2 (Historic Environment) of the North Northamptonshire Joint Core Strategy 2016 (NNJCS) and with the National Planning Policy Framework 2019 (the Framework), in this regard.

Designated natural habitat sites

14. The UNVGPSA covers some 1358 hectares of land and water habitat in 20 separate blocks within the Upper Nene Valley. The sites support significant and diverse populations of waterbirds, some of which are migratory. The species include Bitterns, Golden Plovers, Gadwalls, Great Crested Grebes, Wigeons, Tufted Ducks and Mute Swans.

15. The appeal development is not directly connected with or necessary for the management of the UNVGPSA.
16. An UNVGPSA Supplementary Planning Document (SPD)¹ was adopted in August 2015 and amongst other things sets out the relevant legislative and policy context for the area. It also identifies potential threats to the area and how significant effects can be mitigated.
17. Within a 3-kilometre buffer zone of the UNVGPSA, recreational disturbance from residents of new housing developments is likely to have a significant effect (either alone or in combination with other schemes) on its integrity. There is no dispute that the appeal development is located within this buffer zone and that recreational disturbance arising from it would, therefore, need to be properly mitigated.
18. An Addendum to the SPD, which was adopted in 2016 and which has been endorsed by Natural England, sets out a Mitigation Strategy for the UNVGPSA. The Mitigation Strategy includes Access Management measures, such as screening the UNVGPSA's qualifying features from disturbance; and, redirecting visitor access away from highly sensitive areas towards less sensitive parts. Monitoring the effects of the Mitigation Strategy is also part of the overall approach.
19. For residential developments within the 3-kilometre buffer zone, a financial contribution towards Strategic Access Management and Monitoring (SAMM) and/or other suitable mitigation is required. The Mitigation Strategy sets tariffs for residential developments and refers to mechanisms for their collection. In this case, a total SAMM contribution of £1,616.64 (£269.44 per dwelling) has been provided to mitigate the impact of the appeal development².
20. Further to Regulation 63 (3) of the Regulations, I have consulted Natural England and had regard to their views in relation to this matter. Natural England has no objection to the proposal on the basis that the submitted SAMM contribution accords with the amount and process stated in the Mitigation Strategy contained in the SPD.
21. However, the figure of £269.44 per dwelling is not consistent with the Mitigation Strategy, which requires any such payment to be 'indexed linked (sic), with a base date of 2016'³.
22. Index-linking is used for various financial products, such as pensions, generally to address the effects of inflation. The figure of £269.44 per dwelling was determined in 2016, prior to the adoption of the Mitigation Strategy. However, the figure has not changed since this time, which means its value relative to the price of goods and services has been reduced in the intervening period by inflation.
23. I directly raised the absence of index-linked mitigation payments with the main parties, including the consequent effects of the proposal on the integrity of the UNVGPSA. The appellant has not responded within the given timescale. The Council's response confirms that the figure of £269.44 per dwelling is unchanged

¹ The SPD applies to the four Local Planning Authorities which cover the UNVGPSA (South Northamptonshire, Northampton, Wellingborough and East Northamptonshire).

² In accordance with section 111 of the Local Government Act 1972.

³ Paragraph 4.2 of the Addendum to the UNVGPSA SPD.

- since 2016, but focuses on the periodic review of the figure, rather than the index-linked issue that I raised. From the evidence, no such review has taken place or is scheduled, and in any event is a separate matter to index-linking.
24. The Mitigation Strategy provides only a limited explanation for how the figure of £269.44 per dwelling was derived⁴. No substantive evidence has been provided to demonstrate that mitigation costs have not increased with inflation, in the more than three years since the Mitigation Strategy was adopted. It is very likely that costs have increased, and that without an index-linked mitigation payment, it is also likely that the delivery of the Mitigation Strategy would be adversely affected as a result.
25. No substantive evidence has been provided regarding the delivery of the Mitigation Strategy to date. I note that regular meetings are said to take place involving relevant parties. However, no details of these meetings, including their frequency, have been provided.
26. I am not satisfied that a mitigation payment of £269.44 per dwelling accords with the adopted Mitigation Strategy at this time. From the evidence, it is not clear to me that the submitted mitigation payment of £1,616.64 would be enough to mitigate the adverse effects on the integrity the UNVGPSA, as a result of recreational disturbance from the proposed development.
27. Furthermore, I do not share the Council's view that in this case 'in the absence of updated figures...it would be fair to use the specified figure'. Index-linked figures should be provided, as required by the Mitigation Strategy, to account for inflation. It is unclear to me why using an outdated figure would be 'fair'.
28. For these reasons I am not certain that the proposed development would not adversely affect designated natural habitat sites, in particular the integrity of the UNVGPSA. Therefore, the proposed development would conflict with Policy 4 (Biodiversity and Geodiversity) of the NNJCS, and with the Framework, in this regard.

Other Matters

29. I note the comments of the Louisa Lilley Almshouse Trust regarding the proposal. However, they do not cause me to reach a different conclusion with regard to this appeal.

Conclusion

30. Notwithstanding the acceptable impact of the proposal on the significance of the ICA, this would be outweighed by the harm to designated natural habitat sites, and in particular, the integrity of the UNVGPSA.
31. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

⁴ Including in Appendix 2 of the Mitigation Strategy, with particular reference to Table 2