
Appeal Decision

Site visit made on 17 June 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2020

Appeal Ref: APP/P3040/W/20/3245564

The Old Wharf Building, Main Street, Hickling NG14 3AH

- 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 Chris Grice against the decision of Rushcliffe Borough Council.
 - The application Ref 19/00045/COU, dated 10 January 2019, was refused by notice dated 26 July 2019.
 - The development proposed is Change of Use of the site area for the mooring of canal boats for holiday lets and additional seating in connection with existing tea rooms.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As of October 2019, the Borough Council adopted the Rushcliffe Local Plan Part 2: Land and Planning Policies (LPP2) document, and the Rushcliffe Non-Statutory Local Plan has been cancelled. The Hickling Neighbourhood Plan has undertaken consultation on a pre-submission draft but has not progressed sufficiently towards adoption to be afforded weight in determining this appeal. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the development on;
 - the character and appearance of the Hickling Conservation Area (HCA);
 - the setting of the Canal Warehouse a Grade II Listed Building;
 - the living conditions of neighbouring residents in terms of noise and disturbance;
 - highway safety in particular from the adequacy of the level of onsite car parking; and
 - local wildlife.

Reasons

Character and Appearance

4. The canal basin and area around the canal warehouse are visually an important focal point within the village, which is recognised within the Conservation Area

Appraisal (CAA). It is an attractive open area of water which occupies a prominent location being adjacent Main Street and the canal towpath as such it is sited at a key junction within the village.

5. With the open water and backdrop of the open seating area and the listed building, the site creates an idyllic setting for the current tea-room business and makes a positive contribution to the location which is obviously recognised and cherished by visitors and residents alike.
6. This proposal would introduce a mixed use to the site, both expanding the current tearoom operation with the addition of a wide beam boat, but also add a residential element with three narrow boats for holiday letting. This mixture of uses would naturally increase the level of activity on the current site by both physically extending it into the area of the basin which is currently open and free of any form of structures or activities, but also broadening the range of uses.
7. The HCA covers an extensive amount of the village, and its significance lies in part in the way the range of buildings and spaces reflect the evolution and growth of the village over many years. The appeal site is specifically referenced within the CAA being part of a panoramic view and adjacent a longer distance view from the bridge down the canal and across the basin.
8. It is also recognised that the canal basin contributes positively to the significance of the conservation area as it is an open area which is a focal point within the village both for residents and visitors, as such it is an important open area that links with the countryside beyond and provides a distinctive area within the settlement. Being specifically referred to as an open area in the CAA leads me to give this significant weight.
9. This attractive rural scene would be changed by the introduction of the proposed uses both in character and appearance. While the appearance that may result is not directly before me as the plans for the boats are indicative of what might be brought onto the site, the additional residential use and additional seating which forms the basis of the proposal and the area it covers would increase the commercial activity into the area of the basin that has been properly recognised as having a positive contribution to the character and appearance of this part of the village.
10. Many of the third parties who have commented refer to the tranquillity of the site and how this forms part of the important character of the area. This was how I experienced it during my site visit, although I recognise that the area is also affected by regular traffic movements along Main Street, a good number of which were agricultural vehicles, which is referenced within the CAA as part of the dynamic within the village. Noise was also apparent from the Plant Hire Business located to the east of the site, with vehicle noise and a tannoy system in operation. This while being noticeable was not intrusive.
11. I recognise that my site visit represents a snapshot in time and the experience would have been affected to a degree by the public house and the tearooms being closed at the time. I am also aware that the tearooms do not have a restrictive condition limiting opening hours. Nevertheless, I remain concerned that the expansion of the business by introducing structures and activities into the canal basin would adversely change the character and appearance of this important and prominent part of the conservation area.

12. Counter to these concerns are the economic benefits that would arise by allowing the proposal. While I do not have the full details of what this might be, it would be reasonable to expect the additional visitors would use the tearooms the public house and other local businesses which could support local employment to a degree and this would be broadly in line with the economic aspects of tourism development which are encouraged by policy 5.
13. The National Planning Policy Framework (the Framework) requires that account be taken of the desirability of sustaining and enhancing heritage assets such as conservation areas. It requires that great weight be given to the conservation of such assets. In these circumstances, it requires that any harm be weighed against the public benefit. The setting of the canal basin is of considerable importance and the benefit to the local village community of this development would not be sufficient to outweigh the harm. The canal basin currently is of considerable value to the community and this development would by virtue of the expansion of uses and physical intrusion into the area of open water detrimentally affect the area.
14. The proposal would therefore fail to preserve or enhance the character and appearance of this part of the HCA and would not achieve the objective described as desirable in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is not considered that any public benefits have been identified that outweigh this harm and the proposal is contrary to Chapter 16 Conserving and enhancing the historic environment of the National Planning Policy Framework. The proposal is also contrary to Policy 11 (Historic Environment) of the Rushcliffe Local Plan Part 1: Core Strategy.

Setting of Listed Building

15. The Framework advises at paragraph 189 that applicants should be required to describe the significance of any heritage assets affected by development and the potential impact of the proposal on that significance. As a minimum the relevant historic environment record should have been consulted and appropriate expertise used. While a history of the canal and its renovation has been provided the importance of the warehouse or how the canal basin contributes to its setting has not. The LB is in close proximity to the canal basin and in light of this lack of information I conclude that it has not been demonstrated that the development would preserve the setting of the LB in accordance with policy 11 of the Rushcliffe Local Plan Part 1 or paragraph 189 of the Framework.

Living Conditions

16. A number of the comments made by third parties refer to the site as being within a residential area, I don't consider this to be an accurate description of the appeal site or the locality. The appeal site is a commercial business with commercial neighbours. The Plough Inn public house on the opposite side of the road and a plant hire business to the east and south which shares the same access. It would be more appropriate to describe the site as being in a mixed area.
17. With the current authorised use of the appeal site as a café with outdoor seating, and there being no restrictions on the opening hours the critical question is whether there is evidence that the proposed use would materially

alter the situation such that the living conditions of neighbours would be harmed.

18. It was noticeable that on the day of my visit I could hear clearly voices from nearby back gardens when standing at the basin which is indicative of a low background noise level. This was interspersed with the noises from the plant hire business and the traffic coming and going along Main Street. All sounds you would expect in such a location. Nor do I doubt that the general level of activity in the area would reduce in the evenings, early mornings and overnight as referred to by several third parties.
19. I would also agree with the general assertion that the introduction of 3 narrowboats for holiday use is likely to bring activity which may extend the time period where noises may well occur. Whether it be the voices of occupants or vehicles arriving or leaving the site, nevertheless I am not persuaded that this would be so harmful to the living conditions of the occupants of nearby residential properties as to warrant a refusal. The current use is unrestricted and while it may not operate in this way at present there is nothing to prevent it from doing so.
20. The change that might come about has not been quantified or supported by any noise assessment and the policies within the Local Plan and the National Planning Policy Framework are supportive of encouraging economic activity and in particular tourism. Nor are any of the neighbours immediately adjacent the appeal site and on this basis from the evidence before me I do not consider the proposal would be in conflict with policy 10 of the Rushcliffe Local Plan.

Highway Safety

21. At the time of my site visit there was parking taking place adjacent the canal basin and beyond to the north to a point near to the entrance to Ash Trees. Both the café premises and public house were closed and the car park within the appeal site empty bar one car. It is understandable, that the site acts as an attractive location to commence a walk, or to enjoy the local area. Being located adjacent the basin which is the focal point for visitors and close to accessing the tow path in either direction.
22. It is not a reasonable requirement, however for a developer to provide general parking to accommodate other users in the vicinity, but for a scheme to be able to accommodate the parking commensurate with its own use. The Highway Authority have confirmed that the provision of 11 parking spaces on site would meet the requirements that they would expect for the scale of development proposed and the layout exceeds this.
23. While there is significant anecdotal evidence that the street becomes congested with visitors, there is no evidence this is directly linked to the operation of the café, or that the parking requirements for the proposed use do not meet the necessary standard as would be expected for a development of this scale. From the evidence before me and from my site visit, it is however clear that parking on the street in the vicinity of the appeal site is an issue for local residents. This, however, does not of itself sustain a reason to refuse this scheme.
24. The Council in presenting its case has not explained why this proposal would need or justify a greater number of parking places than the standards applied by the Highway Authority. Despite the ongoing concerns and the regular traffic

that accesses the village either by way of visitors, residents or local businesses there is no evidence that the development on its own would adversely affect highway safety or have severe residual cumulative impacts on the road network.

Ecology

25. The application was supported by a Preliminary Ecological Appraisal undertaken by a qualified ecologist which I give significant weight, which confirmed the site was part of the Hickling Basin Local Wildlife Site (LWS). No rare or notable habitats were recorded within the area, although as part of the canal it forms part of the Biodiversity Action Plan area. The appraisal confirmed the scheme itself would be unlikely to have any direct effects upon ecological issues and no evidence has been presented that contradicts this position.
26. Significant concern has been raised by third parties, however that the additional activity would harm the wider area. There is no direct evidence, however, of any harm that would arise to a specific ecologically sensitive receptor either from the increase in activity, or the provision of boats within the canal basin.
27. While I accept that by increasing the number of people who may use the café tearooms by virtue of the provision of the additional barge and the 3 narrow boats for holidaying may well increase the periods of activity within the basin and this could result in additional movements along the tow paths. There is nothing before me that quantitatively provides evidence that this would harm any of the ecological aspects that need to be safeguarded in the vicinity.
28. As such I do not consider the development would conflict with policy 17 (Biodiversity) of the Rushcliffe Local Plan Part 1 Core Strategy or the aims set out in the framework to safeguard ecology and biodiversity.

Other Matters

29. I have taken into account the representations in respect of boat maintenance, potential for permanent occupation, disposal of sewerage but none of these are matters that outweigh my findings on the main issues.

Conclusions

30. While I do not consider there would be harm in terms of either highway safety or adverse effect on ecology. Due to the adverse effect on the character and appearance of the conservation area and the lack of evidence to demonstrate that undue harm would not arise to the setting of the Canal Warehouse, this in combination with the limited public benefit that would arise, leads me to conclude the appeal should be dismissed.

Edwin Maund

INSPECTOR