
Appeal Decision

Site visit made on 5 October 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal Ref: APP/G2815/W/20/3253994
18 Fitzwilliam Street, Rushden NN10 9YW

- 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 Warfield against the decision of East Northants District Council.
 - The application Ref 19/01372/FUL, dated 9 August 2019, was refused by notice dated 18 December 2019.
 - The development proposed is for a residential development of 1 no. 2 storey 2 bed house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has commented that its concerns in regard to the Special Protection Area have been satisfied following receipt of the appellant's mitigation payment. However, it is still necessary for me to consider this matter, which I shall return to later in this decision.

Main Issues

3. The main issues are:
 - The effect of the proposed dwelling on the character and appearance of the area,
 - The effect of the proposal on the amenity and future operations of the adjacent community use and its external area with particular regard to sunlight, daylight and outlook, and
 - Whether the proposal would affect the integrity of the Upper Nene Valley Gravel Pits Special Protection Area.

Reasons

Character and appearance

4. Fitzwilliam Street is in an urban location consisting of largely residential properties. Most buildings on the street are set back a short distance from the footway and behind boundary walls. Buildings are predominantly two-storey and consist of brick with pitched roofs. The buildings therefore are of a traditional style, with a largely consistent appearance, in regard to both form

and scale. The appeal site is a small parcel of land to the rear of a community hall. It is also to the side of a dwelling that is itself set back from the highway in a second tier of development. The site is screened from the public car park to the rear and from the footpath to the side by a wall around 2 metres high. As a result, the site has a neutral impact on the character and appearance of the local area.

5. The proposal would occupy most of the site. It would consist of a two-storey, flat roofed structure. Although back-land in nature the proposal would be prominent in public views due to the proximity of the car park and footpath. The proposal would also be largely exposed to views from Duck street, due to limited boundary screening between the highway and car park. This prominence would be further emphasised due to the topography of the car park which rises towards its rear boundary.
6. The proposed dwelling would have a flat roof. Its walls would consist of a combination of buff brick and black/grey metal cladding. There are some examples of metal clad roofs in the area, such as the nearby public convenience. However, the proposed design would engage the use of materials and have a non-uniform form that are not generally characteristic of the area. Furthermore, the dwelling would complement the staggered heights of adjacent built form, in response to the gradient. Instead it would have a roof line similar in height to the eaves of Fitzwilliam Court and the ridgeline of No 18. This would jar uncomfortably with the adjacent buildings. Accordingly, the proposal would not integrate well with existing development in form, scale or material. Furthermore, the proposal would be a prominent and obtrusive feature from the car park and footpath.
7. Both 18 Fitzwilliam Street and Fitzwilliam Court are to the rear of existing buildings on Fitzwilliam Street. However, Fitzwilliam Court is a comprehensive development that occupies a large block and is arranged in a unified and coordinated manner. Furthermore, No 18 follows the established design and form of adjacent development, sits within a plot with space around it and complements the local area. Whereas, the proposal would consist of development that would have a limited sense of spaciousness and would therefore be constrained on its small plot. It would have a poor spatial relationship with adjacent buildings. Consequently, taking the above points together, the proposal would have a demonstrably harmful impact on the local streetscene and the character and appearance of the area.
8. Accordingly, the proposal would be contrary to policy 8b of the North Northamptonshire Joint Core Strategy 2016 (CS). This seeks, amongst other things, for development to create pleasant streets and spaces. Furthermore, the proposal would fail to satisfy policy EN1 of the Rushden Neighbourhood Plan 2018 (NP) which seeks amongst other things for development to be high quality and respect the prevailing pattern of development that surrounds the site. These policies accord with the National Planning Policy Framework (The Framework) which seeks development to be sympathetic to the local character.

Impact on the adjacent community use

9. The site is to the rear of a community hall and its small rear courtyard. The Community hall has a single-storey rear extension adjacent to the shared boundary. The main building has a rear window that serves a room off the

- main hall. This window overlooks the courtyard. The rear of the courtyard includes a tall boundary wall that appears to be around 3 metres high.
10. The Council's evidence explains that the community hall is used as a nursery and young person's centre. The rear courtyard is used for activities in the summer months and lighter evenings. Correspondence from interested parties indicates that the room served by the rear window is used for counselling and children's supervised contact sessions. The single-storey element of the proposal would be adjacent to the shared boundary. This would have no greater effect on outlook, from the window or the courtyard, being a similar height as the existing boundary wall. The first-floor part of the proposed dwelling would be recessed around 2 metres from the boundary. The 'west elevation plan' illustrates that occupiers of the room would keep a mostly clear view of the sky. Only a limited element of the proposal would be visible from this window. Accordingly, the proposal would have a negligible impact on the outlook from both the window and courtyard.
 11. Turning to the effect on sunlight and daylight, the site is to the south of the hall. Sunlight that would reach the window and courtyard would be largely unaffected in summer months. Occupiers of the hall would most affected in the middle of the day in winter months. However, this would be for a limited duration of the year and would therefore result in limited overshadowing during a small portion of the year. Furthermore, the proposal would have only a partial effect on morning and evening sunlight due to its orientation and the impact of existing adjacent buildings. Moreover, the proposal would have a negligible effect on daylight due to the significant area of sky that would remain unobscured by the development. For similar reasons access to daylight within the courtyard would be largely unaffected due to the limited overall scale of the proposal.
 12. Consequently, the effect of the proposal on the amenity and future operations of the adjacent community use and its external area would not result in demonstrable harm with respect to outlook, daylight or sunlight.
 13. As a result, the proposal would accord with policy 8e of the CS. This seeks development to not result in an unacceptable impact on the amenities of neighbouring properties. Furthermore, the proposal would satisfy policy EN1 of the NP where it seeks development that would preserve existing neighbouring amenity and to not appear overbearing. These policies accord with the Framework which seeks development to create spaces with a high standard of amenity for existing and future users.

Special Protection Area (SPA)

14. The site is located within the zone of influence of the SPA. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policy 4d of the CS states that development which is likely to have an adverse impact on the integrity of the SPA must satisfy the Habitat Regulations and mitigate against impacts where identified. The Upper Nene Valley Gravel Pits SPA Supplementary Planning Document (2015) provides guidance to ensure that development would have no significant effect on the SPA. Furthermore, the addendum to this document establishes a mitigation strategy. This enables a financial contribution to be secured to provide access to 'Strategic Access Management and Monitoring' and a 'Suitable Alternative Natural Greenspace' to

remove adverse impacts. The appellant has provided a financial contribution towards mitigating the effects of the proposal on the SPA in accordance with the mitigation strategy. This has satisfied the Council that the proposal would not affect the integrity of the SPA.

15. However, the Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA). This responsibility now falls to me within this appeal.
16. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake an AA. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the European Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective and could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Conclusion

17. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR