



Appeal Decision

Site visit made on 12 October 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2020

Appeal Ref: APP/Y2810/W/20/3254497

The Red Lion, Harborough Road, Brixworth NN6 9BX

- 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 The Co-operative Group against the decision of Daventry District Council.
 - The application Ref DA/2020/0054, dated 20 January 2020, was refused by notice dated 11 June 2020.
 - The development proposed is for the demolition of a public house and construction of a new retail unit (use class E).
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of a public house and construction of a new retail unit (use class E) at The Red Lion, Harborough Road, Brixworth NN6 9BX, in accordance with the terms of the application DA/2020/0054 dated 20 January 2020, and subject to the attached schedule of conditions.

Procedural matter

2. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into effect on 1 September 2020. The proposed development would therefore now fall within Class E of Part A, Schedule 2. As such, the description of development has been altered to reflect this change. Main parties have raised no objection to this, and this would not prejudice any party.

Main Issues

3. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Brixworth Conservation Area (BCA), and
 - whether any benefits of the proposed development would outweigh the effect of the proposal on the non-designated heritage asset.

Reasons

Effect on the conservation area

4. Brixworth is a village that has developed from Saxon origins. There are many examples of seventeenth century buildings within the village as it grew due to its important agricultural standing. The BCA is mostly characterised by a mix of

local ironstone and brick buildings with a mix of traditional tile and thatched roofs. Many buildings, especially adjacent to primary routes, consist of terraced groups and stand adjacent to the highway. These form a strong and well-defined building line within the public realm. The significance of the Conservation Area is derived from the variety of heights, depths and rural vernacular of the historic buildings, the successful integration of later buildings and the spaces between them. Together, these characteristics illustrate the development of the village as an important historic agrarian settlement.

5. The Red Lion lies on the eastern side of the conservation area adjacent to Harborough Road which is a primary route through the village. It is of a Tudor-revival style with a brick base and black and white timber effect at first floor. The corner plot results in two elevations being exposed to the highway. The building has a clear architectural coherence with a consistent form and pleasing balance of features. The frontage area is hard surfaced, without softening landscaping, and bound by a low stone wall that appears to be unrelated visually to the building. The building is a non-designated heritage asset that makes a positive contribution to the character and appearance of the BCA as a local landmark on a prominent site. Its loss would therefore result in harm to the conservation area.
6. Paragraph 131 of the Framework sets out that it is desirable for new development to be sympathetic to local character and history. Moreover, paragraph 193 explains that *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (the more important the asset the greater the weight should be)."* The proposal would result in the redevelopment of the site with a two-storey retail unit. The principal elevation of the proposal would include large glazed windows within shopfront surrounds and include smaller windows above. The secondary elevation facing west would also follow this design approach. Both of these elevations would include projecting gables. The proposal would have a disaggregated domestic form that would help manage its overall scale and appearance.
7. The proposal would therefore respond positively to the local vernacular with a building that has shared commonality with local form, window arrangement and materials. The height would be similar to the existing and neighbouring buildings. It would project closer to the highway than the existing building. This would provide a greater presence, appropriate in this corner location, but would still be recessive to the adjacent terraced row. Therefore, the proposed building would be a successful balance of contemporary design that would complement the streetscene through the use of traditional features and materials. This would complement the general arrangement of the surrounding buildings.
8. This design would be a marked improvement to the previous scheme replacing superficial design gestures with simple detailing. As a consequence, the proposed building would integrate well with the local vernacular whilst providing space to create a reasonable separation of forms. Nevertheless, the demolition of the non-designated heritage asset would result in moderate harm to the conservation area. In terms of the advice in paragraph 196 of the Framework, the harm to the conservation area would be 'less than substantial' affecting only the site's immediate surroundings. The Framework sets out the need to address such harm in a balanced manner against the public benefits associated with such schemes.

9. The public benefits of the scheme include the provision of a building that would make a positive contribution to the conservation area. Also, the proposal would result in the reuse of a commercial site with new retail activity bringing economic and social benefits to the local community. These benefits have significant weight in favour of the proposal. These result in the moderate harm caused to the conservation area, by the demolition of the existing building, to be outweighed by the combined public benefits of the proposal.
10. As such, the proposed replacement building would have a positive effect that would enhance the character and appearance of the Conservation Area.

Non designated heritage asset

11. Paragraph 135 of the Framework advises that in weighing proposals that directly affect non-designated heritage assets a balanced judgement will be required. It states a decision maker should have regard to the scale of any harm or loss and the significance of the heritage asset. In this case for the development to go ahead, the non-designated heritage asset would have to be removed and would be lost. Therefore, consideration of the scale of harm from its loss is required having regard to its significance.
12. The Red Lion appears to have been constructed in the early 1930's, although this is disputed by the appellants considering it to be a later building. It is recognised as a positive building within the Council's conservation area character appraisal. Moreover, the built form, features and broad architectural coherence together with its commercial scale, are important to the character of the BCA as a modest but nonetheless handsome historic building of local importance. Despite the appellant's assertions, my own site observations and the submitted evidence, leads me to find that the non-designated heritage asset is of modest significance.
13. I appreciate that the Red Lion is of some local architectural interest. However, based on the evidence of this case, it does not make an over-riding or substantive contribution to the character and appearance of the immediate area. Accordingly, the loss of this non-designated heritage asset would not meaningfully diminish the significance of the Conservation Area.
14. I have already found that the proposed development would enhance the character and appearance of the conservation area. Nevertheless, it would result in the loss of a non-designated heritage asset that makes a positive contribution to the conservation area and is of moderate significance. The demolition of the building would result in harm to the non-designated heritage asset. However, the building is not statutorily protected and is of only moderate significance. Accordingly, in weighing the effect of the proposed development the loss of the non-designated heritage asset would not justify resisting permission for development of this site.
15. Accordingly, the proposal would satisfy policy BN5 of the West Northamptonshire Joint Core Strategy 2014. This requires designated and non-designated heritage assets and their settings to be conserved and enhanced. Furthermore, the proposal would satisfy policies ENV7 and ENV10 of the Settlements & Countryside Local Plan 2020 (Part 2). These require, amongst other things, to seek high quality development that would reflect and integrate with the surrounding area. Also, the proposal would accord with policies 8 and 9 of the Brixworth Neighbourhood Plan 2016. This requires development to

accord with the form, design, scale and materials of the conservation area and preserve or enhance the significance of designated heritage assets. Furthermore, the proposal would satisfy policies SG.1, BG.1 and BG.21 of the Brixworth Village Design Statement (undated). These require careful consideration of development within the conservation area, to reflect the general character of surrounding buildings and to respect neighbouring properties. These policies are generally consistent with the Framework.

Other matters

16. Interested parties have raised concerns that the proposal would have an inadequate provision of on-site parking. This matter was extensively explored as part of the recent hearing. In that case the Inspector commented that the County Council's parking requirements were not satisfied, and on-site parking provided for around half the requirement. However, he found that the existing public house also only provided limited on-site parking and that local on-street parking stress was low. Furthermore, a comparable case illustrated that the proposed parking would be sufficient for the majority of use throughout the day and found no harm to highway safety.
17. Local roads, including Northampton and Harborough Road, are largely free of traffic regulation orders, and are therefore available for occasional on-street parking. Although I anticipate that the majority of parking demand would be accommodated on-site, the local roads have sufficient spare parking capacity to accommodate on-street parking without having an adverse impact on highway safety. Therefore, although I recognise that the local community and the Highway Authority remain of the firm view that on-street parking would be problematic, I do not concur.
18. Interested parties have provided photographic evidence showing parking behaviour close to and adjacent to the site, resulting in congestion. I have considered these concerns and those expressed in regard to the proposed delivery arrangements, the use of the access and the objection raised from the Highway Authority including its report in February. However, no material changes have taken place to local or national policy since the previous decision was made. Furthermore, although some comments have indicated that further development has since taken place within the village there is no substantive evidence to illustrate that this has meaningfully increased traffic levels in the area. Accordingly, the proposal would satisfy paragraph 109 of the Framework in that it would not result in an unacceptable impact on highway safety.
19. During my visit I observed the appeal site from the rear windows and gardens of several neighbouring dwellings. Hill House and Hill House Cottage, to the east of the site, are at an elevated height in comparison to the ground floor of the existing public house. This enables most current rear first-floor views to look over the rear of the existing building and garden and take in relatively distant views. Rear views from Hill House also take in the tall side wall of the outbuilding of the Red Lion which is around 4 metres. The proposal would retain the boundary features and accordingly this relationship would remain largely unchanged.
20. The replacement building would be closer to the shared boundary and would project further to the rear than the existing structure. As such, the outlook from the rear of Hill House Cottage would change to some extent. Also, the proposal would be to the west of these neighbouring dwellings with some

afternoon and evening sunlight being obscured. However, due to the change in levels and the single-storey nature of the rear projection, the proposal would have a limited impact on outlook. Furthermore, the proposal would not result in a demonstrable loss of daylight or sunlight of either property. Moreover, no windows would look toward the rear elevations of Hill House or Hill House Cottage. As such, the proposal would not result in substantive harm to the living conditions of neighbouring occupiers through a loss of light, outlook or privacy.

21. I am required to pay special attention and have regard to the desirability of preserving the setting of listed buildings. The protection of these, and other heritage assets, must be given considerable importance and weight. Various listed buildings are close to the appeal site. The George Inn dates from the late seventeenth century. It is an imposing two-storey structure that commands a landmark location on the junction of Northampton Road and Newlands. Due to the separation distance and intervening buildings there would only be limited fleeting views of both buildings and therefore the proposal would be of no harm to its setting.
22. The significance of The Lodge derives from its wide and strident structure that conveys a strong presence in the street. The separately listed Lodge Gate stands in front of the Lodge. The Lodge and its gate are within view of the appeal site, although views would be partially screened by the double garage in front of Hill House. Therefore, due to the curvature of the highway and intervening buildings, the effect on the setting of the Lodge and Gate would be limited and of no harm. The significance of Pound House derives from its architectural interest and origins having a thatched roof and a central stone chimney stack. This is some distance to the north of the site with the proposal having a negligible effect on its setting. Therefore, even taken cumulatively, the scheme would not harm the settings of the identified designated assets.
23. Interested parties have commented that the site is not the right place for a food store. However, the proposed use would replace a vacant commercial use and would be adjacent to a hot food takeaway and other commercial activities. Consequently, the proposal would complement the existing small pocket of commercial units already evident within this area.
24. The store is proposed to be open between 7am and 11pm Monday to Saturday and 10am to 4pm on Sundays. These hours of use are acceptable given the context of the site and can be suitably controlled by planning condition. A delivery management condition can also be applied to regulate delivery times to avoid peak use and prevent disturbance to adjacent residents.
25. Concerns have been raised in regard to the impact on neighbouring living conditions due to noise disturbance and whether this would require off-site mitigation. Harborough Road is a main route through the settlement where I would anticipate traffic to flow relatively constantly throughout the day. The proposed hours of use and delivery arrangement appear to be reasonable for this context. The proposed arrangement has also raised no objection from the Council's Environmental Health Officer. Furthermore, noise disturbance and light pollution caused by customers coming and going would be unlikely to be materially different than that associated with the existing public house.
26. The proposal would inevitably result in the addition of some advertisements. However, the site is already in commercial use, on a main road through the

village and is adjacent to a commercial parade. Furthermore, this would be subject to the control of advertisements in conservation areas.

Conditions

27. I have considered the use of conditions in line with the Planning Practice Guidance. This advises that conditions should be kept to a minimum and should only be used where they pass the 6 tests as set out by paragraph 55 of the Framework. I shall impose the Council's suggested conditions with some amendments for clarity. I have also included a condition that would limit the hours of use to those applied for to prevent late night disturbance to the occupiers of neighbouring dwellings.
28. Conditions 10, 11 and 12 require details to be submitted prior to the commencement of development. These relate to the submission of a demolition and construction management plan, redevelopment agreement following demolition and tree protection works. These are required in the interests of highway safety and the character and appearance of the area. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. The appellant has agreed to the imposition of these, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
29. Subsequently, I have attached the following conditions which are recommended in the Guidance and are necessary in the interests of certainty [1 and 2]. I have also attached conditions that would safeguard the character and appearance of the area [3, 8, 11 and 12], would protect the living conditions of existing residents [7, 9 and 13], would protect both living conditions and ensure the free flow of traffic on the highway [6 and 10] and be in the interests of highway safety [4]. Furthermore, a condition is required to enhance on-site biodiversity as requested by the Wildlife Trust [5].

Conclusion

30. For the above reasons the appeal is allowed, and planning permission granted subject to the attached conditions.

Ben Plenty

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 plans: Existing Location Plan and Proposed Block Plan, drawing no. (PL)001 REV A, Proposed Ground Floor Plan, drawing no. (PL)008, Proposed First Floor Plan - drawing no. (PL)003 REV B, Proposed Roof Plan - drawing no. (PL)004 REV B, Proposed Elevations - drawing no. (PL)005 REV C, Proposed Elevations - drawing no. (PL)006

REV C, Proposed Section A-A through East Boundary - drawing no. (PL)007 REV B and General Arrangement, drawing no. 202-LYR-XX-ZZ-DWG-L-1001 REV 2.

- 3) No development shall proceed above slab level until full details and samples of all external materials and finishes have been submitted to and approved in writing by the Local Planning Authority. If requested by the Local Planning Authority materials samples shall be presented for consideration in the form of on-site panels incorporating details of coursing and mortaring as appropriate. Development shall thereafter be carried out in accordance with the approved details.
- 4) Prior to the development hereby approved being brought into use the approved vehicular access, manoeuvring and parking provision shall be constructed, surfaced, laid out and thereafter retained for that purpose.
- 5) The development hereby approved, including demolitions, shall be implemented in full accordance with the following ecological and protected species measures: the ecological mitigation measures as specified in the submitted Preliminary Ecological Appraisal report, Report No: 1851 -18 dated August 2018 and prepared by Pam Brown Associates, specifically recommendations as contained within section 4.0 at pages 19 & 20: Badgers – 4.2, Breeding Birds – 4.3, and Opportunities for Enhancement – 4.5; and the bat protection and mitigation measures as specified in the submitted Bat Survey Report No: 1851 -18 dated September 2018 and prepared by Pam Brown Associates, specifically recommendations as contained within Section 6, pages 10 & 11: Bats – 6.1, Other species – 6.2, and Opportunities for Enhancement – 6.3.
- 6) The development hereby approved shall not be brought into use until and unless a Delivery Management Plan (DMP) has been submitted to and approved in writing by the Local Planning Authority, the DMP will include details of the timing and frequency of vehicular deliveries to the premises (days and times), the type of vehicles to be employed and the control measures to be employed to minimise disturbance to neighbouring properties. The use of the development hereby approved shall be carried out in accordance with the parameters contained within the agreed DMP and any subsequent material changes to the agreed delivery arrangements shall be submitted to and agreed in writing with the Local Planning Authority prior to taking effect.
- 7) Prior to the first operation of the premises hereby approved a scheme for the control of noise and vibration of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The equipment shall be maintained in a condition so that it does not exceed a rating level of +3dB (calculated in full accordance with BS4142:2014) whenever it is operating as agreed with the Local Planning Authority. After installation of the approved plant no additional plant or ducting systems shall be used without the written consent of the Local Planning Authority.
- 8) Details of any means of external illumination within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby approved being brought into use. All

external lighting elements shall be positioned and/or screened such as not to cause glare to drivers on the adjoining highway or cause annoyance to the occupants of adjoining residential properties.

- 9) No demolition or construction work (including deliveries to or from the site) that causes noise to be audible outside the site boundary shall take place on the site outside the hours of 0800 and 1800 Mondays to Fridays and 0830 and 1300 on Saturdays, and at no times on Sundays or Bank Holidays unless otherwise agreed with the Local Planning Authority.
- 10) Prior to the commencement of development, a Demolition, Construction and Environment Management Plan (DCEMP) shall be submitted to and approved by the Local Planning Authority prior to any works commencing on-site, including works of demolition, and shall be implemented and remain in place throughout the demolition and construction phases of development. The DCEMP shall include and specify the provisions to address the following for the duration of the construction phase: A detailed scheme of demolition methodology; Measures to control the emission of dust, dirt and fumes during demolition and construction (burning on-site is not permitted); The location of contractors' compounds, materials storage and any other storage Arrangements; Control of noise and vibration; A routing agreement for construction traffic to and from the site; Details of measures to prevent mud and other such materials being deposited on the highway from vehicles entering and leaving the site; Waste audit and scheme of waste minimisation and recycling / disposal of waste; and Monitoring arrangements to cover all of the above.
- 11) Prior to the commencement of development, arrangements shall be put in place to secure the redevelopment of the site permitted by implementation of the development approved under this permission and details of these arrangements shall be submitted to and approved in writing by the local planning authority. The arrangements shall include details of the timescale for carrying out the development approved under this permission.
- 12) Prior to the commencement of development, and notwithstanding the submitted Arboricultural Impact Assessment (Arbor Consultancy Limited, 10/09/2018, ref: DEV007.NN.04 GM) tree protection measures shall be submitted and approved in writing by the Local Planning Authority. The measures, including fencing, shall be implemented in accordance with these details prior to demolition of the building and shall remain in place until all equipment, machinery, and surplus materials have been removed from the site. Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition and the ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made (including addition/removal of topsoil/subsoil) without the written consent of the Local Planning Authority for the duration of demolition and construction work.
- 13) The premises shall only be open for customers between the following hours: 0700 - 2300 Mondays – Saturdays and 1000 - 1600 Sundays.

End of Conditions