



Appeal Decision

Site Visit made on 17 November 2020 by S Watson BA(Hons) MSc MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/H2835/W/20/3257257

Garages rear of 13-19 Union Street, Finedon NN9 5EX

- 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 A Thakrar for Mathura Properties Limited against the decision of Wellingborough Borough Council.
 - The application Ref WP/20/00319/FUL, dated 1 June 2020, was refused by notice dated 29 July 2020.
 - The development proposed is Demolition of garage to create 2 new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of garage to create 2 new dwellings at Garages rear of 13-19 Union Street, Finedon NN9 5EX in accordance with the terms of the application, Ref WP/20/00319/FUL, dated 1 June 2020, subject to the 9 conditions set out in the schedule below.

Appeal Procedure

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

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the living conditions of neighbouring occupiers, with regard to privacy and amenity space;
 - The quality of the living conditions provided for future occupiers of the appeal site by way of amenity space and outlook; and,
 - Highway safety regarding parking provision and intervisibility with Union Street.

Reasons

4. The appeal site is a large square area that has become somewhat overgrown. Along the north-east boundary, opposite the site access, is a row of eight garages that I understand are currently used for storage. The site is set behind the gardens of properties on Union Street and Oxford Street, while the access to the site is situated between two houses on Union Street. The garages would be demolished as part of the scheme.

Living Conditions of neighbouring occupiers

5. During my site visit I noted that Nos 13-19 Union Street had much smaller rear gardens than appeared to be typical for the rest of the street. However, the size of this more limited private amenity space is existing and would not be reduced by the proposed two dwellings. Moreover, as the proposed dwellings are bungalows, none of their windows would be above ground floor level. Accordingly, it would be unlikely that the proposal would result in a loss of privacy to nearby properties or their gardens.
6. As such I conclude that the proposed dwellings would protect the living conditions of neighbouring occupiers in accordance with North Northamptonshire Joint Core Strategy (JCS) Policy 8, which requires development to protect the amenities of neighbouring occupiers in order to ensure quality of life.

Living Conditions of future occupiers

7. Given the size of the new bungalows, and the number of proposed bedrooms, I find them to be suitable for a small family. Although JCS Policy 8 does not specify a minimum requirement for garden sizes for a family home, I would expect the gardens to be of a size to accommodate a typical family's needs. Such needs could include an area for sitting out, hanging out washing, space for children to play and a storage building. In this case the gardens of both properties would be commensurate to the scale of the properties, and the likely needs of future occupiers would be accommodated.
8. While the proposed bungalows would, in some places, be close to the boundaries of their respective plots, I find sufficient distance would be maintained between windows serving habitable rooms and any nearby boundaries. As a result, the outlook from the proposed windows would be suitable and the rooms would be pleasant to use.
9. I therefore conclude that the living conditions the proposed bungalows would provide would be of a high standard, appropriate for future occupiers. As such, the proposal complies with JCS Policy 8 which seeks, amongst other things, for development to protect the amenities of future occupiers to ensure quality of life.

Highway Safety

10. The new dwellings would be served by the existing vehicular access which serves the 8 garages. Although visibility at the junction with Union Street is restricted by the siting of the dwelling at No 13, this situation currently exists and I have no evidence before me to demonstrate that the existing use of the access has resulted in harm to pedestrian or vehicle safety. Moreover, whilst the garages are not currently used to their full extent, for the parking of vehicles used on a daily basis, they could reasonably be used as such. Such a use would be likely to result in a higher level of daily vehicles movements to and from the site than that which would be associated with 2 dwellings proposed.

11. The shared driveway does not currently have a dedicated pavement and is shared by both vehicles and pedestrians. No evidence has been provided to demonstrate that harm to pedestrian safety has occurred as a result of this use.
12. The proposal would be likely to generate fewer pedestrian and vehicle movements along the drive than that which could occur. There is good visibility along the drive and vehicles would be likely to be travelling at low speed. The proposed scheme would be unlikely to result in conflict between pedestrians and vehicles using it. Furthermore, pedestrians using Union Street will likely be aware of the vehicular access and adjust their behaviour accordingly.
13. Although the vehicular access does not accord with the Council's standards for the width of private drives, the probability of a vehicle entering and exiting the site at the same time would be likely to be small. If this did occur a driver of a vehicle entering the drive from Union Street would be able to see clearly along it and if a vehicle was exiting, it is likely that the driver would wait in Union Street until the driveway was clear. Accordingly, there would be a low probability that vehicles would reverse into Union Street from the access.
14. The proposal includes 2 parking spaces for each dwelling, sufficient to meet the parking requirements for occupiers as set out in The Northamptonshire Parking Standards. However, the standards also require that new residential development for 2 bedroom properties provide 1 visitor parking space per dwelling. Although no visitor spaces are proposed within the site, I have no evidence before me that Union Street could not accommodate visitor parking associated with the new dwellings. Moreover, I have no evidence to suggest that parking in Union Street or nearby roads has reached saturation or that they could not accommodate any parking that would be displaced by the redevelopment of the garage site. Bicycle storage could be secured by an appropriately worded planning condition.
15. As such I conclude that the proposed development would not be harmful to highway safety. As a result, it would comply with Policy 8 of the JCS which requires that development makes safe and pleasant streets and spaces through, amongst other things, prioritising pedestrians and cyclists, and ensuring sites are served by satisfactory parking, manoeuvring and accesses. It would also comply with Paragraph 109 of the National Planning Policy Framework (the Framework) which requires development be refused only where an unacceptable impact to highway safety is severe.

Other Matters

16. The appeal site is within a dense residential area where garages and outbuildings are typical behind properties fronting the highway. While larger than these, the proposed bungalows would be set spaciouly within the site and would protect the character and appearance of the area. It is noteworthy that the Council did not refuse the scheme on character and appearance grounds.

Conditions

17. The Council has suggested conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the Planning

Practice Guidance. I have amended some of the suggested wording to reflect this advice.

18. I find that to ensure clarity, a condition is necessary requiring that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the area conditions are necessary controlling external materials, landscaping, refuse and recycling. In the interests of highway safety conditions are required in respect of access, turning and parking areas. To encourage sustainable modes of transport a condition requiring bicycle storage areas is necessary.
19. I note the Council's concerns regarding potential contaminants on the site and I find that it is possible that some limited contamination may be present given the existing use. However, I find that contamination from the garages is not assured, given the small scale, and that any contamination would likely be very limited. As such, the Council's suggested pre-commencement condition would be excessive in relation to the scheme. A condition requiring a risk assessment, and remediation works, to be made in the event that contamination is found on site is more reasonable and appropriate in this case.
20. In order to enhance biodiversity a condition requiring the installation of bat and bird boxes is necessary.
21. The highway authority has recommended a condition requiring the provision of visibility splays. Given the relationship of nearby development such a splay could not be achieved and is not therefore reasonable to attach, nor necessary, given the conclusion that I have reached in respect of highway safety.
22. I find the suggested conditions raised by Northamptonshire Police regarding the types of doors and windows to be installed, and regarding emergency access are not reasonable. However, for the purposes of security and the safety of future occupiers I find it necessary that conditions are attached requiring boundary fences are at least 1.8m high, and that lighting is provided along the entrance driveway.
23. I find it would not be necessary to attach conditions requiring the property to be built with improved accessibility, nor to limit water consumption in line with building regulations, as such matters are controlled by other legislation. Moreover, although the Council has suggested a condition requiring the bungalows to meet the Technical Housing Standards – Nationally Described Space Standards, I have not been provided with a development plan policy supporting these standards and in accordance with the PPG, such standards cannot therefore be imposed.
24. While the development is likely to result in noise and disturbance during construction, given the scale of the proposal this would be limited and short-lived. I therefore find that the condition limiting the hours of construction, and the submission and adherence to a construction management plan, to be unreasonable and unnecessary.

Recommendation

25. For the reasons given above I recommend that the appeal should be allowed subject to the recommended conditions.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed with the suggested conditions.

RC Kirby

INSPECTOR

Schedule – Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: *Site Location Plan*, and *Proposed Plans and Elevations incl. Site Plan* (Drawing No. A912-1).
3. No development above ground level shall take place until samples of the external materials to be used in the construction of the development have first been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
4. No development shall take place above ground level until details showing a scheme for the storage of refuse and recyclable materials is first submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall be used for no other purpose thereafter.
5. Prior to the first occupation of the development hereby permitted, the vehicular access, manoeuvring area and parking spaces shall be surfaced in accordance with details first submitted to and approved, in writing, by the local planning authority. Any area within 5 metres of the public highway must be surfaced in a stable and durable material, and arrangements must be made to prevent surface water runoff on to the highway.
6. Neither dwelling hereby permitted shall be occupied until provisions for the parking of bicycles associated with each dwelling have been made available in accordance with details first submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the cycle parking provision shall be kept free of obstruction and shall be available for the parking of cycles only.
7. The development shall not be occupied until details of new nesting opportunities for bird and bats has been submitted to, and approved in writing by, the local planning authority, and carried out in accordance with the approved scheme.
8. Prior to the first occupation of the development hereby permitted, the hard and soft landscaping scheme shall be carried out in accordance with details first submitted to and approved, in writing, by the local planning authority. This shall include planting plans at a minimum of 1:200 showing: existing and proposed plants and trees; their species; sizes and densities; and, any root protection areas. If within a period of five years from the date of the planting of any tree or shrub, they, or any replacement, are removed, become severely damaged or diseased, or should die, they shall be replaced in the next planting season with a suitable replacement of an equivalent size, species and quantity. Details shall also be provided showing lighting for the shared access; fences of at least 1.8m height surrounding the private gardens; any proposed and existing services above and below ground; and, existing and proposed land levels. Thereafter the hard and soft landscape works shall be maintained and retained in situ.

9. Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.