



Appeal Decision

Site visit made on 18 May 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th June 2021

Appeal Ref: APP/C1570/W/21/3267668

Glyncolan, High Street, Newport CB11 3QY

- 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 Colin Carr of Haymalley Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0701/FUL, dated 17 March 2020, was refused by notice dated 30 July 2020.
 - The development proposed is erection of 4 terraced dwellings, with associated parking and garden areas.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's second reason for refusal does not state which listed buildings would have their setting affected. I have had regard to the evidence before me, including the Council's report, appellant's evidence, and observations at my site visit to identify the listed buildings that would be affected.
3. Since the appeal was submitted the Newport Quendon and Rickling Neighbourhood Plan 2018 – 2033 Referendum Version (the NP) has been the subject of a referendum in which the majority voted in support of the NP. Paragraphs 41-064-20180222 and 41-080-20180222 of the Planning Practice Guidance state if more than half of those voting vote in favour of the neighbourhood plan, the plan comes into force as part of the statutory development plan, reflecting section 38(3A) of the Planning & Compulsory Purchase Act 2004. I have allowed the Council and the appellant the opportunity to comment upon the NP.
4. During the consideration of this appeal the Lead Local Flood Authority have removed an objection in respect of drainage and flood risk, so I have not considered this matter further. However, having regard to evidence before me and the views of interested parties, I have sought the views of the Council and appellant in relation to the location of the appeal site in relation to flood zones.

Main Issues

5. The main issues are:

- the effect of the development upon the character and appearance of the area including the Newport Conservation Area (NCA);
- the effect of the development upon the setting of Grade II Listed Buildings; and,
- whether the development represents an acceptable form of development having regard to policies concerned with flood risk.

Reasons

Character and appearance and the NCA

6. Much of the appeal site lies behind buildings fronting High Street and it is within the NCA, where there is a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 193 of the National Planning Policy Framework (2019) (the Framework) requires when considering the impact upon the significance of a designated heritage asset great weight should be given to the asset's conservation, and harm to significance requires clear and convincing justification (paragraph 194).
7. The NCA derives its significance from the historic buildings and linear pattern of development along main historic thoroughfares through the settlement. Around the appeal site it is characterised by the mostly historic buildings directly fronting or facing the High Street, as well as a long wide band of well vegetated land comprising the rear plots adjacent to the railway. This stretches some considerable distance between the Fire Station and buildings south of White Horse Lane. These are strong and defining characteristics that make a positive contribution to the NCA.
8. The appeal site makes a positive contribution to the area and the NCA given its low level development and significant greenspace falling towards the river, linking the buildings on High Street with the verdant rural hinterland. The importance of the historic rural backdrop and glimpses to the rural surrounds are referenced in the Conservation Area Appraisal (2007) (the CAA). While not specifically named in the CAA or Policy NQRGSE3 of the NP as a locally important view, the view from entrance to the car park across the appeal site one that makes a positive contribution to the area.
9. The new 1.5 storey building with its steep roof would be considerably higher than the existing wall. Together with the new paved access and car parking areas, and boundary fencing, it would significantly urbanise the appeal site. The scale of the building would also have a significant enclosing effect upon the appeal site. Consequently, the development would harm its contribution to the rural largely open backdrop of buildings on High Street, considerably reducing its well-vegetated and rural character and appearance, and would not be an enhancement to the car park. It would also result in a substantial and harmful interruption of the rural corridor, being significantly and detrimentally at odds with the predominant pattern of development.
10. The proposed materials would not mitigate the harm I have found. While I note there are occasional examples of buildings set well back from High Street, White Horse Lane is a historic lane considerably different to the appeal site and some distance from it. The Orchard is not set as far back as the proposed

building and based upon the evidence before me does not have such a developed rear of plot. The infrequent examples of such buildings do not justify allowing this development. While visibility from High Street would be limited and the very tops of trees and hills would remain visible, much of the valuable close proximity verdant backdrop such as conifers and a significant proportion of the mature trees, would be lost. The harm would be clearly appreciable from the car park and land and buildings to the north and south.

11. For the reasons set out above the development would be significantly harmful to the character and appearance of the area and would not preserve or enhance the NCA, in conflict with the aims of section 72(1) of the LBCAA. It would conflict with Policies ENV1, S7 and GEN2 of the Uttlesford Local Plan (2005) (the Local Plan) and Policies NQRHA2 and NQRHD2 of the NP. Amongst other things these require development is in keeping with the form, layout, and appearance of surrounding development, protects views into the countryside, and protects, preserves, or enhances the character and appearance of Conservation Areas.
12. The approach to protect all countryside in Policy S7 is not compliant with the more positive and nuanced approach of the Framework, so the conflict with it does not attract full weight. However, in seeking to protect and enhance the character and appearance of the area, it is consistent with design policies of the Framework. Therefore, the conflict attracts moderate weight overall.

Listed buildings

13. The appeal site is a short distance from, has close proximity intervisibility with, and is visible as forming part of the setting of Old House, Brown House, Premises occupied by Newport Antiques, Old Post Office, and Paragon Café, which are Grade II Listed Buildings. Special regard should be given to the desirability of preserving the setting of Listed Buildings under section 66(1) of the LBCAA.
14. The significance of these listed buildings primarily derives from their special architectural and historic qualities as well-preserved C17th and C18th timber framed buildings retaining many of their historic forms and features. Collectively this includes historic tiled roof forms, plaster, weatherboard and brickwork walls, and sash, leaded, casement and dormer windows. Their significance also derives from their historic plot arrangement, and a collective value due to their relationship with buildings fronting the High Street contributing to the diversity of the historic street scene. The settings of the listed buildings include part of the High Street, linear plots, and the band of greenspace to the rear of which the appeal site forms part.
15. The setting including the appeal site contributes to their significance as it forms part of the historic pattern of development and historic largely open, verdant, and rural backdrop to the listed buildings. Therefore, it contributes positively to the settings and the way in which these listed buildings are experienced. The height, scale, position, and appearance of the new significantly sized building, paved access and parking areas and enclosures would significantly enclose and urbanise the verdant and rural setting of these buildings. It would also obstruct the visibility and appreciation of the historic buildings from the eastern side of the appeal site, parts of open land and railway including from the north and the south. Therefore, the development would be significantly

and inherently harmful to the settings of the listed buildings, their significance and it would not sustain or enhance the way in which they are experienced.

16. For the reasons set out above, the development would have a significantly harmful effect upon, thereby not preserving, the settings of five Grade II listed buildings, in conflict with the aims of section 66(1) of the LBCAA. The development would conflict with Policy ENV2 of the Local Plan, which requires development affecting the setting of listed buildings should be in keeping with its character and surroundings. It would also conflict with Policy NQRHD2 of the NP which has similar objectives.

Flood risk

17. The development would result in a significant increase in built development on the site. While most of it lies within Flood Zone 1, a limited section of the appeal site lies within Environment Agency fluvial Flood Zones 2 and 3 and is at a 'Medium' risk of surface water flooding. Paragraph 155 of the Framework states inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk.
18. Paragraph 157 of the Framework seeks to apply the sequential test to the location of development so as to avoid, where possible, flood risk to people and property. Paragraph 158 states development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding, and the sequential approach should be used in areas at risk from any form of flooding. Paragraph 7-033-20140306 of the Planning Practice Guidance also advises the sequential approach to locating development should be applied to all sources of flooding.
19. There is no evidence demonstrating there are no other appropriate sites reasonably available in areas with a lower flood risk. Therefore, the sequential test has not been passed. The Council does not wish to raise an objection in this regard. Even if I were to agree with the Flood Risk Assessment (FRA) that the overall risk from surface water and ground water flooding would be 'low', and the dwellings would not be likely flood, based upon the evidence before me, I am not persuaded the sequential test is irrelevant, so those matters do not overcome the conflict with the flood risk policies of the Framework.
20. Therefore, for the reasons set out above, the development is not compliant with the Framework policies for flood risk, being in conflict with paragraphs 155 and 158, the relevant provisions of which I have referred to above.

Other Matters

21. Some interested parties have set out concerns in respect of, amongst other things, the location of the development, including it being outside the village development area in the NP. However, as I am dismissing this appeal for other substantive reasons I have not considered this matter further.

Heritage Balance

22. The harm I have identified to the character and appearance of the NCA and the setting of Grade II Listed Buildings would equate to less than substantial harm. Paragraph 196 of the Framework requires where a proposal would lead to less than substantial harm to a designated asset, the harm should be weighed

against the public benefits. However, less than substantial harm should not be equated with a less than substantial planning objection.

23. The Council has advised it has a deliverable housing land supply (HLS) 3.11 years in the updated trajectory and 5-year supply statement at April 2020 (published January 2021), and I see no reason to believe this is not accurate. The development would result in a more efficient use of what I am advised is previously developed land. It would help to boost the supply and choice of housing, and as a small site could be built out relatively quickly. It would provide social benefits through the provision of four one bedroom dwellings, well located to access services and facilities and public transport opportunities and supporting and enhancing the vitality of rural communities. However, these four dwellings would only make a modest contribution to housing needs.
24. There would be a modest temporary economic benefit during construction, and once occupied a small benefit to the local economy. Having regard to the Preliminary Ecological Appraisal there is an opportunity for the scheme to result in an overall ecological benefit subject to the imposition of suitably worded planning conditions. However, the substantive evidence suggests any overall ecological benefit would be small. Overall, the benefits of this development would be limited. Even if I were to agree that the development is compliant with policies in respect of matters such as access, highway safety, parking, noise, materials and the living conditions of future and neighbouring occupiers, such matters would have a neutral effect.
25. Consequently, when giving considerable importance and weight to the special regard I must have to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the NCA, I find that the significant harm that would arise from the appeal scheme would not be outweighed by its cumulative public benefits. Accordingly, there would also be a conflict with paragraph 194 of the Framework as the harm to designated heritage assets would not have a clear and convincing justification.

Planning Balance & Conclusion

26. The development would adversely affect the character and appearance of the NCA, the setting of a number of Grade II Listed Buildings and is in an area at risk of flooding. Therefore, in accordance with paragraph 11d)i) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply. Furthermore, the policy compliance and the benefits of the scheme do not outweigh the harm from the development.
27. For the reasons set out above, the development would conflict with the development plan and the Framework read as a whole, and the aims of sections 66(1) and 72(1) of the LBCAA. There are no material considerations advanced that indicate the decision should be made other than in accordance with the development plan or the Framework. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR