



Appeal Decision

Site visit made on 29 June 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/G2815/W/21/3269821

Land to the rear of The Wheatsheaf Public House, 1 High Street South, Rushden NN10 0QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Barker of Barker Homes Wheatsheaf Ltd against East Northants District Council.
 - The application Ref 20/01468/FUL, is dated 5 November 2020
 - The development proposed is erection of 4 two storey two bed houses, associated parking and amenity space.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for Costs

2. An application for costs was made by Barker of Barker Homes Wheatsheaf Ltd against East Northants Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council's appeal statement indicated that, had it been in a position to do so, it would have refused the application for four reasons. These related to character and appearance and the effect on heritage assets; highway safety; contributions to affordable housing and local infrastructure; and the effect of the proposed development on protected habitats sites.
4. On 1 April 2021, East Northants District Council ceased to exist and merged with a number of other local planning authorities to become part of a new Unitary Authority known as North Northamptonshire Council. The existing development plans for the merged local planning authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies of the North Northamptonshire Joint Core Strategy 2016 (JCS).

Main Issues

5. The main issues are:

- the effect of the proposed development on highway safety;
- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on heritage assets;
- whether the proposed development makes adequate provision for affordable housing and local infrastructure; and
- the effect of the proposed development on Upper Nene Valley Gravel Pits Special Protection Area (SPA).

Reasons

6. The Wheatsheaf Public House (PH) is a vacant public house which has extant planning permission¹ for its conversion to include a ground floor office use and six one-bedroom flats with associated parking. The proposal is to construct four houses on an area of open land previously used as the pub garden at the rear of the PH. It would provide off-street parking accessed via the existing access off High Street South. The appeal site is located within Rushden town centre.

Highway safety

7. The primary access to the appeal site is off High Street South, via the existing access that served the PH. This would also serve the recently approved mixed use scheme which provided nine parking spaces. In addition, a pedestrian access to the site is located through an adjacent retail precinct.

Access

8. High Street South is a busy urban road running through a built up mixed use area. It is subject to a 30 mph speed limit. The access from the site onto High Street South is wide enough for two vehicles but enclosed on either side by existing buildings up to the back of the footpath. The footpath serving the southern section of High Street South is slightly elevated above the carriageway and enclosed by pedestrian guardrail.
9. In order to provide safe access from the site onto the highway, the local highway authority requires a pedestrian visibility splay to be provided to 2 metres by 2 metres on both sides of the access within land entirely within the appellant's site. It also requires a vehicular visibility splay to be provided to 43 metres in each direction from a 2.4 metre set back from the highway boundary.
10. Both parties agree that pedestrian visibility splays would not meet the required standard due to the edge of the building acting as a physical barrier to visibility towards the south.
11. The parties dispute whether the required vehicular visibility splay can be provided. The standards for vehicular visibility splays are set out in the Manual for Streets. The Manual for Streets 2 (MfS2) expands on this, setting out that a

¹ Council Ref: 19/02006/FUL

more accurate visibility splay is made by measuring to the nearside edge of the vehicle track.

12. The appellant has provided a drawing indicating that a visibility splay can be provided based on a measurement of 43 metres using an offset distance of 0.6 metres from the kerb in accordance with the approach advocated in the MfS2. From this it appears that it may be possible to achieve the visibility splay. However, this does not take into account that visibility to the south is additionally restricted by road signage and guard rail along the elevated footpath. Furthermore, I observed that approaching the appeal site from the south, the site access is not highly visible due to a bend in the road and the guard rail. Given that the visibility splay would not meet the local highway authority's requirement and taking the site circumstances into account, I find that the vehicular visibility would not be suitable to enable safe access onto the highway.
13. In support of the approved scheme for the conversion of the existing buildings on site, the appellant submitted TRICS data to estimate the number of trips that would have been generated by the existing use and compare it to the proposed use. The Council concluded, in the absence of any alternative evidence of actual trips associated with the existing use, the proposed use would generate less trips per day than the existing use. The appellant contends that with the proposed four additional houses on the site in combination with those residential units already approved, there would still be less trips per day compared to the existing use.
14. The TRICS data indicates that the public house use of the site would generate a total of 214 trips per day. I have not been provided with the assumptions behind this data although I note the Council considers it appears high. In this respect, I am mindful that the public house is located in a town centre and an accessible location. It also benefits from on-site parking with space for 18 cars. Whilst I have no firm evidence to indicate that trip numbers would be less than those stated, I find that the location and limited parking associated with the existing use lends weight to the view that the trip numbers are likely to have been less than those stated.
15. The trips associated with the existing use would primarily occur from mid-afternoon onwards, with a peak number between 11pm and midnight. The TRICS data for four houses is indicated to be a total of 20 trips per day with just 2 two-way vehicle movements in the morning and afternoon peaks. In combination with the approved development, this would increase to 36 vehicle movements daily.
16. The TRICS data demonstrates that, overall, there would be a significant reduction in total trips associated with the site based on the combined approved and proposed development compared to the existing use. The data indicates that this would be reduced by a total of 178 trips which would include a reduction in 21 trips during the afternoon peak. The data also indicates that there would be an increase of 4 trips during the morning peak.
17. Despite the reduction in trips overall, I note that more than half the trips generated by the existing use are assumed to have taken place during the evening when roads are likely to be quieter. Certainly it appears that there would be less of an impact from the proposal during the evening peak than that

arising from the existing use of the site. However, this in itself does not justify increasing the amount of housing development proposed on the site.

18. The existing use is assumed to have not generated any trips during the morning peak. The proposed development in combination with that already approved would result in trips during this period time. This would represent a more intensive use of the sub-standard access, both in terms of intervisibility between vehicles and pedestrians, during the morning period when roads are busier. Due to the substandard nature of the access, this would increase the risk of conflict between road users.
19. In the interests of highway safety and ensuring a suitable access, Northamptonshire County Council allows no more than five dwellings to share a private drive. This is set out under Policy DM15 of the Northamptonshire Highway Development Management Strategy 2013. Whilst this document does not form part of the development plan, it supports the approach set out in Policy 8 of the JCS which seeks satisfactory access and providing for parking, servicing and manoeuvring in accordance with adopted standards.
20. The appeal scheme would result in ten residential units sharing a private drive. This would significantly exceed the maximum set out under Policy DM15. As I have set out, the existing access is substandard. The increase in cars from multiple households utilising this access and sharing the car parking area would, in my view, increase the risk of conflict between users. Whilst the appellant has suggested that the development would remain under single control which would minimise the occurrence of this, it is not evident how this would be achieved. As such, this lends weight to my finding that the proposal would unacceptably intensify the use of the existing access.

Refuse Collection

21. The Council has indicated that it is not satisfied with the bin collection arrangements as a refuse lorry cannot enter and turn on the site. The appellant has submitted a swept path analysis of a 10 metre rigid delivery vehicle, such as might be used for the collection of refuse or recycling, showing that a vehicle of this size could enter and turn within the site. The Council has not confirmed whether this would address their concerns.
22. The layout of the parking and servicing area is tight. The swept path analysis shows the vehicle passing very close to the edges of the buildings at the site entrance. Manoeuvring within the site itself would be awkward between parked cars which would leave no margin for error for vehicle movements. Moreover, the manoeuvring space could easily become unworkable if cars were not parked neatly in their spaces, or if larger vehicles such as large cars or vans were present.
23. If a car entered the site and found that it was unable to access a parking space because the refuse lorry was present, there would be little option other than to reverse back out onto the highway. Alternatively, a car may have to wait on the highway until the refuse lorry exits the site. Given that the site has access onto a relatively busy road with limited visibility, I find that this could result in an unacceptable hazard to highway safety, especially during rush hour periods.
24. As an alternative to manoeuvring on site, the appellant has suggested that the proposal could be served by a kerbside collection. However, this would require

the refuse lorry to stop on the highway. Whilst this would only occur during collection times and may only be for a few minutes, this is nevertheless a busy road with poor forward visibility and a stopped vehicle in this location would increase the risk of conflict between road users.

Car Parking

25. Policy 8 of the JCS requires the provision of parking in accordance with the adopted standards. The Northamptonshire County Council Parking Standards 2016 requires each two bedroom dwelling to provide two parking spaces each plus 25 per cent visitor spaces. The proposed development would provide four 2-bedroom properties. It would therefore be required to provide eight parking spaces plus an additional two visitor parking spaces.
26. I have no firm evidence that the proposed spaces would be less than the required size, as set out in the Council's Parking Standards. However, the proposal would provide four car parking spaces, a shortfall of six. In combination with the approved scheme, a total of thirteen spaces would be provided. It would not accord with the Council's adopted standards.
27. The appellant has submitted Census data of car ownership levels associated with flats and houses within East Northamptonshire. Based on this, the appellant contends that the combined development would generate a parking demand for eleven vehicles which it would provide with an additional two visitor spaces. Further parking for any overspill from the proposed development could be met through the John Street public car park some 200 metres from the site.
28. The submitted evidence indicates a lower level of car ownership than that sought by the Council. However, this data relates to car ownership across the entire district based on a snapshot in time. It does not demonstrate that a lower level of parking to that set out in adopted guidance would be acceptable.
29. The shortfall in parking is significant. Whilst there is a public car park in close proximity to the site which may be acceptable for visitor parking, this is unlikely to provide a satisfactory long-term arrangement for future occupants who would be likely to seek on-street parking within the surrounding streets. Despite the appeal site's town centre location with access to services and facilities, I have not been provided with substantive evidence to demonstrate that the surrounding area could accommodate any overspill parking from the proposed development with adversely affecting highway safety. This leads me to conclude that the proposal would provide inadequate car parking.

Findings

30. I therefore conclude that the proposed development would significantly intensify the use of an access which has restricted visibility, consequently increasing the risk of collisions between users of the highway. It would also provide insufficient car parking and space for servicing. It would therefore significantly harm highway safety. It would therefore conflict with Policy 8 of the JCS and Policy T1 of the Rushden Neighbourhood Plan 2018 (RNP). These policies together require development to provide a satisfactory means of access and provision for servicing and manoeuvring and to not result in a significant residual impact on any aspect of the transport network. It would also not accord with the National Planning Policy Framework (the Framework). This

requires development to provide safe and suitable access to the highway and to allow for suitable access by service vehicles, and for development to be refused on highways grounds if it would have an unacceptable impact on highway safety.

Character and appearance

31. The appeal site is a backland site set back from the High Street South behind built development fronting the road, including the existing PH and a small shopping precinct. The site is enclosed by walls and vegetation which adjoin domestic gardens and the grounds of St Mary's Church which lies directly south of the site. Development along High Street South is linear in form and in a mix of uses and scales. Surrounding development on the side streets, including those backing onto the appeal site, have a traditional linear form directly fronting onto streets.
32. The proposed houses would be set back some considerable distance from the front of the site, beyond the car parking area and shopping precinct. They would be of a similar scale to surrounding residential development with private garden space to the rear. In this regard, they would not appear unduly cramped. However, due to their backland position, with no road frontage and accessed via a path to the side of the car park or through the adjacent shopping precinct, the proposed houses would have a very poor relationship to surrounding development including the existing PH and development along High Street South. This would be at odds with the surrounding pattern of residential development.
33. My attention has been drawn to a number of locations within the area, notably cul-de-sacs, as examples of development comparable to the appeal scheme. The appeal proposal would be for a cul-de-sac form of development. However, unlike the developments to which I have been referred, the appeal proposal would not have any road frontage. These other developments do not therefore justify the scheme before me.
34. I conclude that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policies 3 and 8 of the JCS and Policy EN1 of the RNP. These policies together require development to respect local character and to respond to the site's immediate context. It would also not accord with the Framework. This seeks development that functions well and adds to the quality of an area, establishes a strong sense of place using the arrangement of streets and spaces and is sympathetic to local character.

Heritage assets

35. The appeal site lies within the Rushden Conservation area (RCA). The RCA includes the historic core of the settlement within which there are a variety of buildings of varying ages and architectural styles. The PH is an attractive, visually interesting and prominent building within the streetscene and positively contributes to the significance of the RCA. Its grounds, much of which is given over to hardsurfacing makes less of a contribution. However, the rear of the plot, which was previously the pub garden, contains a number of mature trees. These make a limited contribution to the significance of the RCA but provide some benefit due to their verdant appearance.

36. St Mary's Church lies to the north of the PH and its garden. It is an attractive Grade I listed building, positioned centrally within its grounds, elevated above the road. Mature trees, both within the church grounds and within the appeal site, separate the listed building from the appeal site and contribute to its setting. Several of these trees which are widely visible from the surrounding area make a positive contribution to the RCA.
37. The proposal would require the removal of a number of trees within the site, including a group of sycamore trees along the boundary with the St Mary's Church. The loss of these trees would cause some reduction in the verdant boundary between the church and the appeal site. However, within the church grounds itself there are a number of mature and attractive trees which provide a dense verdant edge to the church grounds. The removal of these boundary trees within the appeal site would not be widely visible. As such, their removal would not harm the setting of the listed building nor harmfully diminish the contribution of trees to the RCA.
38. The removal of the trees within the central section of the site would reduce the verdant character of the site. However, it seems unlikely that such large trees would have been present within the service yard to a public house and formed part of its historic character. As such, I do not find that the loss of the trees would harm the significance of the heritage asset.
39. I conclude that the proposed development would not adversely affect heritage assets. It would therefore comply with Policy 2 of the JCS which requires proposals to conserve the heritage significance and setting of an asset. It would also comply with Policy EN2 of the RNP which seeks the retention of trees where appropriate. It would also accord with the Framework which requires development to be sympathetic to historic character and to protect heritage assets.

Affordable housing and local infrastructure

40. Rushden is identified as a Growth Town in the JCS. In Growth Towns, Policy 30 of the JCS sets out that on private sector developments of 15 or more dwellings (net) the Council will seek the provision of 30 per cent affordable housing.
41. Paragraph 63 of the Framework states that provision of affordable housing should not be sought for residential developments that are not major developments. It defines major development in relation to housing, as development where ten or more homes will be provided or the site has an area of 0.5 hectares or more. Paragraph 64 sets out that where major development involving the provision of housing is proposed, at least 10 per cent of the homes to be available for affordable home ownership, subject to a number of exemptions. This includes criteria a) where houses are being provided as 'Build to Rent'.
42. The JCS pre-dates the Framework. Policy 30 is inconsistent with it. I therefore give this policy less weight to the requirements set out in the Framework.
43. The Council considers that the appeal site in combination with the adjoining site is a deliberate sub-division of land in order to avoid triggering the threshold for the provision of affordable housing and local infrastructure. The

- two schemes in combination would provide ten dwellings. In such circumstances, 10 per cent should be provided as affordable housing.
44. The appellant disputes that the site has been artificially split and that the timing of the two developments simply arose from the need to gain initial consent for the empty building to which the earlier scheme related.
45. The appeal site and the site of the approved scheme are in the same ownership. There is significant overlap of the sites for each and both schemes would share the same access onto the highway. Furthermore, the parking requirement has been presented as a combined scheme. In addition, the earlier scheme has not been implemented and the appeal scheme, was made weeks after the decision on the earlier scheme. For these reasons, I do not consider they are standalone and unrelated developments. In these circumstances, I find the requirement for affordable housing would be triggered.
46. The appellant has set out that it is his intention that the houses, as with the approved scheme, would be for rent. The approved scheme is for six 1-bedroom flats with no restriction on their tenure. Whilst it may be possible to impose a condition to secure this for the appeal proposal, such a condition could not be applied retrospectively to the approved scheme, part of which falls outside the appeal site boundary. As such, even if it were the intention of the appellant to restrict the proposed houses to being 'Build to Rent' this would only apply to four of the houses and it would not therefore meet the exemption set out in paragraph 64 a).
47. Policy 10 of the JCS requires development to be supported by the timely delivery of infrastructure, services and facilities necessary to meet the needs arising from the development. It sets out that planning permission will only be granted if it can be demonstrated that there is or will be sufficient infrastructure capacity provided to support and meet all the requirements arising from the proposed development.
48. The policy does not set a threshold for when contributions to local infrastructure would be required. However, I have not been provided with any evidence that there is sufficient infrastructure to meet the needs arising from the proposed development.
49. I note that the Council did not raise this issue during the application process. However, this is a procedural matter and does not alter my findings in respect of the merits of the case.
50. I conclude that the proposed development would not make adequate provision for affordable housing and local infrastructure. It would therefore not accord with Policies 10 and 30 of the JCS or the Framework, as referred to above.

Upper Nene Valley Gravel Pits SPA

51. The appeal site lies within 3 kilometres of the Upper Nene Valley Gravel Pits SPA. This site is protected as a European Site of Nature Conservation Importance and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.

52. Natural England has indicated that recreational disturbance is the most significant threat to the SPA, with most visits to the SPA being from people who live within 3 kilometres of it. The Upper Nene Valley Gravel Pits SPA Supplementary Planning Document 2015 (the SPD) sets out that mitigation will be required to ensure that development would have no significant effect on the SPA. Furthermore, a 2016 addendum to the SPD enables a financial contribution to be secured to provide access to Strategic Access Management and Monitoring and Suitable Alternative Natural Greenspace. The appellant has made a financial contribution towards mitigation. The Council has not confirmed that this is acceptable.
53. Irrespective of this, if I were minded to allow the appeal, as the competent authority I would need to undertake an appropriate assessment to confirm that the proposal would not adversely affect the integrity of the sites. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.

Other Matters

54. The appellant has indicated that a planning obligation would be likely to be provided but no further information is given about this and what it would secure. No obligation has however been provided.
55. There is some support of the proposed development particularly if it results in the footpaths around the site being tidied up and improved and the trees that overhang these being cut back. The proposal would reduce the trees, I have no information that it would improve the surrounding footpaths. I therefore give this limited weight.

Conclusion

56. The appeal scheme would provide four dwellings in an accessible location. These are modest benefits of the scheme which carry moderate weight. It would also preserve the RCA and the setting of a Grade I listed building. The effect of these aspects of the scheme are neutral in the balance.
57. The appellant has made a financial contribution to mitigate the effects of the proposed development on the habitats sites. Whilst it has not been necessary for me to reach a conclusion on this matter, any such payment for mitigation would be a neutral factor in the balance.
58. The proposed development would intensify the use of the sub-standard access to the site. It would not provide adequate car parking or arrangements for servicing. This would cause significant harm to highway safety. It would not make adequate provision for affordable housing and local infrastructure. These harms would not be outweighed by the benefits of the scheme and there are no other material considerations that indicate my decision should be taken otherwise than in accordance with the development plan.
59. For this reason, I conclude that the appeal should be dismissed and planning permission should be refused.

Rachael Pipkin

INSPECTOR