



Appeal Decision

Site visit made on 14 September 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2021

Appeal Ref: APP/N1025/W/21/3271965

Land to the west of the Navigation Inn, Risley Lane, Breaston, Derbyshire, DE72 3BP

- 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 Punch Partnerships (PML) Limited against the decision of Erewash Borough Council.
 - The application Ref ERE/1020/0035, dated 9 October 2020, was refused by notice dated 4 March 2021.
 - The development proposed is described as erection of a detached dwelling (Use Class C3) utilising existing public house access, creation of a new access to the public house and reconfiguration of public house car park, and associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling (Use Class C3) utilising existing public house access, creation of a new access to the public house and reconfiguration of public house car park, and associated parking and landscaping at land to the west of the Navigation Inn, Risley Lane, Breaston, Derbyshire, DE72 3BP in accordance with the terms of the application, Ref ERE/1020/0035, dated 9 October 2020, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Punch Partnerships (PML) Limited against Erewash Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. The site address given above is taken from the Council's Decision Notice rather than the planning application form, as it provides a more precise description.

Main Issues

4. The main issues are:
 - (a) The effect of the development on the character and appearance of the area;
 - (b) The effect of the development on the living conditions of neighbouring occupiers with regard to noise and disturbance, loss of outlook, light, and privacy;

- (c) Whether the development would prejudice the restoration of the Derby and Sandiacre Canal; and
- (d) Whether the development would prejudice highway safety.

Reasons

Character and appearance

- 5. The appeal site fronts onto Stevens Lane, which is a quiet residential street. The majority of the surrounding properties are single storey bungalows, although the house immediately opposite is 2 stories in height, as are nearby properties fronting Risley Lane. The public house itself is 3 stories in height. There is significant variation in the design and style of properties in the vicinity.
- 6. The development would introduce a detached 2 storey dwelling onto part of the existing car park next to No 121 Stevens Lane. The relationship between the new property and No 121 would broadly mirror that between Nos 108 and 106, which are positioned opposite. The height of the proposed dwelling would be similar to No 108 and to other nearby 2 storey properties, and it would also be seen in the context of the 3 storey public house. In this regard, it would be situated at a transition point between predominantly single storey dwellings to the south west and taller properties immediately to the south and east. Its 2 storey height would not appear out of keeping in this context.
- 7. The rear garden of the dwelling would be enclosed by a close boarded fence, that would follow the rear boundary line of the adjacent properties. Given the relatively small size of the proposed garden, and the presence of a footpath, a boundary treatment such as this would be necessary to protect the privacy of future occupiers. I do not consider that this feature would detract from the canal side environment or the setting of the public house, nor would the loss of a short section of the existing brick wall be harmful in this regard.
- 8. For the above reasons, I conclude that the development would not significantly harm the character and appearance of the area. It would therefore accord with Policy 10 of the Erewash Core Strategy (2014) and saved Policy H12 of the Erewash Local Plan (2005). These policies seek to ensure, amongst other things, that new development is in scale and character with its surroundings and has regard to local context. It would also accord with the National Planning Policy Framework ('the Framework') in this regard, which requires new development to be sympathetic to local character.

Living conditions

- 9. The proposed dwelling would be positioned next to No 121 Stevens Lane, which is a single storey bungalow. It would broadly align with the front and rear building lines of that property, aside from a modest 2 storey projecting element at the rear. The dwelling would also be set back from the boundary and would not extend significantly beyond the rear of No 121. This arrangement would ensure that no significant overbearing impact to the adjacent garden area would arise. Any overshadowing in the early part of the day would also be limited by the proposed setback and position of the dwelling. Whilst No 121 has a glazed door and window facing the development, the Council states that these do not serve a habitable room. Accordingly, there would be no harmful loss of outlook.

10. Views from the proposed first floor windows over the rear of No 109 Risley Lane would be at an oblique angle, which would limit any direct overlooking. This arrangement would not result in any significant loss of privacy to the occupiers of No 109 in my view.
11. Whilst the development may result in some additional on-street parking in the vicinity, this would be limited in scale and frequency. Any additional disturbance caused by customers returning to their vehicles during the evening would be unlikely to be significant compared to the existing situation.
12. For the above reasons, I conclude that the development would not significantly harm the living conditions of neighbouring occupiers. It would therefore accord with Policy 10 of the Erewash Core Strategy (2014) which seeks to ensure, amongst other things, that new development has regard to any impact on the amenity of nearby residents. It would also accord with the Framework in this regard which requires that new development does not undermine quality of life.

Derby and Sandiacre Canal

13. The alignment of the former Derby and Sandiacre Canal is located to the north of the public house, in close proximity to the appeal site. It is subject to Policy R4 of the Erewash Local Plan (2005), which seeks to prevent development that would prejudice its reinstatement. In this regard, outline planning permission (Ref ERE/0410/0042) was granted in August 2011 to construct and reinstate the canal.
14. The 1939 Ordinance Survey map shows the former canal towpath running along the northern side of the pub building and crossing part of the appeal site. However, the development would only encroach a short distance beyond a high brick wall that separates the pub garden from the car park. Moreover, it would align with the rear boundaries of the adjacent properties, and the northern wall of the pub. These properties would restrict the establishment of a towpath across the appeal site in any case. I further note that an indicative scheme for the restoration of the canal, submitted by the Derby and Sandiacre Canal Trust, does not include the appeal site. In these circumstances, and based on the information before me, it appears highly unlikely that the development would prejudice the reinstatement of the canal.
15. For the above reasons, I conclude that the development would not prejudice the restoration of the Derby and Sandiacre Canal. It would therefore accord with saved Policy R4 of the Erewash Local Plan (2005) in this regard.

Highway safety

16. The development would result in the loss of 9 parking spaces and would reduce the capacity of the remaining car park to 16 spaces. The access into the car park would also be relocated a short distance to the east.
17. Compared to the existing situation, the development could result in up to 9 additional vehicles being parked on the surrounding streets during busy times. However, a submitted parking survey¹ indicates that there is more than sufficient capacity to accommodate this additional demand. Whilst the parking survey was undertaken during the ongoing pandemic, the capacity identified (127 spaces) is well above the maximum of 9 vehicles that would be displaced

¹ Transport Statement (TPA, October 2020)

by the proposal. In this regard, I note that most of the surrounding streets have unrestricted parking, and the majority of neighbouring properties benefit from off-street parking. Given the availability of on-street parking in the vicinity, pub customers would not need to resort to dangerous parking by the junction with Risley Lane / Stevens Lane junction. I further note that the Highway Authority has not objected to the development on these grounds.

18. Whilst this section of Stevens Lane is relatively narrow, cars are able to park along it without preventing the free flow of traffic. Blockages to the highway are in any case a police matter, and it is open to the Highway Authority to introduce parking restrictions should this be considered necessary.
19. With regard to the relocated car park entrance, this would be only a short distance to the east of the existing access, which would still be at a safe distance from the junction between Risley Lane and Stevens Lane.
20. For the above reasons, I conclude that the development would not prejudice highway safety. It would therefore accord with the Framework, which seeks to avoid any significant impacts on highway safety.

Conditions

21. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. Conditions relating to the existing and proposed accesses are necessary in the interests of highway safety and to ensure that the car park is capable of being accessed during the construction period. Further conditions relating to landscaping, the proposed materials, and any redundant part of the existing access, are necessary in order to protect the character and appearance of the area.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

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: 20.3221.100 Rev P4; 20.3211.101 Rev P2; 20.3211.102 Rev P2; 20.3211.103 Rev P3; 20.3211.104 Rev P4.
- 3) Prior to the commencement of any other operations associated with the development, the new vehicular access to Stevens Lane to serve the public house car park shall be laid out and completed. The completed access shall be served by 2.4m x 43m visibility splays in both directions, and 2m x 2m x 45° pedestrian visibility splays on either side, in accordance with plan Ref 2009-037 VS01. The visibility splays shall thereafter be kept free of any obstacles or obstructions greater than 1m in height (or 0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
- 4) Prior to the first occupation of the dwelling, the existing access onto Stevens Lane shall be modified in accordance with the approved plans and completed with 2.4m x 43m visibility splays in both directions. The visibility splays shall thereafter be kept free of any obstacles or obstructions greater than 1m in height (or 0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
- 5) Prior to the first occupation of the dwelling, any redundant part of the existing access onto Stevens Lane shall be permanently closed and reinstated as footway and verge with full face kerbing in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
- 6) Prior to the first occupation of the dwelling, full details of both hard and soft landscaping works, including an implementation timescale, shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and timescale. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 7) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.