
Appeal Decision

Site visit made on 9 November 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2021

Appeal Ref: APP/H2835/W/21/3278010
32 New Street, Earls Barton, NN6 0NN

- 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 D Mallard against the decision of North Northamptonshire Council.
 - The application Ref NW/21/00134/FUL, dated 9 February 2021, was refused by notice dated 22 April 2021.
 - The development proposed is 2 new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 2 new dwellings at 32 New Street, Earls Barton, NN6 0NN in accordance with the terms of the application, Ref NW/21/00134/FUL, dated 9 February 2021, subject to the conditions in the conditions annexe at the end of this decision.

Application for costs

2. An application for costs was made by Mr D Mallard against North Northamptonshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the living conditions of the intended occupants and the effect on the living conditions of the adjacent residents and;
 - the effect of the proposal on highway safety.

Reasons

Character and appearance

4. The appeal site is within the large village of Earls Barton. It is surrounded by residential properties on all sides. The appeal site is at the end of the New Street cul-de-sac which serves a wide mix of twentieth century houses in terms of their age, style and form.
5. The appeal site includes an existing house which is sited towards one side of the site and the cul-de-sac. It has a substantial rear garden, with mature

hedges and a scattering of trees. It slopes downwards towards the south to adjoin the gardens of houses along Milbury.

6. Within such a residential area the proposed new dwellings would in principle not be out of place. The proposal would retain the existing dwelling and the two new dwellings would be to the rear, away from the cul-de-sac. Whilst there is a tendency for buildings here to follow the road frontages, the building lines in the area are not overly pronounced as the surrounding roads spread over a varied pattern.
7. The submitted plans show the two houses would have rear garden, approximately 11m deep as well as space to the sides. Parking would be to the front. The existing dwelling would also have a reasonable sized rear garden and would appear similarly distanced from the new dwellings.
8. The submitted cross section shows the buildings would not be out of scale with the neighbouring houses and would not be overly engineered into the slope. The height of the buildings would be typical of the area and would not compound the effect of the topography. The houses would have unassuming elevational design which would not attract attention, particularly as the houses in the area have a variety of designs.
9. The site is not prominent from public view, but in any event, I find that the development would not be perceived as harmful to the character and appearance of the area.
10. Policy 8 of the North Northamptonshire Joint Core Strategy (JCS) requires development to create a distinctive local character by responding to the context and local topography and landscape setting. Policy EB.GD1 of the Earls Barton Neighbourhood Plan (NP) allows for small scale development within the village boundary if it is of a scale, massing, density and design which reflects local character. Similarly Policy EB.D1 of the NP requires development proposals to be of a high standard of design and layout and in keeping with local character. Paragraph 126 of the National Planning Policy Framework (the Framework) requires the creation of high quality, beautiful and sustainable buildings. Similarly, paragraph 130 requires proposals are sympathetic to local character and history, including the surrounding built environment and landscape setting. The proposal would not be in conflict with the above policies.

Living conditions

11. The submitted plans show that the intended occupants would have good sized rear gardens including patio areas stretching across the width of the buildings. Their spaces would be ample even for the size of the houses.
12. The rear of the proposed dwellings would look towards Milbury, a well-established residential area. Several of these houses have ground and first floor windows overlooking the appeal site, which is elevated. I went inside number 27 on my site visit and noted the outlook: whilst there is a boundary hedge, this does not extend wholly along the boundary and at least one of the new houses would be visible, whereas at the moment the outlook is gardens. However, the appellant indicates that there would be a 24m separation distance between facing windows, which taken as a ballpark, would provide adequate privacy even allowing for the topography.

13. The gardens of the Milbury houses would back on to those in the appeal proposal. This is not an unusual situation, and the existing and proposed gardens would be large enough to avoid undue intrusion. Mention is made that the boundary hedge on the appeal site could be cut down in the future. However, it is distanced from the proposed houses, so would not be under particular pressure. In any event such an eventuality often exists elsewhere, and the occupants would be likely to favour its retention for their own privacy. The permitted development rights regime does allow home owners to erect fencing or similarly undertake planting. Moreover, the separation distances involved mean that the retention of this boundary hedge would not be critical.
14. The occupants of the neighbouring dwelling to the north west, 30 New Street, would have a view towards the proposed dwellings. However, this would be an oblique aspect rather than direct, and there is an intervening boundary hedge which provides some screening. Consequently, this impact would not be significant.
15. I therefore conclude that the proposal would give reasonable living conditions for the new occupants and would provide satisfactory privacy for the existing residents.
16. Policy 8 of the JCS seeks to protect amenity of existing residents and promote provision for new residents including amenity space. Policy EB.GD1 of the NP allows for small scale development within the village boundary if it does not result in an unacceptable loss of amenity for neighbouring uses through privacy. The proposal would not be in conflict.

Highway safety

17. The proposal would lead to additional traffic generation from the two new houses as well as that during construction. The proposal would provide parking and manoeuvring within the appeal site. The access would join the existing drive and exit onto the cul-de-sac at the end of New Street.
18. The nearest section (southern end) of New Street to the appeal site is narrow; however, it is straight with a wide grass verge on one side and a pedestrian pavement to the other. Consequently, this has good visibility. Additionally, this part of New Street is only short before it then turns a corner into a wider part. This section of New Street has some on street parking but waiting points exist. There are pedestrian pavements on both sides, at this point, which allow pedestrian segregation from traffic.
19. New Street forms a junction with the village through road at which there is good visibility.
20. Concern is raised about pedestrian safety, however, there is potential segregation. In addition, traffic speeds would also be expected to be low being a cul-de-sac.
21. I noted on my site visit that the boundary hedge with the neighbour of the access has been cut back. There is a comment that some of the hedge in the splay line may not be within the appellant's ownership but that is a matter between the particular parties. I note the concern about access by emergency vehicles, but the road has good visibility and passing potential.

22. The proposal would only increase traffic by two households, which the highways consultant equates to 10 daily trips. This would be a limited increase on the road network.
23. I therefore conclude that the proposal would not harm highway safety.
24. Policy 8 of the JCS promotes highway safety and the needs of pedestrians. Policy EB.D1 of the NP precludes development which would have traffic generation and parking impact leading to an unacceptable congestion or pedestrian hazard. The proposal would not be in conflict.

Other matters

25. The appeal site is currently a porous vegetated surface and the access, dwellings and their patios would equate to hard surfaces. Surface water run off could be contained and slowed by various means which would be capable of being covered by a condition.
26. The proposed two new houses would have economic benefits and make a contribution to housing land supply. The dwellings would be in an accessible location and the occupants would be likely to support local services. The new houses would be a social benefit.
27. The Upper Nene Valley Gravel Pits Special Protection Area /Ramsar site is close to the appeal site. This distinctive habitat is protected under The Conservation of Habitats and Species Regulations 2017 and is particularly notable for its wetland birds.
28. Having regard to the evidence provided by the Council I consider that the development could, in combination with other development in the area, have a significant adverse effect on the above designations through added recreational pressure, particularly dog walking, causing disturbance to the ecosystem. It is therefore necessary to assess whether the potential adverse impact could be adequately mitigated so as to avoid any significant adverse effect on the conservation objectives of the above designations.
29. The Council, in partnership with Natural England, has developed The Upper Nene Valley Gravel Pits Supplementary Planning Document an approach to mitigation. This involves monitoring and management.
30. The committee report states that the correct mitigation fee has been paid by the appellant. I am satisfied that this contribution would result in suitable mitigation such that the development would avoid having any significant adverse effect on the above designations. The committee report confirms that the Council were satisfied in this regard and indeed this did not lead to a reason for refusal.

Conditions

31. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The Council have suggested conditions. The timing and approved plans provide clarity. Approval of materials is necessary to ensure good design and similarly submission of landscaping and slab heights. The archaeological investigation is needed in the interests of heritage. The submission of and approval of boundary treatments will help residential amenity, albeit this wording has been simplified. The CEMP

is also necessary to minimise disruption to this residential area. The requirement for provision of refuse is also necessary for amenity although the wording is simplified to limit that within planning controls. The highway conditions imposed are for safety. Car charging, water efficiency and biodiversity conditions are imposed in the interests of the wider environment. The accessibility is necessary to allow access for all.

32. A condition requiring the approval of surface water run off measures is added to ensure adequate provision.
33. The requirement to provide lighting is not justified as the access will be a private drive and such measures would be up to the individuals. The removal of permitted development rights is not imposed, which is only warranted in exceptional circumstances and the site is not so constrained.

Conclusion

34. I therefore conclude that the appeal should be allowed subject to the conditions in the conditions annexe below.

John Longmuir

INSPECTOR

Conditions annexe

- 1) The development shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following drawings/details: 43-20-00 C (site plan) received 10 February 2021; 43-20-02 (unit 2 proposed plans & elevations) received 10 February 2021; 43-20-03 (unit 3 proposed plans & elevations) received 10 February 2021.
- 3) Notwithstanding the details shown on drawing numbers 43-20-02 (unit 2 proposed plans and elevations) and 43-20-03 (unit 3 proposed plans and elevations) no development above slab level shall take place until samples of the external materials to be used in the construction of the development have 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) The dwellings hereby approved shall incorporate measures to limit water use to no more than 110 litres per person per day within the home and external water use of no more than 5 litres per day in accordance with the optional standard 36 (2b) of Approved Document G of the Building Regulations (2015).
- 5) No building shall be occupied until the car/vehicle parking areas shown on the approved plans for that building has been constructed, surfaced and permanently marked out. The car parking areas so provided shall be maintained as ancillary to the development and shall be used for no other purpose thereafter.
- 6) The dwellings hereby approved shall be built to meet the requirements of the National Accessibility Standards in category 2 (accessible and adaptable dwellings) in accordance with the schedule of the Approved Document M of the Building Regulations (2015).

7) In the event that any unexpected contamination is found at any time when carrying out the development hereby approved, it must be reported immediately to the local planning authority. Development works at the site shall cease and an investigation and risk assessment undertaken to assess the nature and extent of the unexpected contamination. A written report of the findings shall be submitted to and approved by the local planning authority, together with a scheme to remediate, if required, prior to further development on site taking place. Only once written approval from the local planning authority has been given shall development works recommence.

8) No development shall take place until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the local planning authority. The CEMP shall include site procedures to be adopted during the course of construction including: - Procedures for maintaining good public relations including complaint management, public consultation and liaison. - Arrangements for liaison with the Councils Environmental Protection Team. - All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the local planning authority, shall be carried out only between the following hours 08:00 hours and 18:00 hours on Mondays to Fridays and 08:00 and 13:00 hours on Saturdays and; at no time on Sundays and Bank Holidays. - Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above. - Mitigation measures as defined in BS5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites, shall be used to minimise noise disturbance from construction works. - Procedures for emergency deviation of the agreed working hours. - Control measures for dust and other air-borne pollutants. - Measures for controlling the use of site lighting whether required for safe working or for security purposes. The approved construction environmental management plan shall be adhered to throughout the construction process.

9) Notwithstanding the approved details, no development shall take place above slab level until details of the proposed boundary treatments for the host and the hereby approved dwellings have been submitted to and approved in writing by the local planning authority. The approved boundary treatment(s) shall be erected before any dwelling hereby approved is first occupied. Development shall be carried out in accordance with the approved details and thereafter retained in that form.

10) No dwelling shall be occupied until the associated refuse store, and facilities allocated for storing of recyclable materials, as shown drawing number 43-20-00 Rev C (site plan) has been completed in accordance with the approved plans or such other details that shall have been submitted to and approved in writing by the local planning authority and thereafter retained in that form.

11) Prior to the occupation of either of the dwellings a scheme for the provision of charging points for electric vehicles shall be submitted to and approved in writing by the local planning authority. The scheme as approved shall be implemented prior to the first occupation of each dwelling to which the charging point shall relate.

12) Prior to the first occupation of plots 2 and plots 3 pedestrian to vehicle visibility of 2.0 metres x 2.0 metres above a height of 0.6 metres shall be provided and maintained in perpetuity on both sides of the vehicular access.

13) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition: (i) fieldwork in accordance with the agreed written scheme of investigation; (ii) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the planning authority); (iii) completion of post-excavation analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the planning authority, completion of an archive report, and submission of a publication report to be completed within two years of the completion of fieldwork.

14) Notwithstanding the details on the approved plans no building or use hereby permitted shall be occupied or the use commenced until the vehicular areas that are within 5 metres from the boundary of the site where it meets the public highway have been constructed and surfaced in a stable and durable manner in accordance with details to be approved in writing by the local planning authority. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

15) Prior to the first occupation of either of the dwellings a scheme for the provision of bat and bird boxes shall be submitted to the Local Planning Authority for approval. The approval scheme shall be implemented prior to first occupation.

16) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

17) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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.

18) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the

arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

END OF CONDITONS ANNEXE