



Appeal Decision

Site visit made on 30 November 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2022

Appeal Ref: APP/H0520/W/21/3276052

56 High Street, Somersham, PE28 3JB

- 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 Mr Dennis Whitfield against Huntingdonshire District Council.
 - The application Ref 20/00467/FUL, is dated 3 March 2020.
 - The development proposed is conversion of 2 flats into 4 flats.
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Decision

1. The appeal is dismissed and planning permission for conversion of 2 flats into 4 flats is refused.

Preliminary Matters

2. The appeal is made against the Council's failure to give notice of its decision within the prescribed period. The Council's case and its putative reasons for refusal are set out in its appeal statement. I consider the appeal on this basis.
3. The appellant has submitted a signed unilateral undertaking as part of the appeal. I consider this later in my decision.

Background and Main Issues

4. The appeal relates to a long, narrow site located off the main street through Somersham, containing a frontage building with a retail shop to the ground floor, and a collection of attached and detached buildings to the rear set to either side of an internal courtyard, with an area of overgrown land at the rear. Various parts of the buildings are in use for residential purposes.
5. The proposal seeks permission for the subdivision of two flats, one at first floor level of the main building, and the second in one of the outbuildings to the rear. I saw on site that works to subdivide the dwellings had commenced, with the general layout of rooms already reflecting the proposed plans. However, the works were incomplete as no kitchen or bathroom facilities had been installed. For the avoidance of doubt, therefore, I have considered the proposal on the basis of the submitted plans.
6. The Council does not oppose the principle of residential development in what is a central and accessible location within a Key Service Centre under Policy LP8 of Huntingdonshire's Local Plan to 2036 (the HLP). Having seen the site, neighbouring uses and the proximity of services, I have no reasons to disagree.
7. Therefore, based on the Council's Statement of Case, I consider the main issues to be:

- i) The effect of the proposal on highway safety, having regard to the suitability of the vehicular access and parking arrangements;
- ii) Whether the proposal would make adequate provision for cycle storage;
- iii) The effect of the proposal on protected species, namely bats; and
- iv) The effect of the proposal on protected trees.

Reasons

Highway Safety

8. The appeal site is accessed by a narrow single vehicle entrance off High Street. The access serves three existing flats on the appeal site, and the adjacent development at 54 High Street, which appeared to be commercial in nature with several parked vehicles. The proposal would add two further flats which would be expected to add to the number of vehicles parking on the land and using the access. I note that the local highway authority has objected to the proposed intensification of use of the access due to inadequate visibility.
9. The site access is between two frontage buildings, with on-street parking along the near side of the road. The tight arrangement means that visibility for vehicles emerging from the site is very limited, particularly if there are parked cars immediately next to the access which would leave drivers with little sight of vehicles coming from the left. It also means that pedestrians on the nearside pavement are unable to see a vehicle emerging from the site until part of the vehicle crosses over the pavement. The on-street parking means that traffic has to give way outside the site entrance to allow oncoming traffic through. I saw that traffic along the road was not fast, but it was regular and included buses and other larger vehicles.
10. Given what I saw on site, I find that the access is less than adequate in terms of visibility and so poses a risk of conflict between vehicles and pedestrians. I recognise that the access is already used by a number of properties, although there is limited evidence from the appellant to quantify the existing level of use. The plans indicate the proposed flats would be generally modest in size, one being one-bedroom and one being two-bedroom. Even so, each could be occupied by more than one person, each of whom may have a car. Accordingly, the proposal would create conditions for an intensification of the use of the access. No measures are proposed by the appellant to mitigate this. Therefore, I find that the proposed intensification of use of the access would pose a harmful risk to vehicular and pedestrian safety due to the inadequate visibility available for drivers.
11. The appellant points to a narrow access on the opposite side of the road, Bishop's Court, which serves two dwellings granted planning permission in 2004. I saw this entrance on site and saw that it is narrower than that serving the appeal site, albeit it is located on the outside of the curve in the road and with an absence of parked cars on the near side of the road, which affords better visibility for oncoming drivers to see a vehicle emerging from the access. This aside, I do not have any details of the Council's considerations of the suitability of the access at the time. Nonetheless, the presence of another potentially substandard access is not justification for the access in question which on its own assessment has been found to pose a risk to highway safety.

12. The Council also refers to the proposed parking on site not meeting its requirements in terms of the size of spaces and general layout. The submitted plan, somewhat roughly drawn, shows car parking for up to 12 cars at the rear of the site, including two disabled spaces. The evidence before me does not indicate whether there are specific parking standards within the development plan to be applied to the proposal. Although only two flats are proposed, there did not appear to be any formal parking areas on site for the existing flats, with the evidence before me indicating that the rearmost part of the site was inaccessible until the recent demolition of a structure on the site. Therefore, I have taken the submission of the proposed parking plan to denote a proposal for 12 new spaces.
13. I saw the space to the rear of the site to be quite large, but the plans before me do not clearly show that the spaces would be large enough, or that vehicles would be able to manoeuvre into and out of the spaces, particularly those located next to walls. Therefore, I am not satisfied that 12 vehicles could be suitably accommodated on the site. In the absence of suitable details of the parking arrangements, the addition of two flats could lead to indiscriminate parking elsewhere on the site or add to on-street parking pressure.
14. For these reasons, I find that the proposal would lead to conditions prejudicial to highway safety, in conflict with Policy LP17 of the HLP, which supports proposals which incorporates appropriate space for vehicle movements, facilitates accessibility for service and emergency vehicles and incorporates adequate parking for vehicles, taking account of factors including highway safety and access to and from the site.

Cycle Storage

15. Policy LP17 of the HLP requires the provision of secure cycle storage on a ratio of one space per bedroom per dwelling. My reading of the policy indicates that this requirement only applies to new dwellings, and is not applied retrospectively to existing dwellings on a site. Therefore, the requirement in this case would be three spaces.
16. There is a discrepancy between the plans submitted with the position of cycle storage on one plan overlapping one of the proposed parking spaces on another. However, having seen the overall site, I am satisfied that space for storage of three cycles could be found and such details secured by condition, were the appeal to be allowed. Therefore, I find no conflict with the aims of Policy LP17 to promote sustainable modes of transport.

Protected Species

17. A Preliminary Ecological Appraisal (PEA) has been submitted which identified bat roosts in one of the existing buildings (Building 2), the location of one of the proposed flats at first floor level. I note criticism from the Wildlife Trust of the conclusions that two other buildings are deemed to have 'negligible' potential for bat roosts, given their similar construction to Building 2, and in the PEA not recording Building 2 as a confirmed roost.
18. The proposals in this case involve internal subdivision of buildings to form additional flats. Works have already been undertaken on site to physically divide the flats. I note the recommendations of the PEA that no further bat survey work or mitigation would be required if works are confined to the

interior. However, the PEA records the building as having 'moderate' bat roost potential, and the methodology within the PEA sets out that such potential will require two surveys, one dusk emergence and one dawn re-entry survey conducted between May and September with at least one of the surveys undertaken between May and August, to assess their current use by bats.

19. I have no evidence that such surveys have been undertaken in respect of any of the buildings. Moreover, it is unclear if the works already undertaken have involved disturbance to the ceilings and/or roof fabric, particularly to Building 2 where evidence of bat activity was found. Neither does the PEA set out any measures to be undertaken during works to avoid disturbance to protected species which may be present. This absence of information means that I cannot rule out potentially significant harm to protected species. Moreover, given this degree of uncertainty, I am not satisfied that the use of conditions to secure further surveys would be appropriate in this case.
20. As such, I conclude that the scheme would be contrary to Policy LP30 of the HLP, which requires that proposals demonstrate that all potential adverse impacts on biodiversity and geodiversity have been investigated. Moreover, the proposal would be contrary to the National Planning Policy Framework (the Framework) which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

Effect on Trees

21. The Council's concern relates to a specific tree to the rear of the site that it considers would be at risk were the area to be redeveloped as a parking area. The tree is protected due its location within the Somersham Conservation Area (SCA). Contrary to the appellant's view, I consider the effect on the tree is a relevant material consideration given the proximity of the proposed parking areas that form part of the appeal scheme.
22. In the absence of a tree survey, I have few details as to the quality of the tree, but I saw it forms a notable feature to the rear of the site and forms part of the outlook for dwellings at the rear. I also saw other trees dotted between the built form of neighbouring sites. From what I saw, the tree has some amenity value within the SCA as a flash of greenery amid the built form. Its loss would therefore be harmful to the character and appearance of the SCA.
23. The submitted parking plan shows spaces immediately adjacent to the tree, and almost certainly within its root protection area. No details are provided as to the proposed surfacing material of the car park, nor how such surfacing would be laid without interference with the tree or its roots. Given this level of uncertainty, and the other concerns with the parking layout set out above, I am not satisfied that details of works and mitigation for the tree should be left to condition stage, as they may not be sufficient to maintain its long term health.
24. Moreover, even if suitable construction methods were employed, the tree would overhang over one or more parking spaces. Trees shed leaves and branch litter. Such debris often causes inconvenience to residents. High winds can also cause fear that mature trees will fall or shed branches, particularly when close to cars or buildings. There is also the ongoing costs of maintenance into the

future. All of these aspects of living in proximity to trees can lead to pressure from occupants to seek their removal.

25. For these reasons, I conclude that the proposal would create conditions which would risk the long term health of a protected tree, and create pressure to remove the tree which provides visual amenity value which would in turn harm the character and appearance of the Somersham Conservation Area. This would conflict with the aims of Policies LP2 and LP31 of the HLP to protect the character of existing settlements and to conserve and enhance any existing tree, woodland, hedge or hedgerow of value that would be affected by a proposed development. There would also be conflict with the Framework which recognises the benefits of trees and biodiversity, and states that existing trees should be retained wherever possible.

Other Material Considerations

26. The proposal would create two additional flats for the District's housing stock. The appellant refers to the need to provide affordable housing for local young people. Whilst this is a laudable aim, I am not provided with a mechanism, such as a planning obligation, that would ensure the flats fell under the definition of affordable housing. As such, the flats could be rented at market rates or sold, which lessens the weight I attribute to this purported benefit. The benefits arising from the proposal are also limited by its small scale and the Council's stated ability to demonstrate a five year supply of deliverable housing sites, a position not challenged by the appellant. Nonetheless, I accept that the provision of additional flats is a benefit in general terms and, having regard to the Government's objective of significantly boosting the supply of homes, I afford moderate weight to it in the planning balance.
27. I accept that there would be a limited economic benefit arising from the development through employment for the local construction trade and future spending by occupants of the flats in the local area. I also recognise the benefit of re-using existing buildings to deliver additional housing, in line with the approach of the Framework.
28. The matter of the loss of the tree aside, the Council does not allege that the conversion of the flats, in and of themselves, would cause harm to the significance of the conservation area or the nearby listed buildings at 58 and 69 High Street through effect on their settings. Given the works would be confined to the interior of the buildings, I have no reasons to conclude otherwise, and I am satisfied that the conversion works would preserve the significance of these designated heritage assets.
29. Reference is made to ongoing enforcement investigations relating to the appeal site. However, there is limited information relating to this in the evidence before me, and ultimately it has not been a determinative factor in any of the main issues. Similarly, reference to previous planning applications on the site has not had a bearing on my consideration of this proposal, which I have assessed on its own planning merits.
30. The Council has not opposed the proposal in terms of the effect on neighbours' living conditions. I saw that the windows of the proposed flats face into the interior courtyard of the site, and no new windows are proposed, nor any additional physical structures that could affect outlook or light. Consequently, I

am satisfied that the proposal would not give rise to invasive overlooking or loss of privacy, outlook or light to neighbouring occupants.

31. The appellant has submitted a completed unilateral undertaking that would secure a financial contribution towards the provision of wheeled refuse bins for the proposed flats, as sought under Policy LP4 of the HLP and the Developer Contributions Supplementary Planning Document (December 2011). On the evidence before me, I am satisfied that the obligation meets the tests for planning obligations at Paragraph 55 of the Framework. Accordingly, I have taken the obligation into consideration. However, the contribution is required to make adequate provision for waste management and so mitigate against potential adverse effects of the development. Therefore, it is a neutral factor in the planning balance.

Conclusion

32. For the reasons set out, the proposal would conflict with the development plan, taken as a whole. I afford significant weight to this conflict. I have taken into account other material considerations set out in support of the proposal, to which I ascribe limited or moderate weight. However, taken together, these would not be sufficient to outweigh the development plan conflict so as to justify a grant of planning permission.
33. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR