



Appeal Decision

Site visit made on 14 December 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/P3040/W/21/3277807

Muffins Gap, Lombard Street, Orston, Nottinghamshire NG13 9NG

- 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 Peter Reid against the decision of Rushcliffe Borough Council.
 - The application Ref 21/00180/FUL, dated 13 January 2021, was refused by notice dated 17 March 2021.
 - The development proposed is erection of three detached dwellings and access provision.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of three detached dwellings and access provision at Muffins Gap, Lombard Street, Orston, Nottinghamshire NG13 9NG in accordance with the terms of the application Ref 21/00180/FUL, dated 13 January 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposed development site would be an appropriate location for housing, having regard to the requirements of the spatial strategy for the area and the accessibility of services and facilities,
 - The effect of the proposed development on the character and appearance of the area,
 - The effect of the development on the living conditions of existing residents, with particular reference to noise and disturbance, and
 - The effect of the development on archaeology.

Reasons

Location

3. The appeal site is a portion of garden land associated with 'Muffins Gap'. There are various outbuildings within the wider garden area, and the site is largely bounded by hedgerows up to three metres in height. There is residential development in the vicinity, and to the south planning permissions have been granted for two dwellings, of which one has commenced, on land under separate ownership. An extant planning permission for a single dwelling has been approved on the appeal site at outline application stage.

4. Policy 3 of the Rushcliffe Local Plan Part 1: Core Strategy (the CS) helps form the sustainable development strategy for the Council, aiming to direct the majority of development toward the urban areas, and “other villages” such as Orston deliver development through small scale proposals, exception sites or infill development.
5. Recent developments and approvals in the locality have altered the character of the local area, and the nature of the appeal site is now that of an infill site as it would now constitute infill within the built fabric of the village, due to other recent approvals and does not extend beyond the environs of the settlement, into the open countryside beyond.
6. As a result of the modified position now demonstrated by the appeal site, I find that the site is an infill development, and is therefore consistent with Policy 3 of the CS, in relation to “other villages” and infill development. This is my finding specific to this site and its characteristics, and not a general finding on the policy as a whole.
7. With regard to sustainability, the village appears to have various services and facilities available for any proposed residents reasonably close to hand. Pedestrian and cycle access to these services is easily achievable and the support of the development for those services is a positive in favour of the proposal.

Character and appearance

8. The appeal properties proposed would not look out of the ordinary within the wider settlement. There are a range of sizes and types of residential development, and the adjacent approvals are for designs of a more modern outlook as well as the variations in the immediate vicinity. The garage outbuildings are large but are consistent with the layout and profile of the proposed dwellings, and the host property is, in itself, a sizeable structure with outbuildings.
9. Based on the above, I do not consider there is a material conflict with Policy 10 of the CS, and policies 1 and 22 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (the LPP) which, amongst other matters, expect development to make a positive contribution to sense of place, have effective treatment of massing, scale and proportion as well as architectural style and the new built development integrates with existing buildings and is consistent with guidance on design set out in the National Planning Policy Framework (the Framework)

Living conditions

10. I find that the proposed access has been designed with the consideration of the existing residents in mind. There are no habitable windows overlooking the access, and the road (Lombard Street) leading to the appeal site is, in itself, not suitable for vehicles to be generating any form of significant speed.
11. There is an extant approval for one dwelling, so the principal of an access has been established. An additional two dwellings accessing the site would not, in my view, cause material harm to the living conditions of the existing residents from its use, given the layout and positioning of the access and existing dwellings relative to each other.

12. On this issue, I find no conflict with Policy 1 of the LPP which, amongst other matters, expects development to not have a significant adverse effect upon the amenity of adjoining properties by levels of activity or generation of traffic.

Archaeology

13. The Council have made reference of archaeological features in the reasoning for this refusal, but I note that the previous site approval made no mention of such an issue, nor was it raised on the adjacent sites and whilst the specialist consultee has raised the possibility of findings on the site, I find the need for a site-specific pre-application survey to be a little excessive in this instance, given the lack of previous involvement on this issue.
14. Given the evidence presented with regard to this issue, and Historic Environment Records demonstrating the nature of the previous finds and their timescale, that an appropriately worded condition would be an acceptable compromise for this issue to be dealt with.
15. As such, I find no conflict with Policy 29 of the LPP which deals with the issue of development on archaeological site.

Conditions

16. The Council have not provided a list of possible conditions to assist with the appeal, so I shall prepare a list appropriate to the issues of the case.
17. In the interests of providing certainty, standard conditions relating to commencement of development, approved plans and materials are included (Conditions 1, 2 & 3). In the interests of appearance of the area, a condition relating to hard and soft landscaping works (Condition 4) is reasonable and necessary.
18. In order to protect the living conditions of residential properties, conditions relating to construction management including construction hours (Condition 5) is reasonable and necessary. In the interests of safety, there is a condition relating to contaminated land (Condition 6).
19. To enable the development to meet sustainability requirements, a condition relating to electric vehicle charging is included (Condition 7). In the interests of safe and sustainable drainage and ensure the site can be adequately drained, a condition relating to foul & surface water disposal (Condition 8) is reasonable and necessary.
20. In the interests of safety, a condition relating to storage of refuse bins (Condition 9) and parking provision are included (Condition 10) whilst Condition 11) relates to the provision of a archaeological scheme, in response to the Council's concerns on the issue.

Conclusion

21. The Framework states that development that accords with the development plan should be approved without delay. There are no material considerations, taken individually or cumulatively, that indicate that the appeal should not succeed. Overall, I conclude that planning permission should be granted subject to the conditions in the attached schedule.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:

2295/2 Existing Site Plan Rev A
2295/3 Proposed Site Plan Rev B
2295/7 Plot 1 Proposed Elevations
2295/9 Plot 1 Garage Proposed Floor Plans & Elevations
2295/5 Plot 1 Proposed Ground & First Floor Plan
2295/6 Plot 1 Proposed Second Floor Plan
2295/8 Plot 1 Proposed Side Elevations
2295/11 Plot 2 Proposed First and Second Floor Plan
2295/12 Plot 2 Proposed Elevations
2295/14 Plot 2 Garage Proposed Floor Plans & Elevations
2295/10 Plot 2 Proposed Ground Floor Plan
2295/13 Plot 2 Proposed Side Elevations
2295/14 Plot 3 Proposed First Floor Plan
2295/17 Plot 3 Proposed Elevations
2295/19 Plot 3 Garage Ground Floor Plan & Elevations
2295/15 Plot 3 Proposed Ground Floor Plan
2295/18 Plot 3 Proposed Rear and Side Elevations.

- 3) Notwithstanding the approved plans referred to in condition no.2, no above ground construction works shall take place unless and until samples and full specifications of materials to be used externally on the development hereby approved have been submitted to and approved in writing by the local planning authority. Such details shall include the type, colour and texture of the materials, and the samples shall include constructed panels of all proposed brickwork illustrating the type of joint, the type of bonding and the colour of the mortar to be used. Development shall be carried out in full accordance with the approved details.
- 4) Before development continues beyond base course level, a scheme of hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and then shall be completed in accordance with the approved details before any part of the development is first occupied. The completed scheme shall be managed in accordance with the approved scheme of maintenance.

- 5) No development shall take place beyond excavation until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Statement shall: a) provide for deliveries and collections to be undertaken between 0800 and 1630 hours; b) include good practice procedures for the control of noise and vibration; c) include best practicable means for the control of pollution; d) identify areas for storage of any plant and materials. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
- 6) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. This approved scheme shall be carried out before the relevant section of development is continued.
- 7) Prior to construction above slab level, a scheme for the installation of electric vehicle charging points for each dwelling shall have been submitted to and approved by the Local Planning Authority. The electric vehicle charging points shall be installed prior to occupation of the respective dwellings.
- 8) Development shall not commence beyond excavation until details of the scheme for the disposal of foul and surface water from the site and dwellings, along with details of implementation of the scheme shall have been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the agreed scheme.
- 9) Areas for storage of refuse and recycling bins shall be provided in their entirety prior to occupation of any dwelling area and shall be retained thereafter for no other purpose.
- 10) No dwelling shall be occupied unless space has been laid out serving that dwelling for the manoeuvring and parking of vehicles. Thereafter that space shall be retained and used for no other purposes.
- 11) No development shall take place within the site until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and a) the programme and methodology of site investigation and recording; b) the programme for post investigation assessment; c) provision to be made for analysis of the site investigation and recording; d) provision to be made for publication and dissemination of the analysis and records of the site investigation; e) provision to be made for archive deposition of the analysis and records of the site investigation; f) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation. The development shall be implemented in accordance with the agreed scheme.

END OF SCHEDULE