
Appeal Decision

Site visit made on 27 April 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal Ref: APP/G2815/W/20/3265389

Land off St Peters Way, Irthlingborough NN9 5SD

- 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 Resham PLC against East Northamptonshire Council.
 - The application Ref 20/01181/FUL, is dated 20 September 2020.
 - The development proposed is erection of block of 6 flats with associated vehicular access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was submitted East Northamptonshire Council has merged with other local planning authorities (LPAs) to form North Northamptonshire Council. The respective development plan policies for each of the merged LPAs will remain in place until such time as they are revoked or replaced. I have therefore determined the appeal based on the development plan policies applicable to what was East Northamptonshire Council.
3. A revised National Planning Policy Framework (the Framework) was published in July 2021, following submission of the appeal. The main parties were given the opportunity to comment on whether it had any significance to the appeal. I have taken account of the revised Framework and the comments received from parties in reaching my decision.
4. East Northamptonshire Council submitted a Local Plan Part 2 for Examination in March 2021. The Emerging Local Plan (ELP) is currently under examination. Having regard to paragraph 48 of the Framework, I have not been provided with any information regarding whether there are any unresolved objections to policies in the ELP or if the policies are consistent with policies in the Framework. At this stage, I therefore attach little weight to policies in the ELP.
5. The appellant submitted another appeal simultaneously with this one, Ref APP/G2815/W/20/3266151, relating to a site adjacent to the north-western boundary of the appeal site. Both sites would use the same access off St Peters Way. I have had regard to this in reaching my decision.
6. Following submission of the appeal the Council granted planning permission on a neighbouring site, Ref NE/21/00421/FUL (the PP). This approved development of 8 flats above the commercial units forming 13-21 High Street

uses the access that is proposed for the appeal under consideration here. I have had regard to the PP in reaching my decision.

7. Reference has been made in representations to an emerging Irthlingborough Neighbourhood Plan (INP). However, the Officer Report to Planning Committee for the PP states that there was no draft or submitted INP, and I have not been informed that the situation has changed. Consequently, this has had no significant bearing on my decision.
8. The site is located within the 3 km buffer of the Upper Nene Valley Gravel Pits Special Protection Area (SPA), a European Designated Site protected due to the number and type of bird species present. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects. Parties agree that the proposal would likely have a significant effect on the integrity of the SPA.
9. The Council has confirmed that the appellant has provided a financial contribution via section 111 of the Local Government Act 1972 to mitigate against the impact of the proposal on the integrity of the SPA. During the appeal the main parties were asked to comment on the mechanism in place that would guarantee the payment made would be used for its intended purpose. I have had regard to the comments received in reaching my decision. I shall return to this matter later.

Main Issues

10. The Council has set out in its statement what its objections would have been had it determined the application. Taking these into account, along with my statutory duties, the main issues are therefore
 - the effect of the proposal on the respective settings of a Grade I Listed Building (LB), namely St Peter's Church, and a non-designated heritage asset (NDHA), namely Louisa Lilly Almshouses,
 - the effect of the proposal on the setting and significance of the Irthlingborough Conservation Area (ICA),
 - the effect of the proposal on the character and appearance of the surrounding area,
 - the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, especially numbers 1, 2 and 3 Oak Terrace and the Louisa Lilly Almshouses, with particular regard to outlook and privacy,
 - whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to noise disturbance, outlook and car parking, and
 - whether the proposal would have an unacceptable impact on highway safety, with particular regard to car parking and access.

Reasons

The site

11. The site comprises 2 small areas of land located either side of an existing vehicle access off St Peters Way, which serves a car park located to the rear of Nos 13-29 High Street. The car park is privately owned and most recently served the commercial units that occupied numbers 13-21 High Street. The units were vacant at the time of my site visit, and I understand they have been vacant for some years.
12. The north-western corner of the site abuts the south-eastern boundary of the site that is the subject of appeal Ref APP/G2815/W/20/3266151. Both sites would use the same access off St Peter's Way, which rises from St Peter's Way up to the car park.
13. The access and north-eastern boundary of the site are located directly opposite the boundary of, and a main entrance to, the grounds of the Grade I Listed St Peter's Church. The site is just outside the ICA, and the Louisa Lilly Almshouses NDHA are located immediately beyond the site's south-western boundary. There are residential properties just beyond the south-eastern boundary of the site, on Oak Terrace, and north-west of the site on St Peters Way.

Effect on the settings of the LB and NDHA

14. I agree with the conclusion reached by the Inspector in determining a previous appeal, referred to in submissions, Ref APP/G2815/W/17/3181795, that although St Peter's Church has a strongly defined curtilage, the setting of this Grade I LB extends beyond its curtilage. The LB mainly derives its significance from its history, dating to the 12th Century, and its many architectural details, including its tower. Additionally, I consider the space that remains around the curtilage of the church that doesn't have buildings erected on it, which includes the site, contributes to the significance of its setting. Consequently, I consider the site to be located within the immediate setting of the LB.
15. Grade I LBs are deemed to be of exceptional interest in Historic England's listing. As noted, the church tower makes a significant contribution to its significance. This feature is fully appreciated from the site, when viewed through the western entrance, along with the associated church grounds. Being free from buildings, the space beyond the curtilage of the church, including the appeal site, allows the viewer to perceive and appreciate the significance of the church within its immediate setting.
16. The previous Inspector considered that the introduction of built development would not adversely affect public views or detract from the prominence of the church as a focal point. As such, the Inspector concluded that the proposal in that appeal would not harm the setting of the LB.
17. However, in that appeal, the development proposed on the area of land which is now the subject of the appeal before me comprised of a pair of semi-detached, two-storey dwellings. The proposal before me is substantially different, as it is a three-storey block of 6 flats with a modern design, that includes a butterfly roof, and contemporary materials.

18. I consider the introduction of a three-storey building within the immediate setting of the LB would erode the space around it that contributes to its significance. Furthermore, the proposed three-storey building, sited on a higher ground level than the church, would compete with the church tower, particularly when viewed from the stretch of St Peters Way north-west of the site entrance. The competing nature of the proposed building would be emphasised by the modern design and contemporary materials. For these reasons the proposal would substantially alter, in a detrimental way, the way in which the LB is currently experienced from the site and the stretch of St Peters Way north-west of the site's entrance. Consequently, I conclude that the proposal would harm the setting of the LB thereby undermining its heritage significance.
19. The proposed building would be sited very close to the north-eastern curtilage boundary of the Louisa Lilly Almshouses, within what I consider to be the immediate setting of this NDHA. The proposed three-storey building would rise way above the modest height of the Almshouses and the existing boundary wall. The proposal would therefore introduce a very large, very prominent, and dominant building, as noted of modern design and constructed of contemporary materials, directly into the setting of the NDHA. I consider this would substantially alter, in a detrimental way, the way in which the NDHA is perceived and experienced, particularly from within the curtilage of the NDHA, the access road to the car park and the car park itself. I therefore conclude that the proposal would significantly harm the setting of the NDHA.
20. Therefore, the proposal does not comply with policies 2 and 8 of the North Northamptonshire Joint Core Strategy 2011-2031 (2016), (JCS), or heritage policies in the Framework. These policies collectively, and among other things, seek to protect, preserve, or enhance the historic environment, including setting, and require development to respond to the site's immediate and wider setting and character. Proposals should complement their surrounding historic environment with respect to design, scale, and materials.

Effect on the setting and significance of the ICA

21. As summarised by the previous Inspector, the ICA derives its significance from the presence of 19th Century buildings, particularly on High Street and College Street, which were associated with the boot and shoe industry. Additionally, St Peter's Church and the Manor House provide evidence of a medieval core to the settlement. These historically important buildings make an important contribution to the significance of the ICA. I consider the site to be located within the immediate setting of the ICA. I have already found that the proposal would substantially harm the settings of the LB and the NDHA. For the same reasons, I also conclude that the proposal would significantly harm the setting of the ICA.
22. I therefore conclude that the proposal would have a detrimental impact on the significance of the ICA. Therefore, the proposal does not accord with policies 2 and 8 of the JCS or heritage policies in the Framework.
23. Within the context of paragraph 202 of the Framework, I consider the degree of harm to the significance of the LB and the ICA would be less than substantial. Nonetheless, as advise in paragraph 199 of the Framework, I am required to give considerable importance and weight to such harm. The Framework advises that such harm should be weighed against the public

benefits of the proposal. Planning law also requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I shall return to these matters below.

Effect on the character and appearance of the surrounding area

24. Unlike the proposal in appeal Ref APP/G2815/W/20/3266151, which would be confined within the parameters of the car park, the proposal would introduce a prominent, dominant, and incongruous building into the street scene. Thus, the scale of the proposal would be out of keeping with the scale of immediate neighbouring properties on the western side of St Peters Way. The proposal would tower above the bungalows on Oak Terrace, immediately south-east of the site, and would be a storey higher than the two-storey dwellings immediately north-west of the site that front St Peters Way. The modern design, for example the butterfly roof, would also be out of keeping with the design of properties on St Peters Way, which have dual-pitched roofs. Additionally, the contemporary external materials, for example the rendered elevations, would be in total contrast with the brick and stone elevations of existing neighbouring properties.
25. I acknowledge that a large building has recently been constructed south-east of the site on the opposite side of St Peters Way. I do not know the history of the site and its development. Regardless, it is further down the sloping street of St Peters Way than the appeal site, the ground level it is sited on is lower, it fronts the road, it has varied roof heights, which are all dual-pitched, and is constructed of brick under tiled roofs. As such, it does not provide support for the proposal before me.
26. For the reasons outlined, I conclude that the proposed development would have a detrimental effect on the street scene and therefore the character and appearance of the area. Consequently, the proposal does not accord with Policy 8 of the JCS or paragraphs 126 and 130 of the Framework, which collectively, and among other things, require development to be of high-quality design and to respond and be sympathetic to local character.

Living conditions – existing occupiers

27. Numbers 1-4 Oak Terrace make up a short terrace of low-level bungalows. Their front elevations, which have habitable room windows in them, face the south-eastern boundary of the site. The boundary has a stone wall over 2 m high erected along it; and existing vegetation within the site, eg shrubs, hedges and trees, extend above the top of the boundary wall. The top of the boundary wall is higher than the eaves of the bungalows and the height of the vegetation is close to their roof ridge heights. Given these circumstances, the existing outlook from the bungalows at the front is already compromised.
28. The ground on which the proposed three-storey block of flats would be sited is significantly higher than the ground level of the plots within which numbers 1-4 Oak Terrace are located. The rear elevations of the proposed block of flats would be sited between around 10 and 15 m from the respective front elevations of Nos 1-3 Oak Terrace. At around 9.6 m high¹ and sited on a higher

¹ Para 2.2 of the Council Officer's Report refers to the height of the proposed building being 8.1 m. However, the front elevation shown on drawing No. 01 C denotes the height as 9.618 m. I have taken this to be the height in reaching my decision.

ground level than the bungalows, the proposed building would tower above the bungalows, blocking the already compromised outlook. The proposed building would therefore have a significantly overbearing impact on the bungalows, particularly Nos 1-3.

29. Additionally, the proposed building would have windows located on its rear elevation serving several rooms, including bedrooms and open-plan kitchen/dining/lounge areas. Notwithstanding the proposed partial obscure glazing of the bedroom windows shown on the plans at first and second floor levels, the proposal would result in overlooking of bungalows Nos 1-3. As noted, these dwellings have habitable room windows on their front elevations.
30. The south-western facing side elevation of the proposed block of flats would be sited close to the north-eastern boundary of the Louisa Lilly Almshouses. There would be windows on the side elevation of the proposed building serving open plan dining/lounge/kitchen areas. Those at first and second-floor levels would overlook the private outdoor amenity area of the Louisa Lilly Almshouses. Additionally, there would be overlooking of the private outdoor amenity area from 2 of the proposed balconies. Although the plans indicate privacy screening to these 2 balconies, the height of the screening as proposed would not prevent overlooking of the private outdoor space.
31. For the above reasons, I consider that the proposed development would i) significantly harm the outlook from Nos 1-3 Oak Terrace, ii) be substantially overbearing on the said bungalows, and iii) would greatly reduce the privacy levels currently enjoyed by occupants of Nos 1-3 Oak Terrace and the Louisa Lilly Almshouses. I therefore conclude that the proposal would significantly harm the living conditions of existing occupiers of Nos 1-3 Oak Terrace and the Louisa Lilly Almshouses, with particular regard to outlook and privacy.
32. The proposal does not, therefore, accord with Policy 8(e) of the JCS or sub paragraph 130(f) of the Framework. Collectively, and among other things, these policies seek to protect the living conditions of occupiers of existing properties.

Living conditions – future occupiers

33. The Council expressed concerns regarding living conditions for future occupiers of the proposed flats relating to noise disturbance, outlook, and car parking provision.
34. As noted above, following submission of the appeal the Council granted planning permission for 8 flats on a neighbouring site, located above the commercial units forming 13-21 High Street. I have had regard to the PP in reaching my decision.
35. Bearing in mind the noise assessment submitted with the PP, the Council accepted that, subject to a condition requiring the development to be constructed in accordance with the glazing details outlined in the noise assessment, future occupiers of the approved flats would be provided with satisfactory living conditions.
36. The appeal site is located much further from the key sources of potential noise disturbance than the approved flats, ie the High Street, garage/MOT centre and extraction units on the rear of commercial properties on High Street. As such, I

am satisfied that any concerns regarding noise disturbance could have been overcome by conditions, should I have been allowing the appeal.

37. Although one of the double pane windows serving a bedroom at first and second floor levels is proposed to be obscure glazed, within the context of the proposed building overall, I consider the provision of one clear glazed pane as proposed would provide a satisfactory outlook from the relevant bedrooms for future occupiers.
38. The proposal includes cycle storage for 12 No. bicycles. The town centre location of the site would provide future occupiers of the proposed flats with access by foot to a range of facilities and services to meet day-to-day needs. Future occupiers would also be within walking distance of public transport buses. The proposed cycle storage would encourage future occupiers to use cycling as a mode of transport. There are several public car parks within proximity of the site, should additional car parking capacity be required by, for example, visitors to the flats. The size of the car parking spaces proposed could be secured by condition, should I have been allowing the appeal.
39. I therefore conclude that the nature and extent of the proposed car parking would be satisfactory for future occupiers. As such, the proposal accords with Policy 8(e) of the JCS and sub paragraph 130(f) of the Framework, which collectively, and among other things, seek to ensure the living conditions of future occupiers are of a high standard.

Highways matters

40. The Council has expressed concerns about highway safety with regard to the number of car parking spaces proposed and their size, and the suitability of the access.
41. The proposal would provide 6 reasonably sized 2-bedroom flats. As noted, one car parking space would be provided for each of the proposed flats, along with one disabled car parking space.
42. The Council does not have any adopted parking standards. The standards referred to for guidance in submissions are those of Northamptonshire County Council: Northamptonshire Parking Standards 2016 (NPS). As noted by the previous Inspector, these standards do not form part of the development plan. Therefore, whilst I have considered them as part of my reasoning, they carry limited weight.
43. The proposed car parking is to serve a block of flats, rather than individual dwellings. The car parking provision would be sited immediately off the access road that would be used, in addition to future occupiers of the proposed flats, should I have been allowing the appeal, at minimum by car users associated with the PP and commercial vehicles associated with the commercial units 13-21 High Street. Additionally, should appeal Ref APP/G2815/W/20/3266151 be allowed, car users associated with that development would also use the access.
44. I consider there to be several factors which support the extent of proposed car parking spaces. Thus, the site is located within a town centre which provides a range of services and facilities that would meet the day-to-day needs of future occupiers of the flats, accessible on foot. Additionally, future occupiers would be within walking distance of public transport buses; and the proposal would

provide cycle storage for 12 bicycles to encourage future occupiers to use cycling as a mode of transport. I also note that there are several public car parks within proximity of the site, should additional car parking capacity be required, by visitors, for example. With regard to the size of the proposed car parking spaces, I consider there to be sufficient space within the site to provide spaces of a suitable size, which could have been secured by condition, should I have been allowing the appeal.

45. For the reasons outlined, I consider the car parking proposed would provide a sufficient level of on-site car parking laid out in a manner that would functionally serve the type, number and size of residential units proposed.
46. Concerns have been raised in respect of the proposed site access and layout, and whether there would be sufficient space for users other than future residents to access, manoeuvre within, and exit the site in a safe manner. These matters have been considered taking account of the proposal in appeal Ref APP/G2815/W/20/3266151 and the cumulative impact. As noted above, I have also had regard to the PP, which uses the same access. Overall, I consider the range of plans and documents submitted, including swept path analyses, indicate that the proposed access and layout would ensure safe and functional access to, manoeuvring within, and exit from the site by vehicles other than those used by future residents. That is, vehicles serving the commercial units on the ground floors of 13-21 High Street, refuse collection vehicles, and/or emergency services vehicles.
47. For the reasons outlined, I conclude that the proposal would not create any unacceptable highway safety issues. As such, the proposal accords with Policy 8(b)(ii) of the JCS and paragraphs 110 and 130(a) of the Framework. These policies collectively, and among other things, require development to provide a safe and suitable means of access for all, make suitable provision for parking, servicing, and manoeuvring, ensure development will function well, and provide appropriate opportunities to promote sustainable modes of transport. Additionally, paragraph 111 of the Framework advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Other Matters

48. The Upper Nene Valley Gravel Pits Special Protection Area is designated for its international importance as wetland habitat for non-breeding waterbirds. An increase in dwellings would result in an increase in visitors to the SPA; which would in turn increase the level of disturbance to feeding and roosting birds due to activities such as dog walking, water-sports and fishing.
49. The Conservation of Species and Habitats Regulations 2017 require the Competent Authority to consider whether the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans. However, as I am dismissing the appeal for other substantive reasons, it is not necessary for me to consider the implications of the proposal for the SPA.

Planning Balance and Conclusion

50. As noted above, great weight should be given to the conservation of a designated heritage asset, irrespective of the level of harm. The provision of 6

residential units would make a modest contribution to the area's housing needs, which would be of public benefit, to which I attach moderate weight. The proposal would also provide economic benefits, both during the construction phase and post completion, which would also be of public benefit. As the scale of the economic benefits would be relatively minor, I attach limited weight to this factor. I therefore conclude that the public benefits do not outweigh the harm I have found in respect of the significance of the designated heritage assets.

51. I also conclude that the social and economic benefits outlined do not outweigh the harm I have found in respect of the NDHA.

Notwithstanding the conclusions I have reached with regard to living conditions of future occupiers and highways safety matters, I consider the harm to significance of the designated and non-designated heritage assets, the character and appearance of the area, and the living conditions of occupiers of existing neighbouring properties result in the proposal being contrary to the development plan considered as a whole. The benefits of the scheme do not outweigh this harm.

52. Consequently, there are no other considerations that lead me to conclude other than in accordance with the development plan. For the reasons outlined, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR