
Appeal Decision

Site visit made on 10 May 2022

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th June 2022

Appeal Ref: APP/A2470/W/21/3289079

Pridmores Haulage 1 Tippings Lane Barrowden Rutland LE15 8EW

- 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 Justin Bell Kaybee Developments Ltd. against the decision of Rutland Council.
 - The application Ref 2020/1359/FUL, dated 20 November 2020, was refused by notice dated 12 November 2021.
 - The development proposed is demolition of commercial buildings and construction of 2 dwellings and associated access and external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the assessment by the Council a series of amended plans were submitted by the applicant. The Council report lists the plans it considered; this list differed from that provided by the applicant. In light of the discrepancy between the main parties, their views were sought, and agreement received that the appeal should proceed on the basis of the plans set out below.
3. I have therefore assessed the appeal proposal against the following plans:
 - Site Location Plan PL01, Existing and Proposed Block Plans PL02, Topographical Survey PL03, Elevations of existing structure PL05A, Proposed Site Layout Plan PL06A, Plans and Elevations of Plot 1 PL08B, Plans and Elevations of Plot 2 PL09B, Proposed Garage to Plot 1 PL10, and Site Sections and Street Elevation PL20A.
4. I consider the CGIs submitted to the Council (Appellant's Doc Ref 22a) as an aide to understanding, as opposed to a definitive plan against which to assess the appeal.

Main Issues

5. From the evidence before me I consider the main issues to be:
 - i) Whether the proposed development would preserve or enhance the character or appearance of Barrowden Conservation Area (BCA).
 - ii) Whether the proposed development would have an adverse effect on the setting of the Grade II listed building (LB) known as Rosemary Cottage

and if an adverse effect were shown whether this would be outweighed by any public benefit arising from the proposal.

Reasons

Preserve or enhance the Barrowden Conservation Area

6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the BCA.
7. No Conservation Area appraisal has been provided; however, I was readily able to see at my site visit the quality of the local environment, with the historic village core of attractive stone and slate roofed buildings focused around the village green. A broad open area with mature trees at the heart of this picturesque village.
8. The BCA covers most of the village of Barrowden, and its significance lies in part, in the balance of quality stone buildings with open spaces or gaps between them built around the village green.
9. The appeal site itself, is a former haulage yard with large areas of concrete hardstanding and a utilitarian storage building at its centre. This building and much of the appeal site is readily visible from the northern edge of the village green, across an intervening garden and through the current access off Tippings Lane. As a commercial site with a building of limited architectural merit the site contrasts with the surrounding area. In my view the appeal site has a modest but nevertheless negative effect within the immediate environment and on the character and appearance of the conservation area as a whole.
10. The new dwellings and the proposed garage would be visible from the village seen through the gap between the rear of 1 Tippings Lane and 24 Main Street (Rosemary Cottage). The effect would be noticeably more obvious the closer within the village green you were standing as the land levels rise and any intervening features which may screen, or filter views would no longer have this effect.
11. From this vantage point the depth and bulk of the two dwellings would be apparent. Although much of plot 2 would be screened by plot 1, it would nevertheless be clear that the scale of the buildings proposed is far greater than that of either 1 Tippings Lane or Rosemary Cottage. Additionally, the rear elements significantly exceed in scale the more sympathetic and modest proportions of the buildings proposed to front onto Tippings Lane. The depth, height and overall scale of these rear projections and the buildings as a whole adversely impacts upon the sense of space around and within the site which is so important to the character and appearance of the conservation area.
12. Nor is the size of the proposed houses consistent with the other properties in the immediate area. They are of a far greater bulk, with significant rear projections. This design consequently limits the space about them creating a discordant appearance in contrast to the openness of the overall character of the area more generally.
13. While the removal of the storage building and the change to a residential use would in my view facilitate the opportunity to enhance the character and

appearance of the area. The scheme before me proposes an overly bulky design where the rear projections dominate rather than being subservient to the street frontage wings of each dwelling and the scale and bulk of the buildings adversely affects the space about the buildings and appreciation of the site from within the BCA. This leads to less than substantial harm to the character and appearance of the area.

14. I do not however agree with the assertion that the site forms part of an important view. This is based on a false premise set out by the Council and does not represent the view identified in the landscape character assessment. Nor does it reflect the evidence on the ground. The landscape character assessment identifies the important view across the village green from the junction of Main Street and Tippings Lane away from the appeal site, as opposed to looking across or towards the site. I therefore do not consider there is conflict with policy B1 of the Neighbourhood Plan as suggested.
15. The proposal, nevertheless, would fail to preserve the character and appearance of Barrowden Conservation Area and would be contrary to Policy CS19 and CS22 of the Rutland Core Strategy (RCS) (2011) and SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014) and Policy BW1 of the Barrowden and Wakeley Neighbourhood Plan (NP) which amongst other things seek to ensure the scale form and design of new development would preserve or enhance the character of the area.

Setting of Listed Buildings

16. The National Planning Policy Framework advises at paragraph 194 that applicants should be required to describe the significance of any heritage assets affected by development and the potential impact of the proposal on the significance. As a minimum the relevant historic environment record should have been consulted and appropriate expertise used.
17. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.
18. The appeal site is separated from the northern edge of the village green by the rear garden of No.1 Tippings Lane which adjoins the side of Rosemary Cottage a Grade II LB. It is the eastern side of this property that forms much of the western boundary to the appeal site.
19. Rosemary Cottage a Grade II LB is described in the list description as "*Late C17/C18. Coursed rubble stone and thatch roof with moulded stone front gable stack and stone rear stack. Stone coped gable facing, front to left. 2 storeys of 2 2-light renewed casements over similar 3-light (in C20 extension to left), 3-light, 1-light and glazed door. A similar 2-light both floors on gable to street and a fixed 2-light mullion and transom window to rear.*"
20. The Council argue that the proposed dwellings would be harmful to the setting of the LB, but do not explain how they regard it to be harmful. I am also

mindful that the Council's Conservation Officer did not raise this issue as an area of concern.

21. The current setting of the LB benefits visually from the open space adjacent to the eastern elevation allowing views and an appreciation of this façade from both the village green, but also through the current access off Tippings Lane.
22. The appeal site is set to the north of the majority of the eastern facade of the LB. The changes to the views of, and towards the LB by the proposed development from the south would not reduce the availability of the view of this facade. I do not consider that the changes that do arise would be harmful to the setting, or to any element of the setting which could be regarded as affecting its significance.
23. When viewed through the current access, the side elevation of the LB can be viewed, but the concrete yard and utilitarian building within the appeal site frame this view. The appeal proposal would replace the utilitarian building and large areas of hard standing, although views through the access would remain. The appreciation of the façade of the LB would remain from this aspect as well.
24. This would in my view preserve, the setting of the LB with the space immediately adjacent the LB façade remaining open which would consequently not impact on any area of significance of the LB resulting in no harm to this designated heritage asset.
25. There is no dispute between the main parties about the effect on the setting of either 2 Tippings Lane or the Exeter Arms both, Grade II LBs. Although I note interested parties object on this basis. In light of the separation distances, and juxtaposition of the site to these LBs, I agree with the assessment of the main parties, that no harm has been demonstrated to either building or the respective settings.
26. As I do not regard there to be harm and the setting of the LB would be preserved, I do not find there to be a conflict with the principles within the NPPF, or conflict with policies CS22 of the RCS, or policy SP20 of the Site Allocations and Policies Development Plan Document (2014).

Other Matters

27. Barrowden is identified as a 'smaller service centre' within the settlement hierarchy set out under Policy CS3 of the RCS where a minor level of development is capable of being accommodated. This is supplemented by Policy CS4, which also endorses minor scale development on previously developed land or on infill sites such as the appeal site.
28. In seeking to resist the proposal both the Council and Parish Council indicate that the need within the village is for smaller properties, and the site would be better suited to accommodate a development of this type. Alternative proposals are not before me, and I must consider the appeal proposal on its own terms.
29. The NP policy BW9 has a preference for properties of 3 bedrooms or less, but it does not preclude larger properties. As the applicant notes paragraph 5.42 of the NP states "*Proposals for the development of larger dwellings (four or more bedrooms) either in their own right or where they are included as part of a wider package of houses will be considered on their merits. Developers will be expected to provide information about the way in which the larger dwellings*

would meet defined local need for housing in general, and any shortfall of such accommodation in particular."

30. The Council accept it is not able to demonstrate a five-year supply of deliverable housing sites, however neither the Council nor the applicant has provided information setting out what they might regard as an up to date figure on the current position. I cannot assess therefore, the degree of the housing shortfall or fully assess the weight that might be attributable to this shortfall.
31. Nevertheless, in accepting there is a shortfall paragraph 11 of the Framework is engaged, which states that where the policies that are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
32. While the site meets the broader policy objectives of developing a site within the village on previously developed land. The proposal would make a modest contribution of two dwellings to the supply of housing, and I give this moderate weight in the overall planning balance below.
33. The prospect of developing the site for a viable use, one which follows the broad principles within the development plan I consider important. While preference for a development of the site for a larger number of smaller units has been presented, no evidence has been provided as to whether this is a viable alternative to the current proposal. While the applicant has supported their case with evidence from three estate agents, this I give moderate weight in the planning balance.
34. The applicant also identifies that the removal of the haulage business and the associated noise and traffic generated within the village, would be beneficial to the village and the character and appearance of the conservation area, which I acknowledge as a potential benefit and give this limited weight as there is no detail on the quantities of vehicles that could be removed.
35. In addition, the provision of two new dwellings in the village, would facilitate space for two new families who in turn would support local facilities and businesses, this I consider has limited weight in favour.
36. Interested parties raise objection based on concerns regarding surface water issues and highway safety in Tippings Lane. Neither of these issues formed reasons for refusal or were supported with evidence by the Lead Local Flood or Highways Authority and the site is not identified as an area at flood risk by the Environment Agency. I have no evidence to the contrary before me and am content that had other issues not arisen these concerns could have adequately been dealt with by the imposition of appropriate conditions.
37. The potential for an adverse impact on the living conditions of 4 Tippings Lane was also brought to my attention. The living conditions of neighbours has not formed part of the Council case. From what I have seen and read, I consider that the Council assessment in this regard was appropriate and living conditions of neighbours would remain at an appropriate standard and I regard this as neutral in the overall balance.

Planning Balance

38. Paragraph 11 of the Framework states that where the development plan is out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted.
39. The proposal would provide a limited amount of short-term employment through the construction of the development and some further modest benefits would result from the additional support to the vitality of the local community from the future occupiers of the two houses. The two new houses would also make a modest contribution to the supply of housing and towards helping to address the Council's shortfall in housing supply.
40. A lack of harm from the proposal to Listed Buildings, highway safety, living conditions of occupiers of nearby dwellings and flood risk I regard as neutral in the planning balance rather than carrying positive weight in favour of the appeal.
41. I have identified harm to the character and appearance of the BCA. While there would be some benefit to the removal of the storage building the harm from the development itself would override any benefit that could arise. This attracts substantial weight against the granting of permission.
42. The benefits of the scheme are therefore limited and significantly outweighed by the harm. As such in accordance with paragraph 11(d), the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole.

The presumption in favour of sustainable development does not therefore apply and material considerations do not justify a decision otherwise than in accordance with the development plan considered as a whole. For the reasons identified, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Conclusions

43. Overall, the proposal would fail to preserve the character and appearance of the Barrowden Conservation Area. It would also be contrary to Policy CS22 of the Core Strategy Policy SP20 of the DPD on heritage as well as the more general provisions of Policy CS19 of the Core Strategy and Policy SP15 of the DPD which refer to high quality design. The proposed development would not conserve the heritage asset in a manner appropriate to its significance in line with one of the core planning principles of the Framework. Therefore, for the reasons given, the proposal is unacceptable, and the appeal should not succeed.

Edwin Maund

INSPECTOR