



Appeal Decision

Site visit made on 28 February 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 March 2023

Appeal Ref: APP/K2420/W/22/3305662

19-21 Ratby Road, Groby LE6 0GF

- 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 & Mrs & Mrs & Mrs Stephens and Arkle against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/00674/FUL, dated 21 May 2021, was refused by notice dated 18 March 2022.
 - The development proposed is the change of use from residential to commercial for No.21 Ratby Road. Demolition of retaining walls and outbuildings. Erection of two dwellings, formation of new access and car park.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from residential to commercial for No.21 Ratby Road. Demolition of retaining walls and outbuildings. Erection of two dwellings, formation of new access and car park at 19-21 Ratby Road, Groby LE6 0GF in accordance with the terms of the application, Ref 21/00674/FUL, dated 21 May 2021, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs & Mrs & Mrs Stephens and Arkle against Hinckley and Bosworth Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the site address from that provided in the appellant's appeal form and the Council's decision notice as this more accurately identifies the appeal site.
4. Although the Council has not included the setting of a nearby Listed Building in its reasons for refusal, it is evident from the officer report that Blacksmith's Cottage, Rookery Lane, is a Listed Building which would be seen in views of the appeal proposal. Consequently, it is necessary for me to also consider any impact on its setting. I have therefore added this to the main issue relating to designated heritage assets.
5. The appellant's appeal statement questions the planning officer's interpretation of the Reasons for Refusal agreed during the Planning Committee meeting. Although Reason for Refusal 1 relates to the living conditions of future occupants of the proposed dwellings due to noise disturbance, the appellant suggests that instead the Planning Committee was concerned about the impact

of the proposed development on the living conditions of neighbouring residents on Chapel Hill/Crane Ley Road. However, the Council has not responded to this comment in its appeal statement and instead has provided further evidence to support the Council's reason for refusal. No compelling evidence has been provided to contradict the findings in the officer delegated report regarding the living conditions of the occupiers of neighbouring dwellings. I will, therefore, restrict my consideration to the Reasons for Refusal stated in the Council's Decision Notice.

Main Issues

6. The main issues are:

- The effect of the proposal on the character or appearance of the Groby Conservation area and on the setting of a nearby Listed Building;
- Whether the proposal would provide acceptable living conditions for future occupants, with regard to noise disturbance; and
- The effect of the proposal on highway safety.

Reasons

Character and appearance

7. Despite the generally suburban surroundings, the Conservation Area has a rural village character focussed on a grouping of historic buildings along the junction of several roads around the village centre. There are numerous rural vernacular buildings of varying ages with a widespread use of traditional building materials, and stone boundary walling provides a high degree of enclosure in many places.
8. The appeal site is located on the junction of Ratby Road and Rookery Lane and centres on No.19-21 Ratby Road (No.19-21), a grand and distinctive early 20th century, former Co-operative store, together with land and outbuildings to the rear. This site extends to Rookery Lane, running around a range of stone cottages on the corner of the junction. The grouping of characterful, historic buildings facing Ratby Road contributes positively to the character and appearance of the Conservation Area.
9. The subject of the appeal is the land to the rear of No.19-21 facing Rookery Lane, a narrow lane rising gently from the road junction leading from the historic centre towards more modern suburban development. A key landmark building in the foreground is Blacksmiths Cottage, a thatched, timber framed building which is a Grade II Listed Building. The significance of this building is derived from its age, materials, together with its form and scale. The appeal site is almost directly opposite the Listed building and therefore is part of the environment in which the Listed Building is experienced.
10. The appeal site is an area of elevated ground, enclosed from Rookery Lane and an adjoining parking area by a low stone retaining wall. The site is largely overgrown with poorly maintained fencing, provides views of the adjacent industrial unit, and has a rather unkempt visual appearance. This site detracts to a small degree from the character and appearance of the Conservation Area and the setting of the nearby Listed Building, and this view is corroborated by

the Groby Conservation Area Action Plan (2011) which identifies most of the site for the 2 dwellings as a 'Weak Area'.

11. In considering proposals for planning permission, the duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I have also had regard to the statutory duty set out in Section 66(1) of the 1990 Act, to have special regard to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which they possess.
12. Paragraph 199 of the National Planning Policy Framework (2021) (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 200 goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting, and that any harm should require clear and convincing justification.
13. The proposed detached dwellings would be set well back from Rookery Lane allowing a landscaped area to be provided at the frontage to screen and soften the impact of the dwellings and parking of cars. The dwellings would be of a form, design and appearance which reflects local vernacular buildings. The siting and scale would also respond well to the ground levels on the site and the surrounding built context and would not have an over-bearing effect and would integrate well with the prevailing grain of the immediate area.
14. The proposed access would remove a section of boundary walling which helps contribute to the enclosure along the lane. However, the amendments to this boundary include raised stone walling to the adjoining parking area and new stone walling around the substation which would both extend down to the road. When seen in conjunction with the associated landscaping, the combined effect would mitigate the loss of the section of boundary wall. Furthermore, the proposed development would help to mask views of the adjoining modern industrial buildings as well as being an enhancement to the site itself. Therefore, the appeal scheme would have a positive effect on the appearance of the wider Conservation Area and on the setting of the Listed Building.
15. Subject to suitable conditions, the proposal would have no harmful effect on the character or appearance of the Groby Conservation area or on the setting of the Listed Building. The proposal would therefore comply with Policy DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP). Although not listed in the Council's Decision Notice it would also accord with SADMP Policies DM10, DM11 and the Council's Good Design Guide (2020) referenced in the officer report. Amongst other things, these policies and guidance seek to promote well designed development which conserves or enhances the character and significance of the historic environment. It would also comply with the Framework which seeks to conserve and enhance the significance of heritage assets.

Living conditions of future occupants

16. The site of the proposed dwellings is garden land associated with 19-21 Ratby Road. Although there are retail/commercial buildings to the site frontage on

Ratby Road and a vehicle repair business and engineering company immediately to the south east, the wider area is predominantly residential.

17. I noted during my visit that there was general activity around the business premises to the south east with a general coming and going of vehicles. I was not aware of any significant noise disturbance emanating from these premises nor was I aware of any noise coming from the rear of the business premises on Ratby Road. In addition, I have not seen any compelling evidence that any of these premises causes undue noise disturbance to the occupants of other surrounding residential properties. Therefore, whilst it would be prudent to attach a condition to any approval to secure details of noise attenuation to the properties to protect the amenity of the future occupants, in line with the recommendation of the Council's Environmental Health Officer, I see no reason why noise disturbance from surrounding business uses should be a reason for refusing this development within this predominantly residential area.
18. The proposal would provide acceptable living conditions for future occupants, with regard to noise disturbance and would accord with SADMP Policy DM10 which seeks to ensure that the amenity of occupiers would not be adversely affected by activities in the vicinity of the site. It would also accord with a core planning principle of the Framework which seeks a high standard of amenity for all existing and future occupants of buildings.

Highway Safety

19. A new access would be created off Rookery Lane, an unclassified lane with a 30mph speed limit. The site access is close to the junction with Ratby Road with marked-out parking spaces on the opposite side to the site access, and other driveways and business accesses nearby.
20. Despite the absence of a speed survey, the Local Highway Authority (LHA) considers that given the site-specific circumstances, the proposed visibility splays would be suitable for traffic speeds of up to 20mph. Based on their appraisal of the proposal and site context, including their assessment of traffic speeds, the LHA considers that the impact of the development on highway safety would not be unacceptable.
21. I noted the position of parked cars in relation to the proposed site access and the numerous other neighbouring access points and I also observed the general speed of traffic over a period of time. Based on this inspection and the evidence before me, including the appellant's Highway Assessment submitted as part of the appeal, I consider that it is likely that cars will be travelling relatively slowly when passing this access. Furthermore, even though vehicles using the proposed access might find manoeuvring into or out of the site quite tight because of the width of Rookery Lane and the presence of the parked cars, the width of the site access would assist in this manoeuvring. Occupiers of neighbouring properties must already experience a similar situation when accessing the road, and the Highway Assessment highlighted no issues with regard to road safety. Once again there is no adequate evidence provided by the Council to take an opposing view.
22. To conclude, the proposal would have no harmful effect on highway safety and would accord with SADMP Policy DM17 and the Framework which together seek to ensure that development should not have a significant, adverse impact on highway safety.

Other matters

23. Impact on the stability of surrounding buildings during the construction process and the proximity of services is not a matter that is material to the planning considerations of the proposal. In addition, any disturbance to neighbouring businesses during that construction would be for a temporary period only and any damage or blocking of an access would be a private matter between the parties involved. The Council considered that there would be no significant adverse impact on the residential amenity of the occupiers of neighbouring properties and I have no substantive evidence before me that would indicate that I should take an opposing view.

Conditions

24. A condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
25. Conditions regarding materials, landscaping, boundary treatments and levels are necessary to ensure that the development has a satisfactory external appearance and to preserve the significance of designated heritage assets. The condition requiring a scheme to protect the occupants of the proposed dwellings from noise has been included. Also, a condition requiring the installation of swift boxes will ensure a biodiversity enhancement for the site.
26. Conditions are required to ensure that the surface water drainage, parking and turning details are acceptable and to make provision for a suitable site access, in the interests of highway safety. I have also added the condition relating to waste management suggested by the Council's waste management officer.
27. As the site is within a Conservation Area and adjoining a Listed Building a condition restricting permitted development rights has been added to prevent changes which may harm the designated heritage assets.
28. I have made some changes to the suggested conditions and timings for the submission of information in the interests of clarity and consistency, and to ensure compliance with the Framework and Planning Practice Guidance.

Conclusion

29. For the reasons set out above, and having regard to all other matters, I conclude that the appeal should be allowed.

G Bayliss

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan Drg No: (90)01 Rev A
 - Visibility Splay Drg No: 001 Rev P3
 - Proposed Floor Plans (change of use) Drg No: S139 (PL)10 Rev B
 - Proposed elevation (change of use) Drg No: S139 (PL)11
 - External levels Drg No: 101 Rev P3
 - Proposed Plans Site/Ground-First Drg No: S139 (90)32
 - Site Plan Site/Ground Drg No: S139 (PL)31
 - Ground and First Floor Plans Drg No: S139 (PL)32
 - Proposed Elevations Drg No: S139 (PL)33
 - Proposed Elevations Drg No: S139 (PL)34
 - Proposed Site Section A-A Drg No: S139 (PL)35
 - Proposed Site Section B-B Drg No: S139 (PL)36
 - Proposed Street Scene Drg No: S139 (PL)37
- 3) Before any development commences, representative samples and details of the construction materials for all external elevations of the new dwellings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved samples and details. The details shall include the plinth, facing walls, roof, windows and doors.
- 4) No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments for the site, including an implementation scheme, has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.
- 5) No development shall take place until such time as the existing and proposed ground levels of the site and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 6) Development shall not take place until a scheme for protecting the proposed dwellings from noise from adjacent commercial operations has been submitted to and approved in writing by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.
- 7) Prior to any development above foundation level, details of the four swift nesting boxes to be constructed on the dwellings (two on each dwelling) shall be submitted in writing to and approved by the Local Planning

Authority. The boxes shall be in place prior to the occupation of the respective building.

- 8) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Visibility Splay Drg: 001 Rev P3 have been implemented in full.
- 9) No part of the development hereby permitted shall be occupied until such time as minimum vehicular visibility splays of at least 2.4 metres by 25 metres to the northwest of the access and 2.4 metres by 27.5 metres to the southeast of the access have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 10) The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the Proposed Plan Site/Ground Drg No: S139 (90)32. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 11) No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.
- 12) The development hereby approved shall not be occupied until a scheme for waste and recycling, storage of containers and collection across the site has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.
- 13) Notwithstanding the submitted plans, the proposed access shall have a gradient of no more than 1:20 for a distance of at least 5 metres behind the highway boundary and shall be surfaced in a bound material.
- 14) Notwithstanding the provisions of Schedule 2, Part 1 Classes A - E inclusive of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby permitted shall be carried out unless planning permission for such development has been granted by the local planning authority.