



Appeal Decision

Site visit made on 28 March 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal Ref: APP/E3715/W/22/3307675

The Sarah Mansfield, Main Street, Willey CV23 0SH

- 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 A Taylor on behalf of A T Contracting and Plant Hire against the decision of Rugby Borough Council.
 - The application Ref R22/012, dated 17 December 2021, was refused by notice dated 18 August 2022.
 - The development proposed is described as 'Use of first floor of public house as letting bedrooms and erection of two dwellings in rear car park'.
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Decision

1. The appeal is allowed and planning permission is granted for the use of first floor of public house as letting bedrooms and erection of two dwellings in rear car park at Sarah Mansfield, Main Street, Willey CV23 0SH in accordance with the terms of the application, Ref R22/012, dated 17 December 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Decision Notice. It reflects amendments that were made to the scheme at the planning application stage and the application was determined on this basis.
3. I note the Council's concern regarding the potential conflict between the proposed uses and the suggestion that any attempts to seek to address the perceived shortcomings of the proposals may result in other effects. However, I must assess the appeal on its own merits based on the plans before me.

Main Issues

4. The main issues are whether the proposed development would provide satisfactory living conditions for the future occupiers having specific regard to the size of the dwellings and quantity and siting of the outdoor amenity space; and the effect of the proposed development on the living conditions of the occupiers of Star Cottage, having specific regard to outlook from the rear amenity space.

Reasons

5. The appeal site comprises the existing public house which occupies a prominent corner plot fronting the main road through the village and its car park which is located to the rear. The surrounding area is predominantly residential in character, including a range of properties of different ages and architectural styles.

6. The appeal proposal includes the conversion of the first floor of the public house to letting rooms and the erection of a pair of 2 bedroom semi-detached dwellings adjacent to the rear boundary of the site within the existing car park. The future occupiers of the dwellings would have access to a shared amenity/drying area and bin store, as well as dedicated resident/visitor parking spaces. The existing parking spaces would then be configured and retained to serve the public house.
7. The appeal submissions indicate that the proposed 2 bedroom 4 person dwellings would fall short of the required minimum internal floor areas set out in the Technical housing standards – nationally described space standard September 2015 (NDSS). However, the Planning Practice Guidance (PPG) at paragraph 020 Reference ID: 56-020-20150327 sets out that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan to the nationally described space standard. Moreover, where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. In the absence of a relevant development plan policy and particular evidence to justify the standards the NDSS cannot therefore be applied in this instance.
8. The proposed dwellings include 2 adequately proportioned double bedrooms each with a built-in wardrobe and circulation space, a bathroom and an open plan living/kitchen area. There is no substantive evidence that the living accommodation would be substandard or have a detrimental effect on future occupiers. I therefore find that the proposed dwellings would provide satisfactory living conditions for future occupiers having specific regard to the size of the dwellings.
9. The occupiers of the proposed dwellings would have access to a shared area of outdoor amenity space. Which, whilst limited in size and not a conventional arrangement for 2 storey dwellings, would nevertheless include space for future occupiers to carry out the usual outdoor activities associated with a dwelling, such as the drying of clothes or the siting of a table and chairs. Given the modest scale of the proposed dwellings the amenity space would be of a sufficient size to meet the reasonable expectations of future occupiers of the proposed development.
10. The amenity space would be separated from the remainder of the car park at the public house by the parking spaces allocated to serve the proposed dwellings. Furthermore, subject to the use of appropriate boundary treatment, the space could benefit from a high degree of privacy for the users, as well as a pleasant open outlook to the rear over the adjoining countryside. Whilst I note the Council's concern regarding the location of the amenity space in relation to the public house car park, the proximity of the garden space to the nearby parking spaces would not be dissimilar to that of the existing rear gardens of the neighbouring residential properties.
11. Accordingly, I find that the proposed development would provide satisfactory living conditions for future occupiers of the dwellings with regards to the quantity and siting of the outdoor amenity space.
12. I conclude therefore that the proposal would accord with Policy SDC1 of the Rugby Borough Council Local Plan 2011-2031 adopted June 2019 (RBLP) which requires new development to be of a high quality, inclusive and sustainable

design and Section 12 of the National Planning Policy Framework 2021 (the Framework) which seeks to ensure that new developments have a high standard of amenity for existing and future users. It would also reflect the aims of paragraph 120 of the National Design Guide January 2021, which highlights that well-designed homes provide internal environments and associated external spaces that support the health and wellbeing of their users and all who experience them.

Living conditions of occupiers of Star Cottage

13. The proposed 2 storey side gable of the dwellings would lie parallel to the side boundary of the rear garden of the neighbouring property, Star Cottage. Whilst sited on elevated land in relation to Star Cottage, the dwellings would have a similar ground level to the higher part of its rear garden. The dwellings would be of a traditional design and modest in scale. Furthermore, with a lower eaves level to the front elevation and a narrow gable end, the extent of the built form would extend along only a proportion of the side boundary with Star Cottage, at the far end of the rear garden. Views from Star Cottage across its garden towards the rear boundary and open countryside beyond would be uninterrupted by the development.
14. Taking the above points together, the proposal would not create a dominant or oppressive feature or have an overbearing effect upon the rear amenity space of the neighbouring property. As such there would be no harmful loss of outlook to the occupiers of Star Cottage.
15. For the foregoing reasons I therefore find the proposal would not give rise to significant harm to the living conditions of occupiers of Star Cottage with particular regard to outlook. The proposal would therefore accord with Policies GP3 and SDC1 of the RBLP which require proposals for new development to consider, among other things, the visual impact on the surrounding properties and to ensure that living conditions of existing and future neighbouring occupiers are safeguarded.

Other Matters

16. I note concerns regarding the effect of the proposed development upon daylight and privacy of the occupiers of Star Cottage, including overlooking from the new first floor window serving the letting room in the public house. However, the Council has not raised an objection on these grounds and given the siting and scale of the proposed dwellings, I agree that the proposal would not result in a loss of daylight. Moreover, the small first floor window in the front elevation of the proposed dwelling nearest the site boundary would serve a landing, where future occupiers are likely to be in transit. As such it would therefore not result in any direct overlooking of Star Cottage. Furthermore, given the orientation of the public house and the design of the proposed first floor window in the rear elevation, set into the roof slope, I find that it would not give rise to any loss of privacy to the occupiers of Star Cottage.
17. I note the suggestion by interested parties that there is no need for additional housing in the village having regard to the supply of housing in the area. Nevertheless, the proposal, albeit modest, would go some way towards supporting the Government's objective of significantly boosting the supply of homes as set out in the Framework. Moreover, the Council's housing targets

are not a maximum number and as I have found the proposal to be acceptable on its merits, no harm would arise from additional dwellings.

18. The Council has not raised an objection regarding the principle of residential development in this location, the effect of the development on the character and appearance of the area or the general compatibility of the proposed residential and public house use and I have no reason to disagree.
19. The appeal submissions indicate that the construction of the proposed dwellings would finance the refurbishment of the public house, including the provision of the letting rooms, in order to enable it to re-open. Nevertheless, I have not been presented with any substantive evidence that the refurbishment works are financially dependent on the construction of the dwellings. I also note concerns regarding the lack of certainty that the work to the public house would take place in the event that the dwellings are constructed first and that the public house may ultimately be lost. However, given that I have found the proposed dwellings to be acceptable irrespective of the other elements of the appeal proposal, there is no requirement for the refurbishment of the public house to be carried out prior to or concurrently with the construction of the proposed dwellings.
20. Interested parties have raised concerns regarding highway safety, including traffic generation, visibility and parking congestion. The creation of 6 letting rooms and 2 new dwellings would generate only a modest amount of additional traffic. Furthermore, the proposal would not result in a loss of parking spaces to serve the public house and the dwellings would be served by additional dedicated parking spaces and would therefore not be reliant on on-street parking. The imposition of a planning condition requiring details of parking for contractors and visitors and the unloading and storage of materials during construction would also ensure highway safety. I also note that the Highway Authority has not objected to the development on these grounds.
21. There is no substantive reason to find the proposal would lead to unacceptable pressure on the local drainage system, having regard to water supply or sewage. Whether or not work to the public house has taken place which may be considered inappropriate or require planning permission, is not a matter for consideration as part of the appeal.
22. There is no evidence to indicate the future occupiers of the proposed development would lead to activities that would generate an unusual type of noise disturbance to neighbouring residents or that they would not integrate into the community. Matters related to the siting of fuel tanks, accessibility of the dwellings or sustainable construction are generally controlled by the building regulations. I have not been directed to any policies in the development plan which would require higher standards to be imposed.

Conditions

23. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG) and some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans, which is necessary in the interests of certainty. A condition requiring the submission and approval of external facing

materials is also necessary in order to preserve the character and appearance of the area.

24. The Council suggested a condition to remove permitted development rights for extensions and outbuildings from the new dwellings. However, there is no evidence before me that exceptional circumstances exist that would justify the wholesale removal of permitted development rights in this case. Accordingly, I do not consider that this condition is necessary in order to make the development acceptable in planning terms. A condition to prevent the insertion of new windows, dormer windows or rooflights in the front and side elevations of the dwellings, without the approval of the local planning authority, is however necessary in the interests of safeguarding the privacy of the occupiers of neighbouring residential properties.
25. A Construction Management Plan is necessary in the interests of highway safety and the living conditions of nearby residential properties. There is some duplication in conditions 7 and 9, which I have consolidated into a single condition which encompasses the relevant elements. A condition requiring the provision of the parking spaces as shown on the submitted plan is also necessary in the interests of highway safety.
26. It has not been adequately demonstrated that a condition to require a scheme of measures to ensure the development would meet air quality standards is needed. The appeal submissions indicate that the site is outside of the Air Quality Management Area and the proposal would also fall below the thresholds set out in RBLP Policy HS5. As the site has previously been used for parking a condition to investigate and remediate, if necessary, any contamination is warranted. Due to the proximity of the proposed dwellings to the public house a noise assessment is necessary to determine the need or otherwise for acoustic mitigation as part of the development.
27. A condition is necessary to require details of bird and bat boxes to be installed as part of the development in accordance with Policy NE1 of the RBLP which sets out an expectation for development to deliver a net gain in biodiversity. Whilst the Council's suggested water consumption condition is laudable, it has not been explained which Local Plan Policy would justify such a requirement, it is also controlled under separate legislation.

Conclusion

28. For the reasons given above the appeal should be allowed.

Emma Worley

INSPECTOR

Conditions Schedule

- 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: 100, 102B, 104, and 105C
- 3) No above ground development shall commence until full details of the colour, finish and texture of all new materials to be used on all external surfaces of the dwellings hereby approved, together with samples of the facing bricks and roof tiles have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried in accordance with the approved details and shall remain as such thereafter.
- 4) Notwithstanding the provisions 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 windows/dormer windows or rooflights other than those expressly authorised by this permission shall be constructed on the front or side elevations of the dwellings hereby permitted.
- 5) The development shall not be occupied until space has been provided within the site for the parking of cars in accordance with drawing number 102 revision B dated Dec 21. These areas shall thereafter be kept available for the parking of vehicles.
- 6) No development shall take place, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Construction Method Statement shall be complied with throughout the construction period for the development and shall include details of:
 - the control of noise and vibration emissions from construction activities including groundworks and the formation of infrastructure including; arrangements to monitor noise emissions from the development site during the construction phase;
 - the control of dust including arrangements to monitor dust emissions from the development site during the construction phase;
 - measures to prevent mud and debris deposition on the public highway from vehicles leaving the site; and
 - suitable areas for the parking of contractors and visitors and the unloading and storage of materials.
- 7) No development other than that required to be carried out as part of an approved scheme of remediation shall commence in any phase of the development until condition (a) to (d) below have been complied with for that phase. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the local planning authority until condition (d) below has been complied with in relation to that contamination.

(a) An investigation and risk assessment shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be subject to approval in writing by the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report shall be subject to approval in writing by the local planning authority. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
- (iii) an appraisal of remedial options, and proposal of the preferred option(s) to be conducted in accordance with UK Government and the Environment Agency's Land Contamination Risk Management (LCRM) 8th October 2020.

(b) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared and subject to approval in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared and subject to approval in writing by the local planning authority.

(d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the local planning authority in accordance with condition (c).

8) Prior to commencement of above ground works a noise assessment shall be undertaken by a suitably qualified person and be submitted in writing to and approved by the local planning authority. The report should include recommendations for any necessary acoustic mitigation works, to protect the occupants both inside the dwelling and the external amenity spaces, having

regard to current guidance for the residential development. Any recommended sound insulation works shall be completed prior to the first occupation of the dwellings and should be maintained thereafter.

- 9) Prior to the commencement of any above ground works details of a scheme for the provision of one bat box and one bird box to be installed on each new dwelling, to include details of box type, location and timing of works, shall be submitted to and approved in writing by the Local Planning Authority. The bird and bat boxes shall be installed in accordance with the approved details prior to the first occupation of the dwellings and shall be retained thereafter.

*******END OF CONDITIONS*******