



Appeal Decision

Site visit made on 8 May 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 16.05.2024

Appeal Ref: APP/A2470/W/24/3339373

Land at Back Lane, Ryhall PE9 4HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Shaun Alexander against the decision of Rutland County Council.
 - The application Ref is 2023/0076/FUL.
 - The development proposed is the erection of one detached dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of one detached dwelling at Land at Back Lane, Ryhall PE9 4HQ in accordance with the terms of the application, Ref 2023/0076/FUL, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Shaun Alexander against Rutland County Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the proposal would be acceptable in terms of highway safety, with particular regard to vulnerable users, existing vegetation and character.

Reasons

4. The appeal site comprises a storage yard with numerous outbuildings, currently utilised by a landscaping business. It is located on a verdant, rural byway open to all traffic, known as Back Lane, at the edge of Ryhall that is popular with pedestrians, cyclists, and horse riders. The road predominantly comprises an unmetalled single carriageway.
5. The byway is narrow with verdant verges and overhanging trees. However, there are numerous passing points that are large enough for use by heavy vehicles, as well as vulnerable users of the byway. In addition, there is sufficient clear width and height, such that the existing mature trees and foliage would not be detrimentally affected by vehicle movements. Consequently, I am satisfied that Back Lane in its present condition is sufficient to accommodate vehicles associated with the development both during construction and in the future and its use would not harm the rural character of the byway.

6. I note concerns raised regarding the increased volume of traffic and its impact on vulnerable users of the byway. However, the increase in daily movements would be limited and would largely fall outside of sensitive peak hours and so would not constitute a discernible change from the current usage of the byway. Further, the size of vehicles would generally be reduced and, due to the constraints of the byway, speeds would be limited. As such, the ability of other users to enjoy the byway would not be harmfully affected.
7. I acknowledge that there are concerns regarding the condition of Back Lane; however, I observed that the road was not significantly damaged and was therefore in a useable condition. Although the proposal would result in a marginal increase in movements, when considering the low speeds at which vehicles travel along the lane, it is unlikely any damage beyond expected wear and tear would occur. Such damage would fall within the Council's responsibility. Moreover, a condition survey could be undertaken before and after construction so that any damage caused by the construction itself could be remediated by the appellant.
8. Back Lane may not be a suitable route for pedestrians and cyclists associated with the dwelling at certain times of the day or year due to it being unmetalled, unlit and remote. However, the accessibility of the site has not been raised as a reason for refusal, and there is no reason why the occupants of the dwelling would be restricted from using other means of transport, including private motor vehicles when desired. I note concerns raised regarding the junctions of Back Lane with Essendine Road, Crown Street and Foundry Road, however I have not been provided with any substantive evidence to suggest that the use of these junctions by vehicles associated with the proposal would increase the likelihood of accidents.
9. Consequently, I conclude that the proposal would be acceptable in terms of highway safety, with particular regard to vulnerable users, existing vegetation and character. The proposal would accord with Policy SP15 (i) of the Rutland Local Plan Site Allocations & Policies Development Plan Document (October 2014) (DPD) where amongst other things it requires development to make provision for safe access by vehicles, pedestrians, and cyclists.
10. Similarly, the proposal would accord with the provisions of the National Planning Policy Framework (the Framework) which requires that safe and suitable access can be achieved and stipulates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
11. In addition, I find no conflict with the Design Guidelines for Rutland Supplementary Planning Document (March 2022) or the National Design Guide, which amongst other things seeks to ensure that streets are safe and accessible and function efficiently for everyone, taking account of the diverse needs of all its potential users.

Other Matters

12. I note concerns raised that the proposal would set a precedent for development along Back Lane and that the cumulative effects of this would be harmful in terms of highway safety and character and appearance. However, the appeal site comprises previously developed land whereas the majority of Back Lane

comprises verdant gardens and paddocks. As such, I cannot conclude that the proposal would set a precedent for future development.

13. I have concluded above that Back Lane is sufficient for heavy vehicles to access the site. However, it is indicated that Council operated waste collection would not serve the proposal. Nevertheless, the appellant has indicated that alternative arrangements would be made if required. In addition, access and facilities for the fire service are controlled via Building Regulations and compliance with these would need to be demonstrated.
14. Although the proposal is located outside of the built boundary of Ryhall, it is in an accessible location where there is sufficient access to services and facilities. There is no identified need for a house of this size in this location. Nonetheless, this is not a reason to prevent an otherwise acceptable development from being brought forward. I note concerns regarding utilities, however there is no indication that adequate utilities could not be provided on site and secured via condition.
15. The construction would result in some noise and disturbance. However, this would be short lived. Moreover, a thorough demolition and construction management plan could be secured via condition to ensure proper procedures are put in place to minimise the effects of the construction. Although vehicles will access the site as a result of the proposal, the increase from the existing condition is limited, such that there would not be a detrimental effect on the living conditions of neighbouring residents, wildlife, users of the byway or the rural character.
16. Whilst the proposal would introduce a two-storey residential dwelling to the rear of the existing properties on Foundry Road, ample separation distances and landscaping would be provided to prevent any loss of privacy. Further, suitable boundary treatments could be secured via condition. I acknowledge the concerns surrounding ecology and trees. However, I am satisfied by the submitted reports that these matters could be secured via condition and adequately managed through construction and into the future. Similarly, I have no substantive evidence before me to suggest that the development of this previously developed site would increase flood risk within the local area.
17. The appeal site is within the Ryhall Conservation Area (RCA). The RCA is characterised by its rural village atmosphere and historic stone buildings set within plots of varying sizes. Therefore, in so far as it relates to the appeal proposal, the RCA derives significance from the form, scale, and materials of its older and more traditional buildings as well as its rural character. The proposal would replace the existing utilitarian buildings on site and would utilise local vernacular designs and materials. It would be of an appropriate scale with complementary landscaping. As such, the proposal would preserve and enhance the character and appearance of the RCA.

Conditions

18. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of effectiveness and precision.

19. Aside from the statutory condition required to set the necessary time limit for development [1], a condition is required to indicate the approved plans to provide certainty [2]. As the proposal is located within a conservation area, further details of the proposed materials are required to ensure the quality of the materials and that the proposal preserves the appearance of the area [3]. A pre-commencement condition regarding floor levels is necessary to fully understand the relationship between the proposal and the neighbouring properties [4].
20. I have consolidated several suggested conditions into a single condition requiring a demolition and construction management plan. The plan is necessary to establish safety and environmental procedures for the work phase of the scheme [5]. Similarly, to ensure highway safety throughout construction and into the future clear visibility splays are necessary [6]. A drainage scheme is necessary to ensure the development is adequately drained and that suitable waste disposal is available on site [7].
21. A contamination risk assessment is necessary in the interests of the health and safety of the future occupiers and the surrounding environment, due to the previous use of the appeal site [8]. In addition, the appeal site is located within the historic core of Ryhall and as such is of archaeological interest and has the potential for further unidentified archaeological deposits. Therefore, a condition requiring a written scheme of investigation regarding archaeology is necessary [9]. These reports are required before the commencement of development so the relevant standards and procedures relating to the construction phase are established and familiarised by site operatives before work begins and any potential contamination hazards or archaeological remains are identified.
22. Due to the location of the appeal site on an unmetalled byway, there is a possibility that construction could damage the road beyond normal wear and tear. Consequently, it is necessary to assess the condition of the road before and after the works and secure any required remediation [10].
23. A condition is required to ensure compliance with best practice ecological and arboriculture recommendations made within the submitted reports, in order to conserve and enhance ecological interests and to minimise the effect of the proposal on the health of the retained trees [11]. A tree protection zone of 30m from the appeal site is excessive, therefore I have limited the trees which need to be protected to those on or immediately adjoining the appeal site [12]. In addition, in the interests of biodiversity and to ensure the landscaping scheme is fully implemented, I have imposed several conditions related to landscaping and ecological enhancements [13,14,15,16].
24. To ensure adequate parking provision and in the interests of highway safety, conditions controlling the implementation of the access, parking and turning as well as their materials are necessary [17, 18].
25. While Planning Practice Guidance states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity, given the sites location within a conservation area and the rural character of the byway, in this instance, I am satisfied that it is necessary to prevent future enlargements, improvements or alterations or the provision of buildings etc incidental to the enjoyment of the dwellinghouse in order to safeguard the character of the area [19]. As is a condition pertaining to the demolition of the existing buildings and the removal of all materials [20].

26. I have not imposed a condition requiring the window to the rear ensuite to be obscure glazed, as the separation distances between the proposal and the neighbouring properties is more than sufficient. In light of my conclusions above, the suggested highways conditions pertaining to off-site works and the change of status of Back Lane are not necessary nor reasonable with regard to the scale of the proposal.

Conclusion

27. For the reasons given above, I conclude that the proposal would accord with the development plan as a whole and the Framework, and therefore the appeal is allowed.

K Allen

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:
 - 221134_001_Existing Site and Location Plan
 - P001_Proposed Site and Location Plan Rev A
 - P002_Proposed Landscape Plan Rev A
 - P010_Proposed Ground and First Floor Plans Rev B
 - P020_Proposed Elevations Rev B
- 3) No development above ground level shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of finished ground and floor levels for the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall commence, including demolition, until a Demolition and Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a) site contact details and a complaints procedure;
 - b) haul routes, and the provision of waiting areas and banksmen;
 - c) the parking of vehicles of site operatives and visitors;
 - d) loading and unloading of plant and materials;
 - e) storage of plant and materials used in constructing the development;
 - f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - g) wheel washing facilities;
 - h) temporary lighting;
 - i) a scheme to control the emission of dust and dirt during construction and scope for remedial action;
 - j) a scheme for monitoring, reporting and control of construction noise and vibration and scope for remedial action;
 - k) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - l) delivery, demolition, and construction working hours.

The approved Demolition and Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development, including demolition, shall commence until clear visibility splays above a height of 600mm above ground level with dimensions of 2.4 x 25m, as measured from and along the nearside edge of the carriageway, have been provided in both directions along Back Lane. The splays shall thereafter be retained free from obstruction.
- 7) No development shall commence until a scheme for foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the dwelling hereby permitted is first occupied and thereafter retained.
- 8) No development, including demolition, shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority before the dwelling hereby permitted is first occupied.
- 9) No development, including demolition, shall commence until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an initial phase of trial trenching to inform a final archaeological mitigation scheme. The scheme shall include:
 - a) an assessment of significance and research questions;
 - b) the programme and methodology of site investigation and recording;
 - c) the programme for post investigation assessment;
 - d) the provision to be made for analysis of the site investigation and recording;
 - e) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - g) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development, including demolition, shall take place other than in accordance with the Written Scheme of Investigation.

- 10) No development, including demolition, shall commence until a photographic condition survey of the entire length of Back Lane from Essendine Road (A6121) to Foundry Road has been completed and submitted to the local planning authority. No occupation of the development hereby permitted shall take place until, a replica survey, identifying any damage caused as a result of the development, any remedial work required, and an implementation plan has been submitted to, and approved in writing by the local planning authority. The remedial works shall be carried out in accordance with the approved details and implementation plan.
- 11) The development hereby permitted shall be carried out in accordance with the recommendations contained within the Arboricultural Implications Assessment, prepared by Andrew Belson Arboricultural Consultant dated 6 January 2023, the Tree Constraints Plan prepared by Andrew Belson Arboricultural Consultant, dated 17 November 2022 and the Preliminary Ecological Appraisal, prepared by Arbtech, dated 12 August 2022.
- 12) All existing retained trees, hedges, and plants on and immediately adjoining the site shall be protected from damage as a result of work on the site, to the satisfaction of the local planning authority, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent replacement British Standard, for the duration of the works on site.
- 13) All hard and soft landscaping works shown on drawing P002_Proposed Landscape Plan Rev A shall be carried out during the first planting and seeding season (October – March inclusive) following the commencement of the development or in accordance with an implementation plan as may be submitted to and approved by the local planning authority. Any trees, hedges or plants (existing retained or proposed) that, within a period of five years after planting (or replanting if previously failed), are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.
- 14) No occupation of the development hereby permitted shall take place until a detailed boundary treatment plan, including details of boundary design, location and scale, has been submitted to and approved by the local planning authority. The approved scheme shall be fully implemented before the dwelling hereby permitted is first occupied and thereafter retained.
- 15) No development above ground level shall commence until a scheme detailing biodiversity features, including one bat box and one bird box, shall be submitted to, and approved in writing by the local planning authority. Prior to occupation, development shall be carried out in accordance with the approved details, and thereafter be retained in perpetuity.
- 16) No external lighting shall be installed until details of an illumination scheme have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 17) No occupation of the development hereby permitted shall take place until the parking and turning areas shown on drawing, P001_Proposed Site and Location Plan Rev A, have been provided. The car parking and turning area shall thereafter be retained for that specific use.
- 18) No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary, but the construction details used must be porous.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement, or other alteration of the dwellinghouse or provision of buildings etc incidental to the enjoyment of the dwellinghouse as described in Schedule 2, Part 1, Classes A, B, C, D and E of the Order shall not be undertaken without the prior written permission of the local planning authority.
- 20) No occupation of the development hereby approved shall take place until all buildings shown as being demolished on drawing, P001_Proposed Site and Location Plan Rev A, have been demolished and all materials removed from site.

*****End of Conditions*****