
Appeal Decision

Site visit made on 17 June 2024

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 24th June 2024

Appeal Ref: APP/G2815/W/24/3339049

Land adj. 4 Spencer Street, Ringstead, Northants NN14 4BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Roger Hobbs against the decision of East Northants District Council.
 - The application Ref NE/23/00467/OUT, dated 5 April 2023, was refused by notice dated 25 August 2023.
 - The development proposed is "erection of a 2-storey, 3-bedroom house, and a detached double garage with a games room/workshop under".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. In some of the appeal documents the site address is variously given as 'adjacent to No 4 Spencer Street' or 'opposite No 5 Spencer Street'. For the avoidance of doubt, the site lies between No 4 and the former Dodson and Horrell commercial buildings at the junction with Denford Road.
3. The application was submitted in outline, with all matters reserved. An indicative plan and section has been submitted. It is agreed that these details are purely illustrative.
4. It is stated that a payment of £363.62 has been made to the Council by the appellant. This is agreed to be a contribution to the Council's mitigation strategy in respect of off-site impacts on the Upper Nene Valley Gravel Pits Special Protection Area (the SPA).

Main issues

5. The appeal site lies within the Ringstead village settlement boundary, where small-scale residential infilling is generally acceptable, and in the case of the development now proposed, the Council has confirmed that it has no objection in principle.
6. From the submissions made, the main issues in the present appeal relate to the proposed development's effects on:
 - on-site ecology and biodiversity;
 - and the character and appearance of the area.

Reasons for decision

Ecology and biodiversity

7. In the North Northamptonshire Joint Core Strategy (the JCS), adopted in July 2016, Policy 4 seeks a net gain in biodiversity through, amongst other things, protecting existing sites, enhancing ecological networks, and supporting priority habitats and species. In the National Planning Policy Framework (the NPPF), paragraph 180 sets out national policy to protect and enhance sites of value to biodiversity, and paragraph 186 makes clear that if harm to biodiversity cannot be either avoided, mitigated or compensated for, then permission should be refused.
8. In the present case the appeal site comprises a small parcel of undeveloped land within an existing residential street. However, the site is heavily overgrown, and thus has the potential to provide habitats that could support wildlife, or to be of value to biodiversity. The appeal proposal, as it stands, would necessitate the loss of a substantial proportion of the site's existing habitat. The application does not include any information as to the ecological and biodiversity value of that lost habitat, nor any proposals as to how any necessary mitigation or compensation could be achieved.
9. The Council states that this part of the village lies within a 'red impact risk zone' for great crested newts (GCNs), which are a protected species. It is further stated that within such zones, the presence of GCNs is considered highly likely. In the present case the appeal site is said to be within range of three ponds or waterbodies, and is connected to these by potential pathways of suitable habitat, which are likely to be used by GCNs during their terrestrial dispersal phase. The Council therefore considers there to be a high likelihood that GCNs may be present on the site itself, which would be put at risk by the development. This information is based on the advice provided to the Council by Northamptonshire County Council's (NCC's) 'Nature Space' team, in their consultation response on the application.
10. I am fully aware that this advice from NCC is based on desk studies and computer modelling, using data gathered over a much wider area than the appeal site. It is therefore possible that a more detailed investigation of the site itself might reach different findings, or might show scope for some form of mitigation. However, no such site-specific information is before me. In the absence of any evidence to the contrary, I have no reason to disagree with the view of the Council and NCC as to the likelihood of GCNs being present, or as to the threat that the proposed development would pose to them. Nor indeed is it possible, without any further information, to rule out the possibility that the scheme might also cause harm to any other species present. Overall therefore, based on the submitted evidence, it seems to me that the development would be likely to result in harm to at least one protected species, and an overall loss of biodiversity.
11. The appellant suggests that relevant information regarding the appeal site may already be available to the Council, in the ecological surveys carried out for a proposed development on another site nearby. But even if that were so, the information in question is not before me. I can only take account of the material that has been submitted by the parties for this appeal. It is for the appellant to produce the necessary information to support their case, and in this case there appears to be none.

12. I accept that in some cases, it might be possible to deal with matters such as these by means of a condition. In the present case however, that would not be appropriate, because based on the information now available, it is not possible to determine whether the development could be carried out without harm to protected species, or without a net loss of biodiversity.
13. For the avoidance of doubt, the present appeal proposal is not subject to the mandatory requirement for a 10% biodiversity net gain which was introduced by the Environment Act 2021, because the application was submitted before the relevant commencement date. However, the requirement in Policy 4 of the JCS, for a simple net gain of unspecified percentage, is separate from this, and is therefore still applicable.
14. As far as I can tell, the financial payment already made by the appellant is intended to relate only to the development's off-site impact on the SPA. The impact on any on-site ecology therefore remains to be considered in the light of the local and national policies that I have identified.
15. For these reasons, based on the evidence available, I conclude that the development as now proposed would be likely to result in an unacceptable impact on the site's ecology, and a loss of biodiversity, including harm to the protected species Great Crested Newt. In this regard the scheme would be contrary to JCS Policy 4.

Character and appearance

16. Spencer Street is a cul-de-sac road with a mixture of housing types and styles, from Victorian through to modern. Its overall character is pleasant, though unremarkable. The appeal site slopes steeply away from the street, towards an industrial yard and woodlands. In its current neglected condition, the site makes no significant visual contribution to the street scene.
17. The illustrative plan shows one way in which a reasonably sized 3-bedroom dwelling and double garage could be sited, with the house set forward close to the road, and the garage slightly further back, to accommodate a driveway and parking, with a glazed link between the two. In addition, the cross-section shows how the main building could be set into the slope, with its lower floor mainly below street level, giving the impression of a bungalow. None of these details appears to have been objected to by the Council, and I can see no reason why they should be. To my mind a scheme broadly along the lines of that illustrated would be capable of being accommodated on the site without causing any significant harm to the street scene, or to the area's character and appearance.
18. Some details have not been illustrated. But in an outline application with all matters reserved, there is no requirement that they should be. The proposed driveway would need to be supported on either a bridge structure or earth mounding, with a probable need for retaining walls. But all of these would be below street level, and below the ground levels of any other nearby dwellings, and therefore would not be likely to be unduly dominant. There seems no reason why satisfactory details of these and any other similar works should not be capable of being agreed at the reserved matters stage. To my mind therefore, the level of illustrative detail submitted is appropriate to the type of application, and is sufficient to show that there is a reasonable prospect of an acceptable scheme resulting from it.

19. Although the illustrative plan is hand-drawn, it is supported by a survey plan showing the existing ground levels at selected points, together with an indicative contour line. There seems no reason to doubt the accuracy of any of these plans.
20. I note Council's stated desire to see a Construction Management Plan (CMP) and a Basement Screening Assessment (BSA), and I agree that documents of this kind could potentially help to secure an acceptable construction methodology. But it is not clear what relevance they would have to achieving a satisfactory design in visual terms. In my view any perceived need for a CMP or BSA could be dealt with through conditions.
21. Overall I find that the information submitted is sufficient to allow a proper assessment in relation to matters of design and visual character. For the reasons stated above, I conclude that the proposed development would be capable of being carried out without harm to the area's character or appearance. In this respect I find no conflict with Policy 8 of the JCS, which relates to place-shaping, or Policy R2 of the Ringstead Neighbourhood Plan (the RNP), which seeks to ensure that developments reflect the village's distinctive character.
22. However, this does not overcome my earlier finding of harm in relation to the issue of ecology and biodiversity.

Other matters

23. I note that planning permission for a similar development on the site was previously granted, in 2011, but has now lapsed. Whilst I have no information as to the reasons, I can appreciate the position that the appellant now finds himself in. However, I must judge the present appeal against the planning policies that apply now. In the circumstances, the existence of the previous permission unfortunately carries little weight.
24. I note the appellant's intention to incorporate solar panels and a ground source heat pump, and willingness to consider a design that would meet 'Passivehaus' standards. However, any new dwelling would have to meet the high standards required by the current Building Regulations in any event. The potential for a design that exceeds this carries only modest weight.

Conclusion

25. For the reasons set out above, the development as currently proposed would be likely to result in harm to a protected species, and a net loss of biodiversity, contrary to Policy 4 of the JCS. Although I have found no harm to the area's character and appearance, and thus no conflict with any other policies, the conflict with Policy 4 means that the scheme would fail to accord with the development plan as a whole. This conflict is not outweighed by any of the other matters raised.
26. The appeal must therefore be dismissed.

J Felgate

INSPECTOR