



Appeal Decision

Site visit made on 4 September 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/M2840/W/24/3339033

31 Main Street, Middleton, Market Harborough, Leicestershire LE16 8YU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Bradshaw against the decision of North Northamptonshire Council.
 - The application Ref is NC/23/00152/OUT.
 - The development proposed is outline planning application for residential development, all matters reserved.
-

Decision

1. The appeal is allowed and planning permission is granted for outline planning application for residential development, all matters reserved, at 31 Main Street, Market Harborough, Leicestershire LE16 8YU in accordance with the terms of the application, Ref NC/23/00152/OUT, subject to the conditions in the attached schedule.

Applications for Costs

2. An application for costs has been made by Mr Robert Bradshaw against the Council. This is subject to a separate decision.

Preliminary Matters

3. The application is submitted in outline with all matters reserved for future approval. While the number of proposed dwellings is not included in the description of development, the application form refers to 4 No houses and the illustrative plan indicates 4 housing plots. Means of access to the site is a reserved matter, although the appellant has set out that access can only be taken from Main Street between 29 and 31 Main Street, with the appeal site including such land extending up to Main Street. I have considered the appeal on this basis and have treated the submitted suggested site layout plan as illustrative only.
4. Part of the application site is within the Cottingham and Middleton Conservation Area (CA). In reaching my decision, I have had regard to the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
5. Whereas the Council's decision refers to such, from the evidence before me, there are no listed buildings adjacent to the appeal site, including 29 Main Street (No 29). 31 Main Street (No 31) is a heritage asset, identified as a local interest building and positive building in the CA, as set out in Figures 3 and 4

respectively of the Cottingham and Middleton Conservation Area Appraisal and Management Plan Supplementary Planning Document (CAAMP) (April 2016).

6. Nevertheless, there are a number of Listed Buildings along Main Street, including the Grade II Listed Vine House. However, given the back land location of the site and the distances and intervening structures, I am satisfied that the proposal would not have an impact on these buildings.

Main Issue

7. The main issue is the effect of the proposed development on the host property and the character and appearance of the surrounding area, with particular regard to the spatial and visual openness of the area. This includes whether the development would preserve or enhance the character or appearance of the CA, and its effect on the setting of the CA and the setting of the host property, as a building of local interest.

Reasons

8. The accessway between Nos 29 and 31, leading from Main Street to the main part of the appeal site is within the CA, although the majority of the site is outside the CA. The CA encompasses much of the development either side of the main route through the villages of Cottingham and Middleton and open land to the south. The settlement dates back to before the Norman Conquest, whereas within the Character Area 1 of the CA, as identified in the CAAMP, many buildings were constructed in the 17th and 18th Century. Development within the CA is predominately of linear form along the main road through the village, with the historic development forming a strong sense of enclosure either side of it.
9. Along Main Street there are a number of listed buildings and buildings of local interest, in addition to a wealth of positive buildings, that together make a positive contribution to the character of the CA. There are a mix of simple cottage-style properties, with peppered large, detached properties, many of which relate back to the rural origins of the village. Also, there is a consistent, traditional palette of materials used and many properties have stone road frontage boundary walls.
10. The significance of the CA, as a whole, is derived from its historic, farming origins and wealth of historic buildings, together with its linear form of development, the consistent use of traditional local building materials and the strong means of enclosure to plots, particularly stone walls.
11. Long traditional plots and open land, with views thereto, remain prominent characteristics to the rear of properties on the south side of Main Street. However, on the north side, the boundary of the CA is more tightly drawn behind the rear boundaries of dwellings that front it. The existing layout of the village compared to that on the 1885 Ordnance Survey Map¹, shows the original long plots and open land behind properties on the north side of Main Street have already been truncated over the years by more modern development within the village. This is evident at the rear of the appeal site, where dwellings within the new housing development in Glover Court back onto the site.

¹ Figure 7 of the CAAMP

12. The proposed indicative layout plan shows that there would be no built development within the part of the appeal site that is within the CA, as this area, to the side of No 31, would provide access into the proposed housing development. Where the new dwellings are indicated to be, the land is enclosed by existing development to all sides and, it is a peaceful area of open grass located to the rear of existing dwellings. This main part of the appeal site is not publicly accessible, nor is it a visually prominent area of open space from any public vantage points looking into or out of the CA. Therefore, the proposal would have a neutral effect on the significance of the CA.
13. The CA includes a wealth of historic, traditional buildings along Main Street, which creates an appreciably tight grain of linear development. While glimpsed views between properties fronting Main Street to open land at the rear is a particular feature on the south side of Main Street, where there are views through to trees and rising land beyond which is contained within the CA. Comparably, on the north side of Main Street there are more limited views between properties of any open land, due to modern developments within the village which are situated at the rear of the properties fronting Main Street.
14. From Main Street, including through the gap between Nos 29 and 31, there is limited visibility of the main part of the appeal site. This is due to the land being set at an angle behind No 29, a large tree toward the rear corner of No 29 and, the tight-knit linear form of development fronting Main Street. Therefore, due to the very enclosed nature of the site and the surrounding context, the proposed new dwellings could be appropriately positioned, so they would not appear visually prominent in views out of the CA. Even if there were some glimpses of the proposed dwellings from Main Street, this would be comparable to the existing glimpsed views between Nos 29 and 31 of the dwellings in Glover Court at the rear. As such, the proposal would not harmfully effect the spatial and visual openness of the area.
15. Although there is a strong linear form of development along Main Street, the main part of the site, where dwellings would be, lies outside the CA and is enclosed and hidden, with limited direct relationship to the setting of the CA. The proposed development of the appeal site would more appreciably relate both visually and spatially to the modern developments outside the CA, for example, within Glover Court at the rear of the site and Milestone Mews to the side of it. Furthermore, the immediately adjacent residential development at Milestone Mews is of a similar context to the appeal proposal, in that it includes development set to the rear of properties fronting Main Street with limited public views thereto. Therefore, the proposed development would not be discordant, in principle, to the surrounding prevailing character of the local area.
16. While the proposed suggested indicative site layout does not relate particularly well in terms of the surrounding form and layout of development, due to its untypical, more modern, cul-de-sac layout set around a central shared driveway, this is not determinative in respect of the outline appeal matters before me. However, having regard to the size of the appeal site and surrounding context, I am satisfied that a small residential development could assimilate successfully within the site, without causing harm to the character and appearance of the surrounding area and avoiding the appearance of tandem development.

17. In view of the historic and traditional form of development in the surrounding area, it would be important to ensure that the detailed elements of the proposed residential development are sensitive to such context. In particular, in regard to its proposed layout, siting, and the scale of the new dwellings and that, an appropriate and sympathetic approach to landscaping, boundary treatments and the use of traditional materials would be necessary, to successfully assimilate the new residential development into the local area. I am satisfied that such matters could be achieved at the reserved matters stage of development and through appropriately worded conditions. This would ensure the proposed residential development of the site would have a neutral effect on the significance of the CA and also preserve its setting, with regard to the limited glimpsed views of the proposed development from the CA and the wider character and appearance of the local area.
18. No 31 is a building of local interest, which makes a positive contribution to the CA. It is a traditional simple cottage-style building of agriculture related origin. It is built of stone, with pitched roof and chimneys, has attached single storey stone stables and an attractive boundary stone wall to its road frontage. Therefore, the significance of the building is derived from its farming origins, design, and general built form, including the external materials and front boundary wall. For such reasons, No 31 is a good example of an attractive traditional farm cottage within the village and CA as a whole.
19. In respect of the setting of No 31, it is within a long narrow plot, with a traditional stone wall around its cottage garden at the rear. The main elevation of the property and its entrance faces to the side, towards 29 Main Street. Therefore, the narrow cottage garden at the rear contributes to the traditional setting of the building, together with the wide open accessway to its side, which extends along the full depth of the building and enhances the visibility and appreciation of the building from Main Street and in the context of the CA.
20. Even though No 31 previously had a wider area of open land around it, as evident from the 1885 Ordnance Survey Map in the CAAMP, and that the main part of the appeal site may have been agricultural land associated with the original farm cottage, this has already been altered and visually severed by the construction of the more recent dwelling at No 29 and the modern fencing which surrounds No 29. As a result, the wider part of the appeal site, where the new dwellings are proposed, does not readily appear intertwined spatially or visually with No 31. Subsequently, the proposed residential development of the grassed field at the rear of No 29 would not harm the historic setting of No 31.
21. While the proposed development would result in the greater use of the accessway to the side of No 31, this would not in itself harm the setting of this building of local interest. Rather, it would help to protect the existing and now more limited open aspect to one side of the building, between it and the side of No 29. Also, it would maintain the route through to the attached stables and its associated outbuildings at the rear, which relate to the building's original functional agricultural use. As a consequence, this would preserve some of the original, traditional features of No 31, as a working farm cottage and preserve the open and functional setting to the side of the building.
22. Furthermore, subject to the use of sensitive, traditional surfacing materials for the accessway and, the retention of most of the front boundary stone wall along Main Street in its current form, the proposed development would provide

opportunities to enhance the setting of No 31, and so would have a positive effect on the setting of the non-designated heritage asset.

23. Overall, in view of the above, the proposal would satisfy the statutory presumption under Section 72(1) of the Act in regard to the significance of the CA and, there would be no conflict with the historic environment chapter of the National Planning Policy Framework (the Framework) in regard to the setting of the CA and No 31, as a non-designated heritage asset. For the same reasons, there would be no conflict with Policy 2 of the North Northamptonshire Joint Core Strategy (July 2016) (NNJCS) which seeks to protect the historic environment by requiring, amongst other matters, development proposals conserve and where possible enhance the heritage significance and setting of an asset.
24. Also, there would be no conflict with Policies 8 and 11 of the NNJCS, which amongst other things, require development to respond to a site's immediate and wider context and local character and, within villages, not materially harm the character of the settlement.

Other Matters

25. There are a few large trees within the site which contribute to the character of the surrounding area and views out of the CA. Therefore, it would be important to ensure their retention and incorporation as part of the proposed development. This would be considered at the reserved matters stage and controlled by appropriately worded conditions.
26. From the Preliminary Ecological Appraisal (PEA) provided, the proposed development would not cause any harmful effects to ecology, subject to the mitigation and enhancement measures contained therein. Although, the PEA notes that a further detailed reptile survey should be carried out. Therefore, subject to this additional survey and the required mitigation and enhancement measures, which could be controlled via condition the development would be acceptable in term of ecology. Also, subject to condition, it would be possible to achieve biodiversity net gain, in accordance with Policy 4 of the NNJCS and national requirements.
27. While matters related to the access and parking are not included as part of the current outline proposals, I am satisfied based on the evidence before me that suitable means of access, including adequate visibility splays at the access point on Main Street, could be achieved to serve the proposed development. There would be some traffic increase in the village as a result of the proposed development, but I do not have any substantive evidence to demonstrate this would cause harm to highway safety or the character of the local area.
28. In view of the size of the site, a small housing development could adequately accommodate onsite parking provision to meet the needs of the future occupiers of the new dwellings, without affecting on street parking on local surrounding roads. Construction traffic may cause some impact on surrounding traffic movement and the living conditions of nearby residents. However, this would be only short term and not significant due to the scale of the development. Subject to a Construction Traffic Management Plan being in place, via condition, the proposed development would not be a harmful in regard to construction matters.

29. While I acknowledge the concerns raised by interested parties, no substantive evidence has been provided to demonstrate that the proposed development would cause harmful flooding or other drainage capacity issues. However, drainage details would be dealt with at the reserved matters stage and, subject to conditions and other non-planning legislative requirements, this would ensure there would not be any harmful impact caused by the proposed development in relation to drainage and flooding matters.
30. There are existing residential properties surrounding the appeal site, whereby the living conditions of the occupiers of such properties could be affected by the proposed residential development with regard to outlook, overshadowing loss of light and privacy, and general noise disturbance. However, due to the size of the site and its surrounding context, subject to the number, suitable design, scale and position of the proposed dwellings, the living conditions of the occupiers of neighbouring dwellings could be appropriately protected. Such matters would be considered in detail at the reserved matters stage.

Conditions

31. Having regard to policy at paragraph 56 of the Framework and the supporting advice in the PPG, I have considered the conditions suggested by the Council and appellants' comments on such, in the event I allow the appeal. I have amended some of the wording of the suggested conditions to be more precise and consistent. In addition to the standard implementation condition, it would be necessary for the avoidance of doubt and in the interests of certainty to define the plans with which the scheme should accord and clarify that, no permission is granted for the details shown on the illustrative plans.
32. It would be necessary to include a condition requiring the submission of the details which are reserved for future consideration. As all matters are reserved for future consideration, it is not necessary nor appropriate to include conditions that relate to these detailed matters as part of the outline permission, as they will be subsequently considered at the required reserved matters stage. Therefore, conditions related to the details of the means of access, including visibility splays and the position of any gates at the access to Main Street, and also landscape implementation, maintenance and replacement will be appropriately dealt with under the reserved matters.
33. While Policy 30 of the NNJCS requires housing developments to provide a mix of dwelling sizes, I am satisfied that this is a matter that could be appropriately considered at the reserved matters stage and therefore a separate condition is not necessary in this regard.
34. As drainage is not within the scope of the reserved matters, therefore conditions are necessary to ensure the development, including the new dwellings have appropriate drainage facilities and is carried out in accordance with the submitted Flood Risk Assessment. Although, I have amalgamated some of the drainage conditions. There is no substantive evidence to suggest there is likely to be contaminated land within the site and therefore a condition in respect of such matter is not necessary. A condition requiring on-site foul drainage to be carried out and connected to the public sewer is not necessary, as this would be dealt with at the required Building Regulations stage of development. Furthermore, such drainage and contaminated land matters would be suitably covered by other, non-planning, legislative requirements.

35. As noted above, the PEA recommends that a further reptile survey and that various recommendations and enhancements are carried out in terms of ecology and biodiversity. The appellants recommend that only 1% net gain in biodiversity needs be provided. However, notwithstanding the relevant regulations², this would not align with the recommendations of the submitted PEA, nor the overarching requirements of the Framework in this regard. Therefore, a condition is necessary to fully address ecology and biodiversity net gain matters, yet no specific nor limited level of net gain is appropriate within the wording of the condition, particularly as details of the proposed housing scheme will need to be considered at the reserved matters stage and may result, together with the recommendations of the PEA, in higher than 1% biodiversity net gain.
36. A condition is necessary and appropriate to ensure the new dwellings would have electric charging points and that such are maintained for the lifetime of the development, so the development proposal would align with relevant development plan and national planning policy requirements in this respect. Also, a condition to ensure the provision of appropriate street lighting within the proposed development site is necessary in the interests of providing a safe and attractive environment for the occupiers of the new development and, to ensure any new lighting does not harm the living conditions of existing surrounding dwelling occupiers due to light spill.

Conclusion

37. For the reasons given above, the appeal would accord with the development plan read as a whole and there are no material considerations that indicate otherwise.
38. Accordingly, the appeal is allowed.

C Billings

INSPECTOR

Schedule of Conditions

1. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
2. The development hereby permitted shall be carried out in accordance with the Site Location Plan- Scale 1:1250. No permission is granted for the details shown on the Suggested Site Layout Plans, including drawing Ref 3102D or 3102A or the Side Road Stub for Turning Rigid Vehicles Only Ref Sheet 19, Figure 4.23.

² The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 and related regulations thereto, which set out that Biodiversity Net Gain does not apply to Section 73 planning permissions where the application for the original permission was made before the 12 February 2024.

3. Details of the access, appearance, landscaping, layout, and scale, 'the reserved matters' shall be submitted to and approved in writing by the local planning authority before any development hereby permitted takes place and the development shall be carried out as approved. This shall include samples of the external materials to be used in the construction of the dwellings, details, including the position, height and materials of all boundary walls and fences, bin and cycle storage provision and details of all hard surfaced areas.
4. The plans and details submitted pursuant to condition 3, as part of the 'reserved matters' landscaping scheme shall include details of all existing trees and hedgerows on the land and that overhang it, identifying those to be retained and set out the measures for the protection of any trees or hedgerows to be retained throughout the course of the development, including the following:
 - a) a plan showing the location of, and allocating a reference number to, all existing trees on the site which have a stem diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75mm, showing which trees are to be retained and the crown spread of such trees;
 - (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to and that overhangs the site;
 - (d) details of any proposed alterations to existing ground levels, and of the position of any proposed excavation within the crown spread of any retained tree or of any tree on land adjacent to the site (within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree);
 - (e) details of the specification and position of protective fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of any site clearance and preparation works and the construction of the development. Any agreed means of protection shall remain in place throughout the site preparation, clearance and construction works.
5. No development or site clearance works hereby permitted shall commence on site until a further Reptile Survey and Biodiversity Net Gain (BNG) Assessment have been undertaken and submitted to and approved in writing by the local planning authority. The recommendations and enhancements set out within the Ecological Impact Appraisal, dated September 2023, and prepared by Nicholsons, together with any mitigation and enhancement measures identified within the subsequently approved Reptile Survey and BNG assessment shall be implemented in accordance with the recommendations of the reports and any agreed timescales for implementation contained therein. Any mitigation measures shall thereafter be retained in accordance with the agreed details for the lifetime of the development.
6. No development, including any demolition or site clearance works hereby permitted shall be carried out until a Written Scheme of Investigation (WSI) has been submitted to and approved by the local planning authority in writing.

For land that is included within the WSI, no development or demolition and site clearance works shall be carried out other than in accordance with the agreed WSI and timescales, which shall include:

- a) a statement of significance and research objectives;
- b) a programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- c) a programme for post-excavation assessment and subsequent analysis, publication and dissemination, and deposition of resulting material. This part of the condition will not be confirmed it is complied with, until these elements have been fulfilled in accordance with the programme set out in the WSI.

7. No development hereby permitted shall commence until details of a surface water drainage scheme for the site using Sustainable Drainage System (SUDs) method has been submitted to and approved in writing by the local planning authority. The development shall subsequently be implemented in accordance with the approved drainage scheme prior to the first occupation of any of the dwellings hereby permitted and shall be retained and maintained thereafter for the lifetime of the development. The drainage scheme shall include the following:
 - a) details (i.e., designs, invert and cover levels, gradients, dimensions) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets, and attenuation basins;
 - b) details of the drainage system full cross-referenced supporting calculations;
 - c) cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydro brakes and any other flow control devices;
 - d) that surface water from the vehicular access or private land does not discharge onto the highway.
8. No development above slab level hereby permitted shall commence until details of any lighting scheme for the private driveways have been submitted to and approved in writing by the local planning authority. The scheme shall include details of the lux levels and a plan showing the position, type, and extent of the lighting over the area to be lit. The approved lighting scheme shall be implemented prior to the first occupation of any of the dwellings hereby permitted and, shall be retained and maintained as approved for the lifetime of the development.
9. No dwelling within the development hereby permitted shall be occupied until a detailed scheme for the ownership and maintenance for the surface water drainage system on the site has been submitted to and approved in writing by the local planning authority. The approved maintenance plan shall thereafter be carried out for the lifetime of the development. The scheme shall include:
 - a) details of the organisation or body responsible for vesting and maintenance of individual aspects of the drainage system;
 - b) a maintenance schedule setting out which assets need to be maintained, at what intervals and what method is to be used, including details of expected design life of all assets with a schedule of when replacement assets may be required; and,
 - c) site plan to include and/or identify access points, maintenance access easements and outfalls and maintenance operational areas, to ensure

there is room to gain access to the asset, maintain it with appropriate plant and then handle any arising's generated from the site.

- 10.No dwelling hereby permitted shall be occupied until enclosed secure bicycle parking and bin storage for each of the dwellings has been provided, in accordance with details agreed pursuant to the reserved matters. The cycle and bin storage shall thereafter be retained for the lifetime of the development.
- 11.No dwelling hereby permitted shall be occupied until an electric vehicle charge point for each respective dwelling has been provided. The charging points shall thereafter be retained and maintained for the lifetime of the development.
- 12.No dwelling hereby permitted shall be occupied until a written Verification Report for the installed surface water drainage system for the site, based on the Flood Risk Assessment ref 363-FRA-01-0 rev 0 dated 21st August 2021 prepared by MAC, as amended by the Flood Risk Assessment and Drainage Strategy dated 16 December 2023, has been submitted to and approved in writing by the local planning authority. The Verification Report shall be prepared by a suitably qualified independent drainage engineer and include the following details:
 - a) any departure from the agreed design is in keeping with the approved principles;
 - b) any As-Built Drawings and accompanying photos;
 - c) results of any performance testing undertaken as a part of the application process (if required / necessary);
 - d) CCTV confirmation that the system is free from defects, damage, and foreign objects.

End of Schedule