



Appeal Decision

Site visit made on 19 December 2024

by **J Symmons BSc (Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/A2470/D/24/3340459

21 Main Street, Cottesmore, Rutland LE15 7DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs J Burgess against the decision of Rutland County Council.
 - The application reference is 2023/0892/FUL.
 - The application sought planning permission for the '*Retrospective approval for the erection of a two storey and single storey extension to dwelling, raising of the roof of the original house with a new thatch roof, addition of a window on the North East elevation, re-positioning of two windows on the South West elevation, the addition of an extra chimney and the raising of the height of the existing chimney with new rear door access, 2 no. garden sheds, parking and landscaping works.*' without complying with conditions attached to planning permission reference 2023/0074/FUL, dated 11 August 2023.
 - The conditions in dispute are Nos 2, 3 and 6 which state that:
'2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 3194/4 Rev B and 3194/5 Rev G.'
'3. Should any of the new planting shown on the approved Drawing Number: 3194/5 Rev G within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.'
'6. Two cars shall only be parked at the site in the two designated spaces identified on drawing 3194/5 REV G at any one time. No vehicles are permitted to park elsewhere on the site. Notwithstanding the submitted plans within 1 month of the date of this decision a plan showing how the site will be limited to only provide for two off-street parking spaces will be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of a physical barrier to ensure that the rest of the site is not used for additional parking.'
 - The reasons given for the conditions are:
'2. For the avoidance of doubt and in the interests of proper planning.'
'3. To ensure that the landscaping is carried out at the appropriate time and is properly maintained.'
'6. To avoid the intensification in the use of the existing access and the potential for further conflict between vehicles reversing onto or off this site. In the interests of pedestrian and highway safety.'
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Decision

1. The appeal is allowed and planning permission is granted for the retrospective approval for the erection of a two storey and single storey extension to dwelling, raising of the roof of the original house with a new thatch roof, addition of a window on the North East elevation, re-positioning of two windows on the South West elevation, the addition of an extra chimney and the raising of the height of the existing chimney with new rear door access, 2 no. garden sheds, parking and landscaping works at 21 Main Street, Cottesmore, Rutland LE15 7DH in accordance with the application reference 2023/0892/FUL, without compliance with condition numbers 2, 3 and 6 previously imposed on planning permission reference 2023/0074/FUL, dated 11 August 2023 and subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matters

3. The National Planning Policy Framework (the Framework) was updated in December 2024. Insofar as it is directly relevant to the appeal, there are no substantive changes. As a result, I have determined the appeal on the basis of the information provided and the parties have not been prejudiced by this. However, for correctness I have used the paragraph numbering in the update where applicable.
4. During determination of the original planning application, LPA reference 2023/0074/FUL, the Highway Authority (HA) did not object to the application and the Officer Report recommended approval subject to a variety of planning conditions. At this stage, no planning condition was proposed to restrict the number of vehicles parked at the application site.
5. During consideration of this original planning application at the Planning Committee, amongst other matters, interested parties raised concerns regarding the lack of comments by the HA on a range of highway matters, including the absence of a turning space, the increase in parking spaces from that of a previous planning application and no consideration of the design of the parking spaces against the Rutland Design Guidelines (SPD)¹. Taking these concerns into account, the planning application was granted but with condition 6 included which limited the parking of two cars at the application site. The reason for this was detailed as being in the interests of pedestrian and highway safety by avoiding the intensification in the use of the existing access and the potential for further conflict between vehicles reversing onto or off the site.
6. The planning application which is the subject of this appeal sought to remove condition 6 and to vary conditions 2 and 3 to include Drawing No. 3194/9 revision H titled 'Location Plan/Block Plan' which shows parking for four vehicles from the original planning permission.
7. The Officer Report recommended approval of this planning application but following consideration at the Planning Committee it was refused on pedestrian and highway safety grounds.

Main Issue

8. The main issue in determination of the appeal is the effect the removal of condition 6 and varying conditions 2 and 3 would have on the safety of the users of the shared access and the immediate road network.

Reasons

9. As part of the planning application, the appellant submitted a highway report² which considered a variety of highway matters related to the proposal. In broad terms, the report concluded that vehicle movements would increase but there were no highway safety grounds to refuse the application. The highway report confirmed

¹ Design Guidelines for Rutland Supplementary Planning Document dated March 2022 (SPD).

² 'Proposed Variation of Condition to allow for the provision of 4 parking spaces, 21 Main Street, Cottesmore, Applicant Miss J Burgess-Ray, Accompanying Highway Report' by Edwards & Edwards Consultancy Ltd dated September 2023.

that accident records for Cottesmore using CrashMap, showed no recorded personal injury road traffic accidents at the site access or at the junction of the access track with The Leas within the last five years. Other than references to the highway concerns raised during the determination of the original planning permission, little substantive evidence to dispute this report's findings was submitted. At my visit, I saw little reason to disagree with the key findings of the report.

10. Although initially recommending refusal of the application, following consideration of further information including the highway report submitted, the HA confirmed that it was satisfied that the access would be adequate to accommodate the movements of all vehicles associated with the proposed four parking spaces, and confirmed support for removal or variation of condition 6. The HA also confirmed that two parking spaces was a minimum requirement of the Council's parking standards for the application site and providing more parking spaces would not be contrary to it. No information to dispute this has been provided.
11. The proposal would intensify the use of the parking area, driveway and access track. However, while the reason for condition 6 is to avoid the intensification in the use of the existing access, the key aim of the condition is to protect pedestrian and highway safety. It is therefore reasonable and appropriate to consider if the proposal would unacceptably affect pedestrian and highway safety. When the increase in vehicle movements that would be caused by the proposal is considered in conjunction with the highway report's identified slow vehicle speeds, good junction and drive visibility, and good access track and parking space widths, there is little to suggest that pedestrian and highway safety would be unacceptably compromised.
12. Concerns were raised regarding reversing vehicles and the lack of a turning arrangement. However, the existing parking access does not include a specific turning area and, other than a reference to user conflicts occurring from vehicles reversing and manoeuvring, little substantiated evidence to show the access is operating unsafely has been provided. Taking the findings of the highway report into account, there is no compelling evidence to show the proposal's increase in vehicle movements would unacceptably harm pedestrian and highway safety.
13. The proposal would meet the general parking requirements set out in the SPD for 'on plot' parking including it being located behind the building line, having clear property boundaries and being permeable surfaced. No evidence has been presented to show it would not comply with the SPD. Furthermore, it is detailed that the proposal would not comply with the National Design Guide 2021. However, as the proposal would meet the SPD, not unacceptably compromise pedestrian and highway user safety and would be accessible, I see little reason that it would not meet the key aims of this design guide.
14. Considering the above, removing condition 6 and varying conditions 2 and 3 would not unacceptably harm the safety of the users of the shared access and the immediate road network. Accordingly, condition 6 is not necessary in the interest of pedestrian and highway safety and varying conditions 2 and 3 is reasonable and necessary for the inclusion of the revised drawing. The proposal would comply with Policy SP15 of the Rutland Local Plan Site Allocations & Policies Development Plan Document 2014 and Paragraph 116(d) of the Framework. These policies seek, amongst other matters, for new development to make provision for efficient

and safe access by vehicles, pedestrians, wheelchair users and cyclists and that adequate vehicle parking facilities are provided.

Other Matters

15. There is off-site parking near the appeal site. However, this does not make the proposal unacceptable or demonstrate harm to pedestrian and highway safety.
16. The Cottesmore Parish Council supported refusal of the planning application based on the original planning application findings. However, it did not dispute the findings of the highway report or the HA's support for removal of condition 6 and it did not provide any supplementary evidence. Accordingly, while I note its support for refusal, this does not change my consideration of the planning merits of the appeal.
17. There is little evidence presented to support the concerns by the neighbours that the constant movement of vehicles would be very noisy. The Council did not specifically raise noise as a concern in the Officer Report or the Refusal of Planning Permission notice. Parking of vehicles already exists and when considered in terms of the parking being located to the rear and side of the neighbouring properties, and the vehicle enter and leave away from the properties, there is little to suggest the proposal's increase in vehicle movements would result in an unacceptable noise increase.
18. I note the claim that neighbours are having to put up removable barriers to stop vehicles manoeuvring into fences and walls. However, evidence to substantiate this has not been provided. At my visit I saw no barriers erected or signs of wall/fence damage. I also saw nothing out of the ordinary to suggest the proposal's design was unsafe or that its use would cause an unacceptable risk of damage to walls and fencing.
19. It is raised that condition 6 has not been complied with and a larger number of vehicles are being parked at the appeal site than permitted. It is also detailed that there has been damage to the village green caused by vehicles from the appeal site. However, my role is confined to the proposal before me and these alleged unauthorised activities are matters for the Council to consider and enforce where appropriate.
20. Comments have been made regarding shared private rights, land ownership of the access track and driveway and the access being blocked by parked vehicles. However, these are civil matters between the owners of the land.
21. The appeal building is within the Cottesmore Conservation Area (CA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Moreover, 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 the asset's conservation.
22. The appeal site is located to the western end of the CA. The proposal is located between existing buildings and set back from the front of these. It would not disrupt or impact the significance and importance of the existing frontage or the historical core of the village. Nor would it significantly change the existing external appearance of the host property. While additional cars would be parked at the

appeal site, these would be significantly screened by the buildings and would not be prominent or conspicuous.

23. Accordingly, the proposal would have a neutral effect on, and thus preserve, the CA's character and appearance. It would not harm the significance of this designated heritage asset and would not conflict with the provisions within the Framework which seek to protect the significance of designated heritage assets.
24. It is also evident that there are a number of listed buildings within the wider surroundings of the appeal site including 17 Main Street and Sun Inn Public House. Mindful of the statutory duty under section 66(1) of the Act, I have given special regard to the desirability of preserving the settings of these listed buildings. Given the proposal's screened location and its limited extent and nature, it would not alter how these and other buildings are experienced or how their significance is appreciated. As such, it would have a neutral effect on the settings of the listed buildings and would not lessen the contribution their settings make to their significance. I note the Council raised no issues in this respect either.

Conditions

25. The Council has suggested a number of planning conditions. I have considered these in accordance with the guidance set out in the Planning Practice Guidance³ (PPG) which makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As the original development has started, there is no need to impose a time limit condition. I have amended condition 2 and 3 to refer to the revised drawing, removed condition 6 and renumbered all the conditions to take account of condition 1 being omitted.

Conclusion

26. For the reasons set out above, and having had regard to other relevant matters raised, I conclude that the appeal should be allowed.

J Symmons

INSPECTOR

³ Guidance Use of Planning Conditions - Paragraph: 040 Reference ID: 21a-040-20190723

Schedule of Conditions

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 3194/4 Rev B and 3194/5 Rev H.
- 2) Should any of the new planting shown on the approved Drawing Number: 3194/5 Rev H within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
- 3) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and reenacting that Order with or without modification), the window in the first-floor bathroom shall be non-opening below a height of 1.7m measured from the floor of the room it serves and glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.
- 4) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C & D 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 dwelling shall be erected or carried out except with prior planning permission.