



Appeal Decision

Site visit made on 20 May 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/G2815/W/19/3221237

**Rushden Memorial Clinic (former) Hayway, Rushden, Northamptonshire
NN10 6AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Lawson on behalf of Centennial Partners LLP against East Northamptonshire Council.
 - The application Ref 18/00646/FUL, is dated 23 March 2018.
 - The development proposed is: Conversion and extension of the existing Memorial Clinic to create 12no. one and two bedroom flats, with shared amenity space and associated parking. Construction of two bungalows and associated parking within the grounds of the existing building.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Lawson on behalf of Centennial Partners LLP against East Northamptonshire Council. This application is the subject of a separate Decision.

Procedural Matter

3. Should I decide to allow the appeal the proposal would be subject to Appropriate Assessment under the Habitat Regulations given the potential to give rise to impacts on the Upper Nene Valley Gravel Pits Special Protection Area. The appellant has made a contribution for the mitigation of these impacts in accordance with the Council's adopted supplementary planning document¹.
4. The Council considered the proposal at its Committee meeting held on 18 April 2019, following the submission of the appeal against a failure to determine. It resolved that had it reached a decision on the application, it would have refused planning permission on the following grounds:
 1. Cumulatively the proposed extensions to the Memorial Clinic building and the bungalows to the rear of it would represent an overdevelopment of the site and a cramped form of development which would be out of character with the surrounding area and cause harm to the significance and setting of a non-designated heritage asset. This is contrary to Policy EN1 of the Rushden

¹ Upper Nene Valley Gravel Pits Special Protection Area Supplementary Planning Document August 2015

Neighbourhood Plan; Policies 8 d) i) and 2 a) b) of the North Northamptonshire Joint Core Strategy; and, Paragraphs 130 and 197 of the NPPF.

2. The proposal would give rise to an unacceptable impact on the residential amenity of existing residents at No. 2 Oakfield and the design and layout of the proposal would give rise to unsatisfactory living conditions for the future residents of the scheme. Accordingly there would be harm to the amenity of existing and future residents. This is contrary to Policy EN1 of the Rushden Neighbourhood Plan and Policy 8 e) i) of the North Northamptonshire Joint Core Strategy and Paragraph 127 of the NPPF.

3. The application fails to demonstrate that an adequate number of appropriately sized and practical parking spaces can be provided on site and no electric charging infrastructure is proposed. This is contrary to Policy T1 of the Rushden Neighbourhood Plan and North Northamptonshire Joint Core Strategy Policy 8b.

4. The application fails to demonstrate that it will be acceptable with regard to the impact on bats. This is contrary to Policy 4 a) of the North Northamptonshire Joint Core Strategy and Section 15 of the National Planning Policy Framework (2019).

5. The overall design of the proposal – notably the flat roofed additions to the Memorial Clinic building and the two bungalows proposed to the rear of it – fails to take the opportunities available for improving the character and quality of the area. This is contrary to Policy EN1 of the Rushden Neighbourhood Plan and Paragraph 130 of the National Planning Policy Framework.

Main Issues

5. These are:

1) The effects which the development would have on:

- i) the character of the former Memorial Clinic building, given its interest as an undesignated heritage asset;
- ii) the living conditions of occupiers of properties near to the site and future residents of the proposed development;
- iii) the character and appearance of the area with regard to whether the proposals would create an over intensive development of the site;
- iv) highway safety, with particular regard to the parking conditions within the site and surrounding area;
- v) protected species, with reference to the presence of bats; and

2) Whether the proposed form of development is acceptable, with particular regard to the Rushden Neighbourhood Plan.

Reasons

1) *The effects of the proposal on:*

(i) *The character of the former Memorial Clinic building*

6. It is not in dispute that the building has significant interest, in part due to its family association with the local shoe industry, its acquisition after the Second World War as a cottage hospital and memorial, and should be regarded as an undesignated heritage asset. The issue is therefore whether the proposal causes harm to the significance of the asset, having regard to the Framework which makes clear that in the case of non-designated assets a balanced judgement may be necessary².
7. The proposal secures the future of the building, although in order to achieve the configuration of the flats it would be necessary to subdivide most of the larger rooms. This should be balanced against the fact that some parts of the building have previously be subdivided under the use as a clinic, and that for a building not included on the statutory list, requiring the preservation of some internal features may be disproportionate to the significance of the asset.
8. The principal concern is the effect that the proposed extensions would have on character. Both the single storey extension to the side to provide Units 5 and 6, and the 2 storey extension to the rear to provide Units 2 and 10, would have flat roofs. The acceptability of this aspect is a subjective matter, and there is some merit in the argument that using pitched roofs could have a greater and harmful effect on the character of the building. There is some congruity in the design, for example the eaves level of the single storey extension would align with the string course of the front and side elevation of the building. Other features, such as the depth of the window reveals and sills and use of closely matching materials could help to assimilate the extensions with the building, despite the flat roof form.
9. However, the massing of the single storey extension to provide units 5 and 6 would unbalance the principal façade of the building. The façade is presently asymmetric, and the side extension would be located on the wider wing of the front elevation. In addition, the projection of the extension forward of the building line of the front facade, together with its width, would accentuate this imbalance. Overall, the side extension would appear incongruous and would not relate well to the existing building.
10. The 2 storey extension to the rear would contrast with the twin gables of the main elevation and single gable of the side elevation. However, it would not dominate the existing building and the appearance of what is proposed should be balanced with the improvements which would arise through the removal of the steel fire escape, lift shaft head, and the flat roof and rendered ground floor extension. Overall, it would have a neutral effect.
11. The proposed bungalows would be sited close to the rear of the building and would affect its setting. The loss of the rear garden area would not fundamentally affect the ability to understand the significance of the former memorial home in heritage terms, given the retention of a large part of the grounds to the front. However, the bungalows would be of a conventional, modern design and would only address the character of the main building to

² NPPF paragraph 197

the extent that they would use matching materials and have pitched roofs, but of a lower pitch. The bungalows would also have low ground to eaves heights. They would therefore appear incongruous and would fail to complement either the original building or the extensions.

12. I conclude that the effect of the extensions and bungalows would as a whole reduce the significance of the heritage asset, and the proposal would therefore fail to comply with Policy EN1 of the Rushden Neighbourhood Plan³ (the RNP) and Policy 2 of the North Northamptonshire Joint Core Strategy⁴ (the JCS) and the objectives of the Framework to achieve good design.

(ii) Living Conditions

13. The conversion of the property to flats would lead to some overlooking of neighbouring houses and gardens, especially from windows at first and second floor. These windows are in the main existing. Whilst there is high and dense planting to parts of the boundaries of the site, such planting may not always be present, plus there is a slight change in level between the appeal site and Oakfield, the residential development to one side of the site.
14. In the case of no 2 Oakfield, the proposal would result in window to window distances around 21m, used by many planning authorities as a standard. Overlooking of the side garden of this property would be over a similar distance and limited to 2 flats within the development. Therefore, having regard to this property, and others adjoining the boundaries of the property, the proposal would not lead to unacceptable effects on the living conditions of the residents of existing houses near the site due to loss of privacy.
15. In terms of the living conditions of the occupiers of the proposal, the ground floor flats, units 5 and 6, would be located close to the boundary of the site with Oakfield. The outlook, and to some extent daylight, for the side facing windows of these units, serving kitchen and living areas, would be limited, however both would also have windows with a more open aspect.
16. In the case of unit 6, its principal windows would face towards the side boundary with the first bungalow. Whilst the outlook would be limited, the presence of the boundary fence would not be oppressive if restricted to an appropriate height and its detailed positioning.
17. The second bungalow would be sited close to the boundary with housing at Lime Street. Although the houses in the neighbouring development are 3 storey, no windows in the bungalow would face toward the gable wall of the nearest property within Lime Street. The relationship would not be overdominant given the spacing of the properties in Lime Street and orientation of the bungalow.
18. Some windows within units 10 and 2 would look out towards the side elevation of the first bungalow and bike store. However, unit 10, where the main living room is at first floor, also has side facing windows consequently the effect on outlook would be acceptable. In the case of unit 2, the affected windows are to bedrooms, one of which would also have a side facing window, therefore an outlook towards the bike store would on balance be acceptable.

³ Made 4 June 2018

⁴ Adopted 14 July 2016

19. I conclude that the effect of the development on the living conditions for both existing residents near the site and future occupiers of the proposed development would, on balance, be acceptable. It would therefore accord with RNP Policy EN1 and JCS Policy 8 and the objectives of the Framework to create places with a high standard of amenity for existing and future users.

(iii) The character and appearance of the area

20. The disused Memorial Clinic (the property) is situated in large grounds, fronting Hayway. It is a substantial red brick Victorian building of 2 full storeys plus a floor within the roof. There are some non-residential uses nearby but essentially the area is a typical mature suburb composed predominantly of 2 storey houses.

21. The proposal would have some effect on the character of the area. The principal change would be the formation of the 20 car parking spaces within the grounds to the front of the property, although these would remain in part screened by retained trees and landscaping. The conversion of the existing building to flats would have less direct visual effect. The flat roof extension to the side, and two storey extension to the rear, would change the appearance and the character of the building itself, although the effect on the wider area would be limited due to the retained screening.

22. The proposed bungalows to the rear of the property would add to the density of the development, in terms of building footprint and number of houses. However, they would be reasonably sized in relation to the available plots and being single storey would have limited visual impact on the area. They would represent backland development according to the normal use of that term, but would not result in overly cramped plot sizes or access causing disturbance to existing residents.

23. The prevailing density and pattern of development that surrounds the application site varies. I do not have specific evidence comparing the density of the proposal with surrounding areas, and existing developments close to the site are very different in nature. The main part of the proposal involves the conversion of a disused non-residential building of some scale, and whilst the bungalows would occupy the major part of the grounds to the rear, the front area would remain largely open and therefore the perception of the site as an intensive form of development would be limited.

24. Policy EN1 of the RNP and Policy 8 of the JCS require, amongst other things, that development should be of a high quality and respond to the local character and immediate context of the site. The policy is consistent with the objectives of the Framework to ensure that development adds to the quality of an area and makes efficient use of land. To the extent that I conclude that the proposals would not cause significant harm to the character and appearance of the area the proposal would accord with these policies.

(iv) Highway Safety

25. A total of 26 parking spaces would be provided, 20 for the flats and 3 for each bungalow. In addition, each bungalow would have a garage. The highways authority's parking standards suggest a total provision of 18 spaces for the flats plus 3 visitor spaces. The shortfall of a single space could be rectified and

a plan has been submitted to demonstrate how this could be achieved. The appellant suggests that the matter could be handled via a condition.

26. In the case of the 2 bungalows, the parking standards would require only 5 spaces to be provided therefore there is a slight overprovision. The Northamptonshire Parking Standards state that applications for new build flats or development involving the conversion of floor space will be treated on their individual merits and based on local character. The Framework advises that account should be taken, amongst other things, of the accessibility of the site to public transport⁵. I have very little information before me on this, however I note that there is a bus stop on Higham Road.
27. The requirement for electric vehicle charging points could be addressed via a planning condition.
28. The RNP Policy T1 requires that development should not result in residual impact on the transport network. Policy 8 of the JCS requires, amongst other things, that development should make satisfactory provision for parking. Given the minor infringement of the highway authority parking standards, and the accessibility of the site to public transport, I conclude that the proposal would be unlikely to cause risk to highway safety through overspill parking, and would comply with these RNP and JCS policies, and the Framework.

(v) Protected Species

29. The appellant submitted 2 surveys in relation to bats. The first was carried out in January 2018 and found evidence of the presence of bats. A second survey was carried out in May 2018 and found further indications of low level use by brown long eared bats. The report recommended that a license would be required for the building work if the roost was to be affected, for example through the conversion of the roof space. A further activity survey would be required to enable Natural England to assess the application. If the roost was lost, then an alternative roost site should be provided. Any new external lighting should be low level to minimise the impact on bats.
30. The Council ecologist responded to the first survey report, acknowledging that a low level of bat use had been identified and recommending that further report be carried out pre determination, to enable conditions relating to mitigation to be attached and to establish the likelihood that a license would be required.
31. The Council maintains that the further survey required in relation to impact on bats has not been provided. The appellant contends that it submitted the second report dated May 2018 and points out that it appeared on the Council website on 26 June 2018.
32. The appellant has carried out the required activity survey, put forward a scheme of mitigation and acknowledges that a license application may be required. I therefore conclude that adequate precautions have been put in place and the requirements on Circular 06/2005⁶ could be met.

⁵ NPPF paragraph 105

⁶ Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, August 2005

33. Policy 4 of the JCS requires, amongst other things, that development which would cause significant harm to protected species that cannot be avoided or mitigated should be refused. Based on the findings of the appellant's May 2018 report, the proposals should not harm the small bat population using the building, providing pre construction checks are made for further activity. If found, that could be mitigated through the Licensing regime. I therefore conclude that the proposal complies with development plan policy and the Framework⁷ in this respect.

2) The form of the development

34. The development plan comprises the JCS and the RNP. The development plan is the starting point for decision taking and if there is conflict with an up to date development plan, permission should usually not be granted, unless material considerations indicate otherwise.

35. The RNP contains Policy H4, relating to market housing, type and mix. It notes that although JCS Policy 30 identifies a need for a balance in property sizes and types, in Rushden flatted development will only be supported where it 1) meets and identified local need 2) physical and financial constraints dictate such a form of development or 3) where an existing non-residential building is being converted.

36. The wording of the third exception is capable of different interpretation. The Council takes the view that since the proposal involves, in part, the conversion of a building the exception applies. The Town Council considers that since the building was originally built for residential purposes, the exception should not apply.

37. Whilst the proposal involves the conversion of a building, based on its last use as a clinic, the extensions comprise one third of the total number of flat units to be provided. I therefore take the view that the proposal should not benefit from the third exception of the policy as a significant number of the units to be created would not be via the conversion of the existing building. The appellant has not argued that the second exception applies and therefore it is necessary for the proposal to comply with the first exemption in relation to local need for the development plan to be complied with.

38. The evidence on need is the East Northamptonshire Housing Mix Requirements Assessment⁸ (the Housing Mix Assessment) and the analysis provided in the Housing chapter of the RNP. The Town Council consider that there has been an overprovision of flatted development within Rushden, and although the building will need to be subdivided, 12 would be an excessive number of units.

39. Conversely, the East Northamptonshire Council Housing Strategy Officer does not object to the form of development but would prefer the flats to be designated for the over 55 age group, with all ground floor units suitable for persons with impaired mobility. Should the number of units be 15 or more an affordable housing element would be required.

40. The appellant's response is that the suggested development of the site for over 55's accommodation represents a subjective view on what the Council would like to see and not one based on the planning merits of the proposal.

⁷ NPPF paragraph 174 including footnote 56

⁸ March 2016

41. The appellant does not make the case that there is a specific need for flats within the local area. The Housing Mix Assessment (HMA) identifies a theoretical need the provision of 1 bed units. The levels of flatted development within Rushden, although relatively high overall, varies between sub areas. For example in Sartoris Ward it is as low as 2% whereas in Hayden it is 25%. In the case of Spencer, the ward within which the appeal site is situated, the Assessment shows the level to be 10.3%⁹.
42. The evidence in the HMA regarding the need for flats is therefore inconclusive. I acknowledge that the appellant may have chosen to provide more in relation to the issue had the Council raised the matter prior to the appeal, or as part of its statement. Whilst I find that the proposal would comply with Policy 30 of the JCS, the development plan must be read as a whole and I am not able to find that the proposal meets the requirements of RNP Policy H4.

Other Matters

43. The proposal would involve the loss of protected trees. Of most significance would be the removal of the large Atlantic Cedar to the rear of the building to allow for the bungalows. It is an impressive specimen although one which can mainly only be appreciated within the site. A Wellingtonia to the front of the building would also be lost. The Council does not object to the loss of these trees provided replacements are planted within the retained grounds to the front of the building and I take the same view.
44. The trees on the site are important to the visual appearance of the area, especially those within the grounds to the front. The loss of some of these trees to widen the drive is unfortunate, however with a programme of replanting the overall appearance of the site would not be harmed. The loss of the large Atlantic Cedar is unavoidable if the grounds to the rear are to be utilised to provide some new housing, and given its location contributes little to the public realm.

Conclusion

45. For the above reasons and taking account of other matters raised, the appeal is dismissed.

Tim Wheeler

INSPECTOR

⁹ East Northamptonshire Housing Mix Requirements Assessment 2016, Appendix 3