

21/03205/REM

APP/P3040/W/23/3319093

Applicant Mr & Mrs J Kent

Location Chestnut Farm, Chestnut Lane, Barton In Fabis

Proposal Application for matters reserved under application ref 19/00412/OUT for approval of access, appearance, landscaping and layout and scale for demolition of existing buildings and construction of a residential scheme for 3 dwellings

Ward Gotham

Appeal and Cost Claim Summary

1. Following the approval in July 2019 of an outline planning application with all matters reserved for the demolition of existing buildings and construction of a residential scheme of up to 5 dwellings at the above site (ref 19/00412/OUT) a subsequent Reserved Matters application was presented to Planning Committee and was refused by the Borough Council contrary to officer recommendation on the 8th September 2022 on the following grounds.

The scale of the dwellings, elevated ground floor levels, raised window heights and raised rear terraces of the proposal would result in a harmful and unacceptable impact on the amenities of neighbouring properties. As such, the proposal would be contrary to criterion 4 of Policy 1 (Development Requirements) of the Local Plan Part 2: Land and Planning Policies.

The massing scale and proportion of the proposal would be inconsistent within its location in the village. As such the proposal would be contrary to the provisions of Policy 10(2b; 2f) (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and at odds with Paragraph 134 of the National Planning Policy Framework which advocates the refusal of proposals which do not reflect local design policies.

2. An appeal and a Costs Award claim were subsequently lodged with the Planning Inspectorate. The Inspectors considerations and decisions are summarised below:-

3. The appeal has been allowed. The Inspector concluded that:-

Character and appearance

4. The dwellings would be within the established settlement and would be in keeping with building lines on the eastern side of Chestnut Lane nor out of character with linear/courtyard or backland development patterns in the village.
5. An agricultural courtyard layout has not been imposed by the Outline Planning Permission.
6. The layout, intensity, and density of the appeal proposal is not considered to be harmful to or out of keeping with the character and appearance of the area.
7. Floor levels and heights comply with those considered at outline stage and dwellings would not appear significantly larger than other sizeable buildings in the immediate area.
8. The dwellings would be set in generous plots and the development would not appear cramped.
9. The form, general material types, architectural detailing are of a traditional design in keeping with local character and the design is of high standard and appropriate to its context meeting the requirements of The Rushcliffe Residential Design Guide
10. The proposal would not harm the significance of the non-designated heritage assets at the Forge and Chestnut Farm with the effect being neutral.
11. The Inspector concluded that the proposal would not be harmful to the character and appearance of the area, or the setting and significance of NDHAs. It would not conflict with Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy (2014) the (LPP1) and would also not conflict with the aims of paragraphs 126, 134 and 203 of the Framework insofar as these expect development be of a high-quality design that reflects local design policies and takes into account the setting of NDHAs

Living Conditions

12. The neighbouring dwelling at the Forge is set in an extensive plot with barn to the rear with separation distance of 44m from nearest new dwelling.
13. There is hedgerow to northern boundary which will be retained – if it were to be removed there remains sufficient separation distance and any views from

windows and terraces would be oblique leaving sufficiently private useful and functional outdoor space to provide satisfactory living conditions.

14. There is a sufficient relationship and separation distance between the new dwellings and no. 8 Chestnut Lane for there not to be harmful impact on its amenity.
15. There would be no harmful impact to the amenity of occupiers of on any other dwellings.
16. The Inspector concluded that for the reasons set out the proposal would not result in harm to the occupiers of the Forge or no. 8 Chestnut Lane in terms of outlook, privacy, daylight and overshadowing and would be in accordance with the aims of Policy 10 of the LPP1 or Policy 1 or Policy 11 of the LPP2 in respect of living conditions and with the guidance contained within the Rushcliffe Residential Design Guide.

Other Matters

17. The development meets an exception to inappropriate development set out in the NPPF.
18. The footprint of the development is smaller than the indicative outline scheme and makes up a comparatively limited proportion of the application site with only 3 dwellings of limited scale and massing.
19. The principle of highway and access matters were addressed at outline stage – accesses are safe and there are sufficient parking spaces provided.
20. There is no evidence of oversupply of housing in the Borough and the development would provide required dwellings to contribute to the local mix of housing.
21. Effects on biodiversity, flooding and contamination were considered at outline stage and were subject to condition on the outline planning permission.
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CONCLUSION

23. For the reasons detailed in the appeal decision the Inspector concludes that the proposal would not be harmful to the setting or significance of any non-designated heritage assets, the character and appearance of the area or the living conditions for neighbouring occupiers and is compliance with the

development plan and the Framework taken as a whole. The appeal is therefore allowed. A schedule of conditions has been attached to the appeal decision.

COST DECISION

24. Award of Costs allowed on the following grounds:-

25. The appellants are of the view the Council has behaved unreasonably because there was no reasonable planning basis for the committee to overturn the officer recommendation and refuse the proposals for the reasons it did. They are of the view the Council has made vague generalised or inaccurate assertions, failed to follow established caselaw, refused to approve reserved matters upon matters that should have been raised at the outline stage, or that could have been addressed by conditions upon a reserved matters consent.

26. The first reason for refusal did not state which living conditions, or the occupiers of which properties, it alleges would be harmed. Therefore, the reason for refusal is not clear or intelligible - such a refusal requires clear and justifiable reasons.

27. The Council's appeal submission provides rather limited further explanation and more importantly, reasoned justification for the conclusion reached. Though the reserved matters scheme differs from the indicative outline this does not of itself justify refusing permission. the scale, height, floor levels and window heights of the dwellings are all compliant with the outline permission. The effects of the terraces and side windows could be mitigated by the officer's suggested planning conditions.

28. The second reason for refusal in terms of character and appearance also lacks sufficient reasoning. The Council also fails to adequately substantiate why the massing, proportion and scale of the development would be inconsistent with the site, the surrounding area and the village given how varied they are, and given the scheme is consistent with the conditions of the outline permission.

29. For these reasons and that the scheme is found to be acceptable the Inspector concludes that the Council has made vague, generalised, and inaccurate assertions about the effects of the proposal, and refused a scheme that should have been permitted having regard to the development plan, national policy and other material considerations. It also refused the scheme based upon matters that could have been addressed by conditions attached to a reserved matters consent. Therefore, the Council has behaved unreasonably and resulted in the appellants incurring unnecessary and wasted expense and the full award of costs is justified.

30. The appellants are now to submit to the Council details of these costs with a view to reaching agreement as to the amount.