



Planning Committee

12 April 2018

Planning Appeals

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LOCATION	The Hall Nottingham Road Keyworth Nottinghamshire NG12 5FD	
APPLICATION REFERENCE	17/01549/FUL	
APPEAL REFERENCE	APP/P3040/W/17/3186110	
PROPOSAL	Change of use from restaurant; conversion to four residential apartments	
APPEAL DECISION	Appeal Allowed Award of Costs Allowed	DATE 23rd February 2018

PLANNING OFFICERS OBSERVATIONS

The Inspector considered that the main issue for consideration was the effect of the development on the provision of community facilities. He noted that the restaurant *'is reasonably well related visually and physically to the defined village centre, but it is not within it. Therefore, any policies relating to uses within centres do not apply.'*

The Inspector did not consider the premises to be a community use. Having regard to the Local Plan Policies, the emerging Keyworth Neighbourhood Plan and the NPPF the Inspector considered that, *'The restaurant does not provide a function which is fundamental to the health or well-being of the community, nor does it provide access to goods or services which are critical to meeting everyday needs.'* there was *'no strong policy support for the restaurant being considered a community use.'*

In recognising that, *'certain types of local shop, public houses and some leisure facilities often provide important focal points for local communities and/or ensure access to critical services which are needed for everyday life'* the Inspector was not convinced that the restaurant provided the same function. *'The village is well served by such facilities and thus I would question whether the restaurant performs a critical function in terms of being a place where people meet.'*

The Inspector considered that the *'number of likely linked trips are not likely to be critical to the vitality or viability of any individual business or the village centre as a whole.'* and commented that *'the potential loss of jobs would be unfortunate, but there is nothing before me which indicates the economy of the area is reliant on them'* and that the *'loss of either the restaurant or potential shop unit would not materially harm the vitality and viability of the centre.'* The Inspector gave little weight to the number of comments received on the application relating to the specific nature of the operator, confirming that

the *'planning system does not operate in the interests of individual businesses.'*

In respect of other matters the Inspector considered that, *'The features to be removed are not part of the original building and thus their removal would not have an adverse impact on either the building itself or the street scene. The enclosure would provide a small area of defensible space for future occupants. I am satisfied that the character and appearance of conservation area would be preserved. There is nothing before me to suggest that a development of this scale or in this location would have an unacceptable impact on the living conditions of nearby residents.'*

Considering the planning balance the Inspector commented that, *'Paragraph 7 of the Framework identifies three dimensions of sustainable development. I have found that there would be no conflict with the development plan in terms of the effect on community facilities or the vitality and viability of the nearby centre. The development would be likely to result in the loss of the business and some job losses. However, there is no policy protection for this use and no guarantee it would remain in the long term. There would be social, economic and environmental benefits associated with providing housing in what is recognised as a sustainable location. Four additional residential units would make a small but valuable contribution to the housing land supply. Future occupants would also increase expenditure potential in the area and occupants would have good access to facilities.'*

'Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There is no conflict with the development plan.'

The Inspector allowed the award of costs in dismissing the appeal. In determining the application for an award of costs, the inspector commented, *'It is clear to me that based on the evidence provided that the development should not have been considered in the context of the community facilities policies. I consider the misapplication of the development plan to be evidence of unreasonable behaviour. There were no other adopted policies which provided any protection for the use. The Council also found no harm in relation to any other factor. As such, there was no conflict with the development plan and thus permission should have been granted unless material considerations indicated otherwise.'* In addition, he commented that, *'Overall, I consider that the Council prevented or delayed development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations... As such, the appeal was unnecessary and the preparation of evidence to support the appeal is likely to have led to unnecessary expense.'*

LOCATION	Shire Farm Flawforth Lane Ruddington Nottinghamshire NG11 6NG	
APPLICATION REFERENCE	17/00929/FUL	
APPEAL REFERENCE	APP/P3040/W/17/3183173	
PROPOSAL	Erection of home care annexe	
APPEAL DECISION	Appeal Dismissed	DATE 23rd February 2018

PLANNING OFFICERS OBSERVATIONS

The development proposed was originally described as residential annexe to Shire Farm for the home-care of an elderly and disabled family member requiring 24 hour nursing care.

The Inspector in dismissing the appeal considered that the main issues were:

- i) The effect of the development on the openness of the Green Belt and the purpose of including land within it; and
- ii) Whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

In respect of the openness of the green belt the Inspector commented that:

'The appeal relates to a large detached dwelling set in generous open grounds. The development would be located on an area of open lawn near to a small group of trees. The site is in a corner plot and is the last dwelling in a small grouping of sporadically located dwellings and farms. The character of the site and surroundings is rural in nature, with open fields to the north, south and east of the site.'

Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with their openness and permanence being identified as the essential characteristics of the Green Belt. The site forms part of the open and undeveloped grounds of the main dwelling and is currently free from structures of any size. As a consequence, the development would result in this part of the Green Belt being considerably less open than it is at present. This would be harmful.

Notwithstanding the extent of the visual impact, the proposal would still result in further development in the countryside in excess of that which already exists. It would, therefore, be contrary to the non-encroachment purpose of including this land in the Green Belt. This constitutes additional harm to be weighed against the proposal.'

With regard to whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations the Inspector considered that there was

nothing submitted that, *'satisfactorily demonstrates that suitable alternative accommodation is not available on the site which could achieve the same ends without causing harm to the Green Belt.'* or that *'the only two options available are either the main dwelling or the annexe. There is also nothing before me which demonstrates that there are no facilities or opportunities elsewhere in the local vicinity.'* He went on to comment that *'Personal circumstances rarely outweigh general planning matters because the effect of the development would remain long after the personal circumstances no longer apply. Even if controlled as an annexe, the personal circumstances used to justify the development are likely to change over time. However, the harm to the Green Belt would be permanent.'*

In the Inspectors conclusion he commented that, *'The proposal would result in inappropriate development in the Green Belt. By definition, this would be harmful to the Green Belt and the Framework indicates that such harm should be given substantial weight. I have also given substantial weight to the adverse impact on the openness of the Green Belt and the resulting encroachment into the countryside. The very special circumstances necessary to justify the development do not exist.'*

The appeal was dismissed.