The Planning Inspectorate

Appeal Decision

Site visit made on 22 July 2019

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2019

Appeal Ref: APP/Z2830/W/19/3220528
Land at 35 Station Road, Cogenhoe, NN7 1LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Danelaw Partners LLP against the decision of South Northamptonshire District Council.
- The application Ref S/2018/1466/MAF, dated 21 June 2018, was refused by notice dated 6 December 2018.
- The development proposed is demolition of existing car workshop and erection of 10 residential dwellings.

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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Danelaw Partners LLP against South Northamptonshire District Council. This application is the subject of a separate Decision.

Preliminary matters

3. The Council has recently submitted the Part 2 Local Plan to the Secretary of State (on 22 January 2019). Since this plan is still subject to examination and I have been given no information about the outstanding objections, very limited weight can be given to the emerging policies. I therefore base my consideration of the issues in this appeal on the Council's extant development plan polices.

Main Issues

4. The main issues in this case are i) scale of development proposed and parking provision, and ii) developer contributions.

Reasons

Scale of development proposed and parking provision

5. The principle objection under this issue, is the that the form of triple tandem parking proposed is over dominant and amounts to poor design. Section 3.1 in Chapter 3 of the Council's Supplementary Planning Document 'Parking: Standards and Design' adopted in 2018 (SPD), sets out the general approach to parking in residential developments. It sets out that parking for each dwelling is best located on plot, at the side of the dwelling. In circumstances

where this is not possible, small parking courts of up to 10 spaces may be acceptable. It states that on-plot parking to the front of a dwelling pushes buildings back from the highway and so is generally unacceptable and should only be used in exceptional circumstances.

6. In general the layout of the appeal development follows this guidance as most of the parking is placed at the side of the dwellings. However, the houses fronting onto York Avenue include parking forward of the building line which produces a street scene where parked cars are too conspicuous and detract from the otherwise satisfactory quality of the design. The western most house fronting Station Road also has parking at the front of the dwelling, but here it is more acceptable because the cars would not be as conspicuous because of the frontage trees and the relatively narrow access is to one side. I find that the solution to car parking provision adopted in the appeal scheme for the housing fronting onto York Avenue demonstrates the effect that the guidance advises against.

7. Section 3.2 sets out the parking standards for residential development. These are stated to be minimum standards and are a change of approach to the previous maximum standards. This reflects the fact that the aim of the maximum standards was to discourage car ownership but this was found not to be effective with the result that car parking took place in inappropriate or inconvenient places.

8. The appeal proposal makes greater provision than the minimum standards laid down in the SPD, which I consider is satisfactory providing that the greater level of parking provision does not harm the overall design quality of the development. In this case, I consider that the result of providing for the level of parking that has been adopted in the scheme does harm the design to an unacceptable extent. This is because parked vehicles are too dominant in the street scene, which the guidance under 3.1 seeks to avoid.

9. Since the Council's standards are expressed as minimum, it is clearly up to the developer to determine what level of parking the scheme requires, providing that at least the minimum is achieved. However, the space available on the site and the number of dwellings that it is desired to provide may not allow a satisfactory design to be achieved. That appears to be the case here.

10. In addition there is the question of the fact that all but 1 of the proposed houses do not have the facility for cars to enter and leave the parking area in a forward gear. This means that cars will have to be either reversed from the highway into the parking space or will reverse out of the space onto the carriageway.

11. There are many examples that can usually be found in towns and villages of housing having this form of parking provision, and the SPD contains illustrations of this form, which are shown as satisfactory. Much will depend on the nature of the road to which the development fronts and the amount of traffic. In the appeal case the roads are not quiet residential streets, but through roads, and in the case of Station Road, a classified road.

12. This brings me to the matter of the tandem arrangement for parking up to 3 cars, which is the case for 7 of the proposed houses. With a tandem arrangement for even 2 cars, there will inevitably be many occasions when the car furthest from the road will be needed, requiring the other car to be

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removed first. With 3 tandem spaces this is likely to be a more frequent occurrence. The amount of manoeuvring on the highway that this involves is not satisfactory as inconvenience and possibly the safety of other road users is likely to occur. In the case of the Station Road frontage the situation is exacerbated by the kerb-side parking that already takes place on the opposite side of the road. I note that the highway authority did not raise an objection to the scheme, but that does not deal with the other matters dealt with above, and I consider that this is an unsatisfactory aspect of the appeal scheme.

13. I appreciate that the continued use of the appeal site for some form of B2 industrial use is posible, but that does not deal with the issue of the appearance of the scheme. Furthermore, it is unlikely that the issue of manoeuvring on the highway would occur to the same extent in the event of a B2 use continuing on the site.

14. I find that the layout of the appeal scheme is unsatisfactory and that the refusal of planning permission is justified.

Developer contributions

15. The Council sought the completion of a section 106 obligation to secure the following:
a) a contribution towards offsite leisure and play facilities within the village (such as in the area of open play space located along York Avenue) which under the SPD would be equal to £300 per residential unit to give an overall total of £3000.
b) a contribution towards kerbside recycling which under the SPD would be equal to £55 per residential unit to give an overall total of £550.
c) the request made by the Parish Council for improvements towards the bus shelter, to include £8000 plus £2000 pounds for a true form bus stop pole; and funding of £1200 pounds for a four weekly travel pass for each of the 10 dwellings to provide unlimited travel between Cogenhoe and Northampton on the local bus service.
d) a public art contribution of £3000 as requested by the Parish Council and accepted by the applicant towards the Village clock.

16. These contributions were refused by the appellant, save for a willingness to make a donation towards the village clock as a gesture of goodwill – an offer subsequently withdrawn because of the delay and cost of making an appeal. The basis for this refusal was that the requested contributions were not compliant with Community Infrastructure Levy Regulation 122. For non-CIL development the Regulation 122 criteria are also set out in paragraph 56 of the Framework. These tests are that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is — (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

17. The appellant considers that the requested contributions are not compliant with these tests, and therefore not lawful. Reference is also made to Planning Practice Guidance, that tariff-style contributions should not be sought from developments of 10 units or less. Of the infrastructure identified by the Council, it is contended that off-site leisure and play facilities, and kerbside recycling, are items that can only be calculated by way of a formula or tariff applied on a per-household basis. The appellant also notes that the Joint Core Strategy pre-

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dates the ministerial statement concerning obligations and small sites that has been incorporated into national policy and that it is therefore inconsistent with the Framework in this respect. Furthermore, the Community Infrastructure Levy that would be charged on the development would be available to spend on local infrastructure such as the offsite leisure and play facilities and kerbside recycling.

18. In my view the sums sought for offsite leisure and play facilities and kerbside recycling are clearly worked out on a tariff basis. The reliance on Planning Practice Guidance in this respect goes back to the Written Statement (MWS) made by the then Minister of State for Housing and Planning (Brandon Lewis) on 28 Nov 2014. This included the statement that, for housing sites of 10 units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. I understand that WMSs cannot be cancelled or withdrawn and, as they remain extant, the statements of policy within them may remain a potential relevant material consideration in decision-making. If they have clearly been overtaken by subsequent published government policy, this will need to be taken into account.

19. The small-site exception policy has been carried forward in the Revised Framework, but this indicates only that affordable housing contributions should not be sought for non-major development. Major development is defined in the Glossary of the Revised Framework as, for housing, development where 10 or more homes will be provided or the site has an area of 0.5 hectares or more. This is different from the threshold in the WMS and the appeal proposal comes within the definition of major development.

20. Therefore, certainly as far as affordable housing is concerned, national policy has changed, although the Revised Framework is silent in respect of tariff style contributions. It might be assumed that if the 10 units or less policy for these contributions were intended to continue, the opportunity to express it in the Framework would have been taken.

21. Bearing in mind that I have already concluded that the refusal of planning permission is justified by the first issue, and that the question of the continuing relevance of the WMS that I have raised has not been addressed by the parties in their appeal representations, I consider that there is no need for me to do other than comment on the second issue.

22. The Supplementary Planning Document (SPD) on Developer Contributions, which is the policy basis for the contributions sought in this case, is dated December 2010. This is shortly after the Community Infrastructure Levy (CIL) legislation came into force earlier that year. It would appear that there has been no review of the SPD since the Council brought its CIL Charging Schedule into force. It seems to me that, as argued by the appellant, that some of the contributions might well be appropriately collected through the CIL, rather than through section 106 obligations.

23. On this basis, I am not convinced of the justification for the leisure and play facilities, although the kerbside recycling element might well be justified on the basis that it directly relates to the appeal development. The bus shelter, at £8000, plus £2000 pounds for a true form bus stop pole, might well be a CIL item, although there is justification for the funding of £1200 pounds for a four weekly travel pass for each of the 10 dwellings. From the evidence before me, I

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cannot see any reasonable basis on which the Regulation 122 criteria and Framework paragraph 56 tests would be met, requiring the contribution towards the village clock.

Other matters

24. The density of the proposed development is raised. Paragraph 4.60 of the Council's Residential Design Guide explains that the centre of existing larger villages in the district tend to display a density of 20-30dph. The proposed density of under 35 dwellings per hectare may well be acceptable in a large village. But what is acceptable at any given density depends on the nature of the development proposed. Clearly a flatted development may achieve a higher density in a satisfactory form than a development of houses. In this case it is not the calculated density that is telling, but the details of the scheme that is achieved.

25. I have taken account of all other matters raised but I conclude that the appeal should be dismissed.

Terrence Kemmann-Lane

INSPECTOR

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