



## Appeal Decision

Site visit made on 10 January 2022

by **Ben Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 January 2022**

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**Appeal Ref: APP/G2815/W/21/3277113**

**11 Higham Road, Rushden NN10 6EB**

- 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 Mr Antonio Di-Fazio against the decision of East Northamptonshire Council.
  - The application Ref NE/21/00063/FUL, dated 12 January 2021, was refused by notice dated 25 March 2021.
  - The development proposed is the demolition of a dwelling and the erection of 7no. dwellings with new and altered access.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposed development on the living conditions of future occupiers with particular regard to privacy, use of the access and the provision of parking,
  - The effect on the proposed dwellings on the character and appearance of the area, with respect to the size of the rear gardens, and
  - Whether the proposal would affect the integrity of the Upper Nene Gravel Pits Special Protection Area (SPA) and its effect on local air pollution.

### Reasons

#### *Living conditions*

3. The appeal site is adjacent to 9 Higham Road (No 9). The neighbouring dwelling has two first-floor, and one ground-floor, side windows that appear to serve habitable rooms. The proposed development, being a perimeter block formation, would be largely consistent with the local pattern of development. Nevertheless, this would result in a layout where the rear garden of plot one would be overlooked by occupiers of No 9 and plot 3. The views from windows of these properties into the garden would be over a short distance. Consequently, the extent of overlooking would be overt and direct, reducing the usefulness of the garden and the privacy enjoyed by its occupiers. Moreover, the degree of overlooking would be increased, from No 9, due to its higher elevation. I am unconvinced that landscaping or screening would adequately mitigate this effect.

4. Furthermore, plots two and three, would also include rear windows of habitable rooms at first floor. Due to their location and proximity to boundaries, these windows would also enable occupiers to overlook each other's gardens, over an extremely short distance. Therefore, despite the urban setting of the site, the layout would result in an absence of privacy within these rear gardens. This would demonstrably harm the living conditions of future occupiers of plots one, two and three.
5. The Council has not identified a policy requirement with respect to the size of residential gardens. Nevertheless, the majority of these would be a uniform size and shape and provide adequate recreational space. However, the gardens of units two and three would be small, and an awkward shape. This would limit their usefulness. Consequently, these gardens would present a poor-quality external environment for future occupiers. The quality of these spaces would be further denuded by the privacy concerns already expressed.
6. Turning to the proposed access, the footway adjacent to the highway is of sufficient depth to enable good visibility for motorists exiting the site. Nevertheless, the access would not meet the requirements of the County's standing advice in terms of its width. This requires residential development, of over 5 dwellings, to include an access of sufficient width to be of an adoptable standard. Nonetheless, the access would be able to accommodate two-way traffic movements and would include a separate pedestrian path. As such, whilst the shared driveway may present some challenging management and maintenance issues, this could be addressed by a suitably worded condition. Accordingly, the access would be able to provide for the requirements of the proposed development without causing detriment to its users.
7. The proposed layout would provide 12 parking spaces. This would be arranged in a generous layout, with adequate manoeuvring space to enable vehicles to enter and exit in a forward gear. However, the County's parking standards<sup>1</sup>, seek a minimum provision of two spaces per three-bedroom dwelling and a visitor space. The proposed parking provision is below these standards. On-street parking opposite the site is limited and double yellow lines restrict most parking in front and around the site.
8. The site is within a short walk of Rushden Town Centre and there are several bus services that operate within the area. The Appellant's car parking analysis shows that local car ownership is around 1.5 cars per dwelling. However, the area includes a substantial quantity of housing with limited on-plot parking, potentially suppressing car ownership in the area. Furthermore, the site is not within a town centre location. Consequently, nearby bus services would be insufficient to compensate for the limited parking provision within the scheme. The site would not be in a location that offers genuine choice of transport modes as required by paragraph 105 of the Framework. As such, the absence of adequate on-site parking would result in a poor-quality development that would not adequately provide for the needs of future occupiers.
9. Consequently, the proposal would result in poor living conditions for future occupiers with respect to privacy and parking provision. As such, with regard to the effect on living conditions, the proposal would conflict with policy 8(e)(i) and (b) of the North Northamptonshire Joint Core Strategy (2016) (JCS) and policies EN1 and T1 of the Rushden Neighbourhood Plan (2018) (RNP). It would

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<sup>1</sup> Northamptonshire Parking Standards, supplementary planning guidance 2016

also conflict with the National Planning Policy Framework (The Framework) and the National Design Guide. These seek development, among other matters, to protect the amenity of future occupiers by not resulting in an unacceptable impact on overlooking, ensure a satisfactory provision of parking and for development to function well.

#### *Character and appearance*

10. Higham Road is a residential street within an urban environment. Local housing is a diverse range of styles spanning from traditional Victorian terraces to more modern infill development. Many of these dwellings are built close to the highway. The appeal site consists of a detached dormer bungalow with a series of connected rear extensions forming a wide and deep building. It is slightly elevated from the highway especially with respect to its boundary with Washbrook Road. The dwelling is recessed from both adjacent highways and has a simple design. As such, the site makes a neutral contribution to the character and appearance of the area.
11. The proposed scheme would result in a pattern of development that would be prominent in comparison to the existing dwelling due to its increased height, proximity to the road and elevated position. The scale and proposed materials of the proposal would be commensurate with the form and appearance of local buildings. Consequently, the scale and general density of the proposal would suit the local context.
12. The proposed rear gardens would be arranged adjacent to the car parking area. These would be smaller than the size of most gardens in the local vicinity. Nevertheless, being to the rear the gardens would not be overt in the streetscene. Consequently, the arrangement and size of the proposed rear gardens and the development, as a whole, would complement the character and appearance of the surrounding area.
13. The proposed development would therefore accord with policy 8(d) of the JCS, policy EN1 of the RNP and the Framework and the National Design Guide. These require, with respect to character, for development to respond to a site's context and be sympathetic to local character.

#### *Special Protection area*

14. The JCS includes policies to protect the Upper Nene Valley Gravel Pits Special (SPA). The appeal site is in a location where occupiers of the development are likely to use the SPA for recreational purposes. Thus, I cannot rule out the possibility that the development would have adverse effects on the integrity of the designated area, either alone or in combination with other planned development. In those circumstances, having regard to the Habitats Regulations, planning permission should not be granted unless an Appropriate Assessment (AA) has been undertaken to assess the likely effects. Such an assessment is necessary regardless of the status of the emerging policies of the development plan.
15. Following recent case law, potential mitigation cannot be taken into account when determining whether an AA is required. However, it may be considered if an AA has been undertaken and determined that the development would harm the integrity of the SPA. The Appellant has paid a financial contribution in accordance with the mitigation measures required by the Upper Nene Valley

Gravel Pits SPA Supplementary Planning Guidance. However, as I am dismissing the appeal for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.

16. Turning to the pollution effects of the development, the Council identifies that the scheme would not accord with the East Midlands Air Quality Network Guidance. However, the evidence does not indicate that this document has been incorporated into planning policy and is therefore of limited weight in my consideration of this matter. Furthermore, the Appellant's Air Quality Assessment<sup>2</sup> demonstrates that the required air quality standards would be met. Also, air quality management measures as advanced by paragraph 186 of the Framework, such as the provision of electric car charging, could be addressed through a condition had I been minded to allow the appeal. Accordingly, in regard to air quality, the proposal would comply with policy 8(e)(ii) of the JCS where it seeks to prevent new development from contributing towards local air pollution.

### **Conclusion**

17. The Framework seeks to significantly boost the supply of housing. The scheme would make efficient use of land, on previously developed land within a settlement boundary. The scheme would also be in character with the local area. These merits weigh in favour of the scheme.
18. However, the proposal would result in a scheme that would suffer significant overlooking and have insufficient parking provision and would not therefore function well. Consequently, it would conflict with the development plan when taken as a whole. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*Ben Plenty*

INSPECTOR

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<sup>2</sup> Air Quality Assessment, by Viridian-Air, dated January/August 2021