
Appeal Decision

Site visit made on 13 September 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 September 2016

Appeal Ref: APP/E2001/W/16/3151522

6 Hollym Road, Withernsea, East Riding of Yorkshire HU19 2PJ

- 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 R Kelly against East Riding of Yorkshire Council.
 - The application Ref DC/15/03760/PLF, is dated 1 February 2016.
 - The development proposed is multi use development, including commercial and residential units.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matter

2. Although the Council advise that the application was refused on 27 May 2016 which was just before the appeal was made I have not been provided with a copy of a decision notice and I have therefore considered the appeal on the basis of an appeal against non-determination. However, the Council's officer report sets out the reasons that they were minded to refuse the application and which have informed the identification of the main issues below.

Main Issues

3. Therefore, the main issues raised by this appeal are the effect the proposed access and parking arrangements would have on highway safety and the effect proposed development would have on the living conditions of future residential occupiers, with particular reference to the suitability of outdoor space, outlook, overlooking and disturbance from adjacent commercial activities.

Reasons

Highway safety

4. The scheme includes the demolition of two dwellings, Nos 6 and 8 Hollym Road, and the erection of a terrace of four bungalows behind a proposed commercial building. This would face onto the forecourt of an existing petrol filling station which would remain.
 5. The proposed houses would be served by a new access between 10 Hollym Road and the proposed shop and office block. This access would be situated close to the petrol filling station forecourt and the junctions where Holmpton Road and Chestnut Avenue join Hollym Road. Parking restrictions in the form
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- of double yellow lines extend across the frontage of the petrol filling station and No 6 as well as the opposite corner of Chestnut Avenue.
6. The proposed access road would be narrow and not be wide enough to allow vehicles to pass one another along its length. Vehicles using the access would only be able to turn around by using the parking forecourts to the front of the proposed dwellings, and even then the space available for doing so would be very constrained. The proximity of the proposed access to No 10 and the proposed commercial building would be such that drivers approaching the site along Hollym Road would not be likely to see very far up the access and therefore observe vehicles, cyclists or pedestrians wishing to exit, until they had committed to turning.
 7. The effect of this would be that should a vehicle travelling from the south wish to enter the access and encounter another wishing to exit, the former would in all likelihood have to reverse back into Hollym Road. Vehicles approaching from the north may be more likely to have an opportunity to observe exiting vehicles before committing to turn in, but the arrangements would nevertheless not eliminate the possibility that they may have to abort a manoeuvre whilst across the carriageway of Hollym Road. The constrained relationship between the forecourt of plot 4 at the end of the access and the uncertainty that forecourts would be available for visiting and service vehicles to turn may also lead to some vehicles attempting to exit the access in reverse gear.
 8. The combined effects of the constrained nature of the access and its proximity to the nearby road junctions and that of petrol filling station, along with the likely intensification of use associated with the proposed shop and offices, would mean that such manoeuvres could bring vehicles into conflict with others using Hollym Road as well as cyclists and pedestrians with consequent harm to safety. Further limits to visibility for reversing vehicles as a result of cars parked along Hollym Road to the south would compound the potential for conflict.
 9. Whilst the levels of vehicle movements associated with four dwellings may mean that such instances may not be frequent, their effects would be severe. Although the drives to some dwellings in the vicinity are of a configuration where vehicles may have to reverse off or onto Hollym Road currently, these serve single dwellings and would be used materially less intensively than the proposed access.
 10. The proposal would provide for a new retail area and offices divided into six suites as well as the retention of the existing shop (shown on some drawings). On the basis of the information provided it would be likely that such a range of uses would attract more occupiers', customers' and service vehicles than could be adequately accommodated on the site whilst enabling the petrol filling station to operate effectively.
 11. Whilst there would appear to be opportunities for on street parking along Hollym Road to the south of the site, in all likelihood such vehicles would attempt to park on or close to the site as a first choice. The combination of the limited parking spaces which would be available and the vehicle movements associated with the petrol filling station could lead to reversing and other manoeuvres within the highway close to other road junctions which would be likely to lead to conflicts with pedestrian, cycle and vehicular traffic. Bearing in

mind the Highway Management information provided in support of the Council's position and in the absence of any evidence to the contrary, this would result in harm to the safety of all users of the highway, the consequences of which could be severe.

12. The appellant considers that vehicle movements associated with the petrol filling station have reduced by 65% over the past few years. However there is little substantive evidence to suggest that the proposed vehicle movements would be less than that previously associated with the various activities that have taken place on the site nor that this would necessarily avoid the harm identified, particularly with the variety of proposed uses and separate residential access.
13. Inasmuch as a more appropriate parking and servicing provision within the site may go some way to avoiding this harm the proposal would be contrary to East Riding Local Plan Strategy Document, 2016 (ERLPSD) Policy EC4, in particular criteria C. 2. and 3. The lack of a safe access would not comply with criterion B. 9. of ERLPSD Policy ENV1. The residual cumulative impacts of the proposal in this respect would be severe, circumstances the National Planning Policy Framework (the Framework) identifies where development can be prevented or refused on transport grounds.

Living conditions of future occupiers

14. The proposed dwellings would be single storey and back onto the rear of a terrace of two storey houses on Chestnut Avenue. The first floor windows of these existing dwellings would overlook part of the rear gardens and the kitchen and bedroom windows of the proposed dwellings, in particular those of plots 2, 3 and 4, and would be in close proximity to them. This would result in an unacceptable loss of privacy to, and consequently harm to the living conditions of, future occupiers of those proposed dwellings.
15. There is a discrepancy between the drawings with one layout showing the replacement of the existing shop with a 'Car Wash Canopy' and others showing the retention of the shop. A 2m high brick wall is illustrated on the former layout separating the proposed car wash area (and other activities on the petrol filling station forecourt) from the rear of Plot 1.
16. However there is little evidence to indicate that the living conditions of the occupiers of plot 1 would not be adversely affected by the operation of such a use with its associated potential for noise and disturbance in such close proximity to the proposed dwelling. There is insufficient information to indicate whether any mitigation may be appropriate which would not adversely affect the commercial operation of the petrol filling station and/or proposed commercial uses on the site. It has consequently not been demonstrated that future occupiers' living conditions would not be harmed as a result of the juxtaposition of proposed uses.
17. For these reasons the proposal would not achieve a high quality design having regard to the amenity of proposed properties, contrary to ERLPSD Policy ENV1, criterion B. 4. For the same reasons the proposal would not accord with the Framework's core planning principle of always seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

18. The spaces to the front of the dwellings would be likely to be occupied by parked cars. However, whilst those outdoor areas at the rear would be compact, they would not be so small that occupiers could not reasonably use them to relax or carry out domestic tasks in them. Similarly, whilst the outlook from the front of the dwellings would be limited by any boundary treatment opposite and the intervening car parking and that at the rear by the size of the small gardens, this outlook would not be so constrained that it would make the dwellings appear overly confined or otherwise materially harm the living conditions of future occupiers.

Other Matters

19. I can appreciate the appellant's aspirations to retain the viability of the petrol filling station and shop with consequent economic and employment benefits which would also ensure the facility, which is the only one in Withernsea, remains available for the benefit of residents and customers. The proposal would also deliver two additional dwellings which the appellant considers would be low cost. However, there is no evidence to suggest that the proposed development would be the only way to ensure that these objectives and benefits, important though they would be, could be delivered and they would therefore not overcome the material harm identified above.
20. In support of the appeal I have been referred to several other developments in Withernsea which the appellant contends have limited or no parking and/or private space. However, notwithstanding the Council's acceptance that there are poor quality developments elsewhere within the town, I do not have full details of the circumstances that led to these developments being accepted. Therefore I cannot be sure that they represent a direct parallel to the appeal proposal, including in respect of adjoining highway conditions, relationship of existing and proposed dwellings, mix of uses and development plan policies. In any event I have determined the appeal on its own merits.
21. Although the appellant considers that the existing condition and configuration of Nos 6 and 8 makes their replacement appropriate, the above reasons indicate that this would similarly not outweigh the harm which would result from the replacement scheme.

Conclusion

22. For the above reasons, and having regard to all other matters raised, the proposal would cause material harm to the safety of the users of the highway and to the living conditions of future occupiers, contrary to the development plan and the Framework. The appeal is therefore dismissed and planning permission refused.

Geoff Underwood

INSPECTOR