
Appeal Decision

Site visit made on 11 April 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 17 May 2017

Appeal Ref: APP/R1038/W/16/3166102

Belmont Park, Holymoore Road, Holymoorside S42 7DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Daryll Camm against the decision of North East Derbyshire District Council.
 - The application Ref 16/00867/OL, dated 17 August 2016, was refused by notice dated 26 October 2016.
 - The development proposed is outline application with all matters reserved for the erection of one dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of one dwelling at Belmont Park, Holymoore Road, Holymoorside S42 7DN in accordance with the terms of the application, Ref 16/00867/OL, dated 17 August 2016, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Daryll Camm against North East Derbyshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with all matters reserved for future consideration. Indicative plans have been submitted which have formed part of my consideration of this appeal.
 4. The Council suggest in their Appeal Statement that part of the site appears to be outside the settlement development limit of Holymoorside (SDL) and thus within the Green Belt. However, this view is not conclusive. The area concerned, would be used for access and parking purposes according to the indicative plans. I agree with the parties that due to the scale and resolution of the Council's Proposal Map that it is not possible to precisely plot the SDL boundary in relation to the appeal site. The Council suggest it roughly appears to run in line with the rear boundary of Pen-Y-Bryn which seems to abut the open parkland to the east. Given the boundary treatments and the strong landscape screen between the site, Pen-Y-Bryn and the open parkland beyond, I consider that the site lies in the SDL and not in the Green Belt. I note this view is consistent with that expressed in the report to the planning committee.
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Main Issues

5. The main issues are the effect of the proposal on: (i) the character and appearance of the area; and (ii) the living conditions and wellbeing of residents of Belmont Park, with regards to amenity space provision, noise, disturbance, light and privacy.

Reasons

Character and appearance

6. The appeal site is to the rear of a three and four storey block of apartments (Belmont Park) that are set back from Holymoore Road that, in general, contains two storey detached dwellings of various architectural styles and finishes. The appeal site is largely grassed. However, to the east, beyond a fence lined by semi-mature trees and shrubs is open parkland. A number of the trees are subject of Tree Preservation Order No 247 which also covers the western part of the site. This area has numerous mature trees.
7. Paragraph 17 of the National Planning Policy Framework (the Framework) explains that *planning should take account of the different roles and character of different areas*. Appendix 1 of The Submission Draft Holymoorside and Walton Neighbourhood Plan (Neighbourhood Plan) identifies 'Belmont, Holymoore Road' as a non-designated building of local architectural and or historic interest. I understand that this is Belmont Park.
8. The proposal would result in the loss of part of the site's verdant character due to the new built form. It could however be fenced off at any time by the appellant. Nevertheless the site is well screened by mature vegetation along the eastern boundary from Baslow Road. It would also be obscured entirely from Holymoore Road by Belmont Park. Thus, the appeal site is not, in my opinion, prominent or a gateway to the village in the same way as Belmont Cottage could be considered to be. As a result, even though the site does afford a gradual transition to the open parkland, the line of mature landscaping provides a definitive edge to the western boundary. While a dwelling would be very noticeable from the rear elevation of the apartments, it would be viewed in the wider context of Belmont Park, which includes the hardstanding that extends across much of the western boundary. Thus, a dwelling and its associated access and parking would not be uncharacteristic in terms of the transition from the village's built form to the countryside.
9. The dwelling would be set way back from the properties that front Holymoore Road. However the position of development off Holymoore Road is varied and the site is obscured from view. Consequently, I do not consider the proposal would harm the coherence of development, nor would it affect the 'soft edge', due to the extensive hardstanding next to the site. While, new built form would be introduced, it would not unduly affect this verdant spacious plot, which is an underlying characteristic of the locality. I am also mindful that the appearance, layout and scale would all be matters for future consideration, but I do not consider that it would affect the significance of Belmont Park.
10. I acknowledge the Council suggest they will soon be able to demonstrate a five-year supply of deliverable housing sites as required by paragraph 47 of the Framework, but current evidence¹ puts the housing supply at 3.8 years. Thus,

¹ Annual Monitoring Report from 1 April 2016

there is not currently a five-year supply. However, the weight to be attached to saved Policies GS5 and H12 of The North East Derbyshire Local Plan (Local Plan) is not decisive as a dwelling would not have wide-ranging effects on the character and appearance of the area or its local distinctiveness. Also, for the same reasons, despite the need for further consultation and examination, the weight to be attached to Neighbourhood Plan Policy Statement S1 and Policy S2 is also not determinative to this appeal, as the proposal would not harm the character and appearance in the SDL.

11. For these reasons, I conclude on this issue that the proposal would comply with saved Local Plan Policies GS5 and H12, Policy Statement 1 and Policy S2 of the Neighbourhood Plan and paragraph 17 of the Framework. Jointly these policies seek, among other things, development to be small scale and not to be detrimental to the character and appearance of the site and its surrounding environment so as to maintain and contribute to local distinctiveness.

Living conditions

12. Directly behind the apartments, either side of the vehicular access, are grassed areas which appear to be used as amenity spaces by current occupants. A timber post and rail fence encloses these areas which contain picnic tables and benches, a bench and a number of plant pots. Whilst part of the area to the rear of 19 to 23 Belmont Park is not enclosed and slopes down to the appeal site, I understand the site could, at the appellant's discretion, be fenced off at any time to prevent access. This is not disputed by the Council or residents and I noted the apartments nearest to the site are dated as 2008, which is well before the Council granted outline planning permission in May 2013². Still, the areas directly behind the apartments and outside of the appeal site would provide an adequate amenity space provision for the owner occupiers of the apartments, even if their ownership post-dates the 2013 outline permission.
13. Concerns are raised about noise and disturbance arising from comings and goings from the proposed dwelling. Future occupants of the appeal scheme would need to use the existing access from Holymoore Road. While this is close to a number of apartments, it is already well used for comings and goings of occupants and visitors to the 24 apartments, plus any services, deliveries and refuse collections. The difference would therefore be insignificant for a single extra dwelling. In terms of noise and disturbance from the dwelling's construction, I recognise the effects would be harmful. However the harm would only be temporary. On this basis, the proposal would not damage either current or future occupants living conditions in this regard.
14. Due to the position of the appeal site, any dwelling could be positioned at an oblique angle to the rear elevation to Nos 19 to 23. This would allow separation standards to be maintained in excess of the Successful Places Supplementary Planning Document (SPSPD). The appearance, scale and layout of the dwelling are for future consideration. Any reserved matters proposal would also need to show the room layouts, the position of windows and the glazing treatment. Nonetheless, given the mature TPO trees are to be retained, I consider in principle a dwelling could be accommodated in the site without affecting occupants' privacy and the light of neighbouring occupants.
15. Although a new dwelling is likely to create domestic paraphernalia, I do not

² Council Application Ref: 12/01025/OL

consider that this would be harmful to the visual amenity of residents, given the existing large expanse of hardstanding, garden furniture and boundary treatments on and near to the appeal site.

16. Accordingly, on this issue, I conclude that the proposal would comply with saved Local Plan Policies GS5 and H12, the SPSSPS, Neighbourhood Plan Policy Statement S1 and Policy S2 along with paragraph 17 of the Framework. These policies together, among other things, seek development to be compatible with neighbouring properties so that it does not have a detrimental effect on the amenities of neighbouring occupiers.

Other Matters

17. I note residents' highway safety concerns, but the indicative plan illustrates the site is big enough to provide parking and turning facilities without affecting the apartment's access and car parking provision. The proposal's scale would also mean that there would not be a significant increase in movements to and from the site. There is also a good visibility in both directions on Holymoore Road and a deep footway along the eastern side of the road. As a result, I do not consider that the proposal would result in harm to highway safety.
18. While concerns are raised in respect of the loss of wildlife and trees, there is no evidence to suggest that there is a reasonable likelihood of protected species being present or that the proposal would cause harm as a result to either. Points around wear and tear of the access would need to be addressed in any reserved matters application and the ongoing maintenance of land belonging to Belmont Park would be matter between the appellant and those concerned.

Conclusion and Conditions

19. I have had regard to the conditions suggested by the Council. I have imposed conditions for tree protection measures and ground levels in the interests of character and appearance. To mitigate for the effects of climate change, I have imposed a condition so the dwelling contributes to achieving this through its design. In the interests of residents living conditions, I have imposed conditions to control construction hours, the hours of deliveries, secure details of how plant and materials would be stored and how vehicles may access the site and park during the dwelling's construction. I have imposed a condition so details of the vehicle parking and manoeuvring along with their surfacing come forward in the interests of highway. I have imposed a condition concerning any suspected contaminated areas being found during construction, in the interests of future occupants' health.
20. I acknowledge elected members are not bound by the recommendations of their officers, and decision makers are required to balance a number of issues. Nevertheless the proposal accords with the development plan and the Framework, even accounting for the modest positive contribution a single dwelling would make to the district's housing supply.
21. For the reasons set out above, I conclude that the appeal should succeed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Before development starts details shall be submitted to and approved in writing by the local planning authority showing:
 - i) a plan showing the position, species and crown spread of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating if any trees are to be removed;
 - ii) a schedule in relation to every tree identified listing:
 - information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
 - any proposed pruning, felling or other work;
 - iii) in relation to every existing tree identified to be retained on the plan referred to in i) above, details of:
 - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
 - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
 - iv) areas of existing landscaping to be protected from construction operations and the method of protection.
- 4) Before development starts details of the existing ground levels, proposed finish floor levels of the dwelling and the proposed finish ground levels of the site, shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 5) Construction works on site and deliveries to the site shall be undertaken between the hours of 7.30am to 6pm Monday to Friday and 7.30am to 12pm on Saturday. There shall be no work of any kind undertaken on site or deliveries to the site on Sundays, bank holidays or public holidays.
- 6) Before development starts a plan showing vehicle parking and manoeuvring areas and their surfacing shall be submitted to and approved in writing by the local planning authority. Before the dwelling is first brought occupied the approved scheme shall be implemented in full and retained as approved thereafter. The parking and manoeuvring areas shall not be used for any purpose other than the parking and manoeuvring of vehicles.
- 7) Before development starts (excluding site clearance), a scheme shall be submitted to and approved in writing by the local planning authority with

details of storage of plant and materials, parking and manoeuvring areas for site operatives' and visitors' vehicles, loading/unloading and manoeuvring areas for goods vehicles. Thereafter, before any operations are commenced the scheme shall be implemented in accordance with the approved details, and retained as such for the duration of the works.

- 8) Before development starts, a scheme including a timetable for implementation shall be submitted to and approved in writing by the local planning authority to demonstrate how the development will mitigate the impacts of climate change through the design of the buildings and the site. Thereafter the scheme shall be implemented in accordance with the approved details and retained as such thereafter.
- 9) If during construction works associated with the development hereby approved, any areas suspected of being contaminated are discovered, all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority. The assessment shall take the form of a Phase I contaminated land assessment (desk-study) and shall detail the site investigation strategy required to deal with the contamination identified. Any investigation required shall be undertaken in accordance with the scheme submitted and shall comply with current Government Guidance. The local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. Upon completion of the remediation works carried out in accordance with the site investigation strategy; a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.