
Appeal Decision

Site visit made on 20 June 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 6th September 2017

Appeal Ref: APP/W4515/W/17/3172154

Land west of Weetslade Court, Wideopen, Newcastle Upon Tyne, NE13 6LG

- 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 Ranjit Chahal against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref: 16/01323/FUL, dated 9 August 2016, was refused by notice dated 4 November 2016.
 - The development proposed is 4no. two bed semi-detached houses and 4no. three bed semi-detached houses.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of the development given on the planning application form is 'Proposed development of 2 no. 2-Bed semi-detached houses and 2 no. 3-Bed semi-detached houses'. The decision notice describes it as "4no. two bed semi-detached houses and 4no. three bed semi-detached houses" which, from the submitted plans, is what the proposed development comprises. I note that this has also been used on appeal form. As this accurately sets out the development proposed, I have used the latter description for the purposes of the appeal. I note that the Council have used a different address for the site on the decision notice, however, I saw from my site visit that the site address could realistically be given as either.
3. On 20 July 2017 the Council adopted the North Tyneside Local Plan 2017 (the Local Plan). This replaces all of the policies in the previous Unitary Development Plan of 2002 (UDP). The main parties were given the opportunity to comment on any implications that this may have for the appeal and I have taken the comments received into account. Policies H5, H11 and Development Control Policy Statement 14 of the UDP, which are the main policies relied on in the Council's reasons for refusal, have been replaced by Local Plan Policy DM6.1. In respect of drainage, Local Plan Policies DM5.12, DM5.14 and DM5.15 are now the relevant policies. I have therefore determined the appeal on this basis.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;

- The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to privacy and overlooking; and
- Whether there is scope within the site to make adequate provision for drainage for the proposed development.

Reasons

Character and appearance

5. Local Plan Policy DM6.1 seeks to ensure that new development is of a high standard of design, specific to its location and based on a clear analysis of the site, the wider context and surrounding area, and which has a positive relationship to neighbouring buildings.
6. The appeal site comprises approximately 1,400 square metres of vacant land adjacent to the B1318 road, which is a busy through route. It is located at the junction of the B1318 and Havannah Drive, which leads to an area of new housing development. It is currently overgrown with a variety of grasses and vegetation. On the western boundary of the site is a remnant hedgerow with taller planting behind which appears to be part of an adjacent development.
7. The surrounding area is primarily residential in nature with large two storey semi-detached houses on each side of the road to the south of the appeal site. Opposite the appeal site is a two storey residential care home and to the north and east, recently constructed two and three storey houses and flats. The B1318 has the character of a busy urban road with ribbons of residential development set back from the highway and separated from it by relatively deep front garden areas.
8. Whilst there is a range of architectural styles and different ages of buildings in the area, to the south of the appeal site, the existing housing at The Villas forms a continuous building line that is strongly evident from the road despite the front garden areas having varying lengths. This building line is mirrored by the new housing that has been built to the north of Havannah Drive.
9. On the west side of the road, the existing houses and nursing home are set closer to the highway but, nonetheless, also create a strongly linear form. Although there are some breaks created by the presence of open space areas, this linear built form continues for the majority of the length of the B1318 through Wideopen. The appeal proposal would sit well forward of the building line established by The Villas and the new dwellings to the north. This and the minimal set back from the highway would be a stark contrast to the overall character of the road and, despite the external appearance of the proposed houses being relatively consistent with other new houses nearby, would not integrate well with its context and the prevailing character of the road.
10. The gable end of the northernmost dwelling, relieved only by two windows and plainly visible over the small area of open space at the north end of the site would also be inconsistent with the robust corner feature that has been formed on the north side of Havannah Drive. At the southern end, a similar gable would be visible over the proposed parking area and would be a prominent feature when viewed from the south. This would exacerbate the break in the building line established by The Villas and would appear as an incongruous feature in the street scene. As such the proposed development fails to take the opportunity to

improve the character and quality of the area, and is contrary to Policy DM6.1 of the Local Plan.

11. The appellant has referred to the pre-application advice offered by the Council, prior to the submission of the development proposal, in support of the development. The Planning Practice Guidance, whilst recognising the benefit of early discussions with the local planning authority is, nonetheless, clear that pre-application advice provided by the local planning authority cannot pre-empt the democratic decision making process or a particular outcome¹.
12. Although no details of storage for refuse bins or of a collection point are shown on the submitted plans, from these drawings, I am satisfied that there would be sufficient space within the amenity areas of the proposed dwellings for bins to be appropriately stored. I have noted the Council's comments in respect of the provision of a pedestrian barrier and the possible implications for refuse collection. However, whilst the provision of a pedestrian barrier is recommended by the Highway Authority, the extent of that barrier is not specified.
13. I saw when I visited the site, that there are currently pedestrian barriers around the junction of the B1318 and Havannah Drive to direct pedestrians towards the controlled crossing points. However, there were no other pedestrian barriers in the vicinity of the appeal site and it is not clear from the Highway Authority comments what purpose would be served by a further pedestrian barrier. Similarly, there is no evidence which would support the Council's inference that this would need to extend along the majority of the site frontage. I therefore give little weight to this point.
14. Although provision could be made for the storage and collection of bins and the development would be at a density relatively consistent with the new housing adjacent to it, this does not outweigh the other harm that I have found.
15. I have also noted that the appeal site is shown in the Local Plan as having planning permission for residential development, although for whatever reason it was not included in the planning application for the development that has subsequently been carried out on the adjoining land. Whilst this offers some support for the development, any proposal would also be expected to meet the requirements of other relevant policies in the development plan and the Framework. As set out above, I have found above that this is not the case.
16. I conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policy DM6.1 of the Local Plan.

Living conditions of the neighbouring occupiers

17. The appeal site is bounded by residential properties to the south and east and there is further residential development to the north and west, separated from the appeal site by roads. The appellant has submitted with the appeal a plan which shows the respective distances from the proposed new dwellings to the closest of the existing residential properties. Whilst this drawing was not available to the Council when it determined the application, the separation distances are not challenged by the Council in their appeal submissions.

¹ Reference ID: 20-011-20140306

18. Although no finished levels are shown on this drawing, I saw when I visited the site that, whilst it was heavily overgrown, it was generally at a lower level than the adjoining highway. As the proposed dwellings are two storey, even allowing for a limited degree of site levelling, the overall height and finished floor levels would not be significantly different from those of the surrounding properties. All of the separation distances shown are in excess of 21 metres which, in my view, is a sufficient degree of separation to ensure that mutual overlooking and loss of privacy are avoided. Due to the relative positions and orientation of the existing and proposed buildings, the new dwellings would not result in any significant loss of light to, or overshadowing of, existing properties. Similarly, due to the degree of separation, whilst the new dwellings would be visible from existing residences, the outlook from these would not be altered in any way that could be considered harmful.
19. The proposed parking area for the new dwellings would adjoin the front garden area of number 23 The Villas, which would result in some vehicle movements near this that do not occur at present. However, these would be limited in number, and at the time of my site visit, there was a relatively high level of background noise level in the area, mainly deriving from the frequent passage of vehicles on the B1318 but also from aircraft using Newcastle Airport. Whilst this does only represent a snapshot of the prevailing noise climate, due to the nature of this road which links the north of Newcastle to the A19 trunk road, and is the main route through the settlements of Wideopen and Seaton Burn, I consider that it is fairly representative of the general background noise level in the area. I also note that the Noise Survey submitted with the planning application, and the Council's Environmental Health Officer in their comments, concluded that background noise levels in the area are high. Within this context, any additional noise resulting from the use of the proposed parking area would not significantly add to this. Appropriate screening and the retention of the hedge on the southern boundary would limit any disturbance from vehicle headlights.
20. I therefore conclude that the proposed development would not cause harm to the living conditions of the occupiers of nearby residential properties. It would comply with the relevant requirements of Local Plan Policy DM6.1, which expects new residential development to provide a good standard of amenity for existing and future occupiers of the area.

Drainage

21. I note that Northumbrian Water, the body responsible for the drainage network, have not raised any objections to the proposal and are satisfied that discharges from the site could be accommodated in the sewerage system. There is also no evidence that the site is located in an area that is at risk from flooding. Although no finished site levels have been provided, there is no substantive evidence to suggest that suitable drainage could not be achieved and the objection addressed by a suitably worded condition. Whilst Local Plan Policy DM5.14 seeks to reduce surface water run-off rates for all new development, I am satisfied that this could be achieved for this site.
22. I therefore conclude that there would be adequate provision for drainage for the proposed development. This would comply with the relevant requirements of Local Plan Policies DM5.12, DM5.14 and DM5.15 which seek to ensure that new development does not increase flood risk and provides appropriate drainage.

Conclusion

23. I have found that the proposed development would cause harm to the character and appearance of the area and, as such it is contrary to Local Plan Policy DM6.1. This is, to my mind an important matter, such that the development can be regarded as contrary to the development plan as a whole, notwithstanding compliance with other policies in the plan.
24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Council have very recently adopted a new Local Plan which must be given its full weight.
25. Paragraph 49 of the National Planning Policy Framework (the Framework) requires that applications for new residential development must be considered in the context of the presumption in favour of sustainable development set out in Paragraph 14. Council accepts that it does not have an identified deliverable five year housing land supply, however, Paragraph 12 of the Framework is clear that that proposed development that conflicts with an up to date development plan should be refused. This is also implicit in the third bullet point of Paragraph 14.
26. That the appeal site is reasonably well located in terms of access to shops, services and employment opportunities is not in dispute. The proposal would introduce a small number of additional houses into the local housing market, which would represent a social benefit. There would also be a small scale economic benefit derived from jobs created or maintained during the construction process. I have, however, found that the proposed development would cause harm to the character and appearance of the area, and this harm would be permanent and lasting. The Framework is clear that the economic, social and environmental roles of sustainable development are mutually dependent and cannot be considered in isolation. The permanent and lasting environmental harm that would be caused by the proposed development outweighs the relatively small scale social and economic benefits of the proposal, such that these latter would not represent material considerations that would justify making a decision other than in accordance with the development plan.
27. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR