



Appeal Decision

Site visit made on 19 November 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2019

Appeal Ref: APP/X2220/W/19/3233848

Land to the rear of Station Road, Walmer, CT14 7RH

- 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 R Bray against the decision of Dover District Council.
 - The application Ref 18/00592, dated 1 June 2018, was refused by notice dated 10 May 2019.
 - The development proposed is described as 'Residential development (involving up to 5 single storey dwellings) and visitors car park and turning head'.
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Decision

1. The appeal is allowed and planning permission is granted for Residential development (involving up to 5 single storey dwellings) and visitors car park and turning head at Land to the rear of Station Road, Walmer, in accordance with the terms of the application, Ref 18/00592, dated 1 June 2018, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr R Bray against Dover District Council. This application is the subject of a separate Decision.

Procedural Matters

3. All matters with the exception of access to the appeal site have been reserved for future determination. Indicative plans have been submitted to show how the site might be developed.
4. It has been brought to my attention that the Council deferred making a decision until further consultation was undertaken on the main issues identified in this case.

Main Issues

5. The main issues are the effect of the development on:
 - Highways safety: and,
 - The living conditions of the existing occupiers in the locality.

Reasons

6. The appeal site is located outside of, but adjacent to the Deal urban boundary and borders the rear of properties on Station Road and Mayers Road, with a railway embankment forming the other site boundary. Previously part of the

land was used for allotments, which have now been incorporated into the rear gardens of neighbouring properties and to provide temporary accommodation whilst properties were being renovated. It is currently open scrub land and is designated as open space.

7. The development proposed would construct 5 dwellings with access taken from lanes leading from the appeal site to Station Road and Mayers Road. The development proposed would incorporate a turning head and a communal car park which would be available to visitors and nearby residents on a first come first served basis.
8. The Council has raised concerns that due to the restricted space around the existing junctions on Station Road and Mayers Road, combined with the narrow highway width and on-street parking the proposed access would not be suitable or safe for all users.
9. Based on my site visit, which was during peak time hours mid-week, the traffic on the roads in the immediate vicinity was busy, mainly due to vehicles associated with nearby construction work. The surrounding roads were experiencing parking stress as a result. However, access to and from the appeal site onto Station Road or Mayers Road did not appear to be impeded in any way or unsuitable or safe for use by traffic or pedestrians. I note that the Highways Authority, waste collection and fire services who have been consulted by the Council, raised no objections to the proposed means of access to the appeal site, on the basis that the relative infrequency of larger service vehicles using either means of access would not lead to a worsening of highway safety, particularly as each access point already exists.
10. The appellant has submitted as evidence a professionally prepared Technical Note¹ which includes auto-TRACK swept path analysis for servicing the development proposed by refuse vehicles, food deliveries as well as emergency fire vehicles and cars from the two access points from Station Road and Mayers Road.
11. The aforementioned analysis demonstrates the suitability of the proposed means of access by emergency and service vehicles from both access points on Station Road and Mayers Road. Further, refuse vehicles, which are currently forced to reverse the length of Mayers Road would be able to enter and exit the road in forward gear, due to the incorporation of a turning head in the development proposed.
12. I note that the development proposed would provide a communal car park which would be available to residents on Mayers Road which would alleviate the pressure for on-street parking which currently takes place along the private access road.
13. On the main issue of highway safety and suitable and safe access to the appeal site and having taken into consideration the concerns of interested parties, based on the evidence submitted, I am satisfied that the appeal site would have a suitable and safe means of access as the technical evidence submitted by the appellant referred to in footnote 1 shows that emergency and service vehicles could access the site.

¹ Bellamy Roberts, Technical Note Reference ITR/5225/TN.1

14. I have noted the concerns raised by interested parties, which principally relate to access arrangements. However, I am satisfied that a suitable and safe means of access to the appeal site would be provided and as there would be the provision of a communal car park there would be wider benefits than just to the occupiers of the development proposed.
15. I conclude that the proposed access arrangements would not be contrary to Paragraph 108 of the National Planning Policy Framework (2019) (the Framework) which seeks to ensure new development provides safe and suitable access for all users.

Living Conditions

16. The Council states the development proposed would detract from the amenities and living conditions of the existing residents. However, based on my site visit, even though the plans submitted are illustrative, there would be significant separation between the appeal site and neighbouring properties on Mayers Road. The Council states that the separation distance would be approximately 58 metres to the rear of the properties and approximately 45 metres to the rear of gardens on Mayers Road. Given that distance there would be limited scope for issues relating to overlooking and loss of privacy for the occupiers on the neighbouring properties. Further, as the appeal site is not in a prominent location and is bordered by a raised embankment it is not readily visible from long range views and as a result would have no significant visual impact on the character and appearance of the surrounding area.
17. The development proposed would result in a slight increase in traffic along the private roads to and from Station Road and Mayers Road, but the Council states this is not likely to result in any significant increase in disturbance which would be to the detriment of the living conditions of the occupiers of the neighbouring properties.
18. I conclude that the development would not harm the living conditions of occupiers of properties in the surrounding area and would not be contrary to Paragraph 127 of the National Planning Policy Framework (2019) (the Framework), which seeks to ensure new development creates places that have a high standard of amenity for existing and future users.

Other Matters

19. I note that the Council considered matters relating to the loss of designated open space and had undertaken an Appropriate Assessment with regards and potential effects on the European designated site at the Thanet Coast and Sandwich Bay, but these did not form the basis of the deferral of the application. As these matters have not formed the basis of the Council's decision, I have no reason to disagree and have not pursued them further.
20. I have also had regard to the concern with regards to flooding around Mayers Road, which could be controlled by a condition seeking surface water drainage details alongside any reserved matters application. Whilst concerns have been raised regarding construction vehicles, this would be time limited and a condition requiring a Construction Management Plan to be submitted and agreed prior to development commencing would minimise the effect during this period.

21. I note the concerns from interested parties with regards ownership of the lanes that would be used to access the appeal site, however on the basis that the appellant has submitted evidence to show a right of access over the land and as the matter of land ownership is outside the scope of this appeal, I have not pursued this matter further. I also note that there were a number of interested parties who supported the development proposed and I have taken these into account in making my decision.

Planning Balance

22. The Council states that it is able to demonstrate a 5 Year Housing Land Supply, but does not dispute that some of its policies relating to housing supply are out of date and as a result the presumption in favour of sustainable development as defined in Paragraph 11 of the Framework would apply, providing it meets the tests set out in that paragraph.
23. With regards to the economic, social and environmental benefits, there would be time limited economic benefits during the construction of five new dwellings and there would be on-going benefits from spending of the occupiers in the local economy. There would be social benefits in terms of new residents to the area and five new dwellings would be added to the area's housing supply. Environmental benefits would include the re-use of previously developed land which has good access to local services, facilities and public transport links and even though it would result in the loss of designated open space, the Council states its development would have only a small negative effect.
24. On that basis, in this case the benefits would outweigh any harm identified and the presumption in favour of sustainable development would apply and planning permission should be granted.

Conditions

25. The Council has proposed a number of conditions which I have assessed against the advice in the Planning Practice Guidance and for the purposes of brevity or clarity have amended as appropriate.
26. Condition 1 is for the avoidance of doubt. Condition 2 is to ensure a satisfactory approach to the development permitted and Condition 3 and 4 is to comply with the statutory time provisions. Condition 5 is in the interests of character and appearance of the surrounding area and Condition 6 is in the interests of ensuring adequate provision of parking for future occupiers.
27. Condition 7, 8, 9 and 10 are in the interests of highway safety and visual quality of the development. Condition 11 is in the interests of preventing flooding. Condition 12 is imposed in order to minimise the impact of development during the construction phase and Condition 13 is to ensure the effective mitigation of the effects of additional vehicle movements.

Conclusions

28. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 2703/02 – Site location plan – received 1 Jun 2018.
2. Details of the layout, scale, appearance, landscaping and access of the development hereby permitted (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority prior to any development comprising construction works taking place, unless otherwise agreed in writing by the local planning authority. Reserved matters details shall include as appropriate:
 - Earthworks, proposed grading and mounding of land areas, including the levels and contours to be formed, showing their relationship to existing vegetation and landform.
 - Sewage disposal strategy.
 - Sustainable urban drainage strategy.
 - Sections through all proposed buildings and internal roads, finished levels and thresholds
 - Street and other furniture.
 - Details of external lighting including heights of columns, light fittings and levels of luminance.
 - Boundary treatments and gates.
 - Identification of any retained trees, including on adjacent land, and measures for their protection throughout any construction phase.
 - Proposed planting plans, written specifications including cultivation and other operations associated with plant and grass establishment.
 - Schedules of plants, identifying proposed tree and plant sizes and proposed planting densities and any details of reinstatement works.
 - Details of a biodiversity enhancement scheme in accordance with the recommendations of the submitted ecological scoping survey.
3. Application for approval of the Reserved Matters shall be made to the local planning authority not later than the expiration of 3 years from the date of this permission.
4. The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.
5. No development above ground level shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

6. No dwelling shall be occupied until vehicle parking and turning areas have been provided out in accordance with the approved plans (to be submitted at reserved matters stage). Vehicle parking and turning areas shall be provided in accordance with the approved details prior to the occupation of any dwelling and shall be retained for that use at all times thereafter.
7. No development shall take place above ground level until details of bicycle storage facilities (provided for each dwelling at a rate of 1 space per bedroom) have been submitted to and approved in writing by the local planning authority. The approved bicycle storage shall be completed prior to the first occupation of the development and shall thereafter be retained solely for that purpose.
8. Prior to the construction of any dwelling in the development progressing beyond damp proof course level, full details of the specification and materials of all highway works to include carriageways, visibility splays, footways, highway drainage, street lighting, manoeuvring areas, parking areas and highway structures together with a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority. The timetable shall ensure that no dwelling in the development is occupied prior to the completion of the approved highway works that provide access to that dwelling up to, but not including, the wearing course. The programme shall also ensure that the wearing course, including any markings and signage, shall be completed prior to the occupation of the 5th dwelling of the development. The approved highway works shall be implemented in accordance with the approved specification and timetable and thereafter be maintained to the approved specification.
9. No dwelling shall be occupied until visibility splays of 2.4 metres x 43 metres within which there shall be no obstruction in excess of 1 metre in height above the carriageway edge have been provided either side of the point at which the internal development road meets the existing laneways. The splays shall thereafter be maintained as such at all times.
10. Pedestrian visibility splays 2 metres x 2 metres either side of each private vehicular access with no obstruction over 1 metre above the access footway level shall be provided prior to the first occupation of the dwellings to which they relate and shall thereafter be maintained at all times.
11. There shall be no discharge of surface water onto the existing access laneways from the development hereby permitted.
12. No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. The said plan shall include details of:
 - Loading and unloading of plant and materials
 - On-site parking for construction workers
 - Temporary access arrangements
 - Measures to prevent dirt or other debris from being deposited upon the public highway
 - Hours of construction working

- Machine operated plant to be used
- Temporary lighting
- Measures to control the emission of dust and dirt during construction
- Temporary hoarding/fencing.

The approved construction management plan shall be fully complied with throughout the construction period. There shall be no burning on site during the development period, including during site clearance.

13. No development shall commence above ground level until details of the proposed works to improve the condition of the existing access laneways (from Station Road and Mayers Road) have been submitted to and approved in writing by the local planning authority. The details shall include a pre-development survey of the condition of these laneways. The improvement works shall be carried out in accordance with the approved details before the first occupation of any dwelling.