



Appeal Decision

Site visit made on 7 January by Andreea Spataru BA (Hons) MA

Decision by Chris Hoult BA (Hons) BPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2020

Appeal Ref: APP/R1038/W/19/3238744

Site at the rear of 89-77 Chesterfield Road, North Wingfield, Chesterfield, Derbyshire S42 5LF

- 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 David Cooper against the decision of the North East Derbyshire District Council.
 - The application Ref 19/00430/FL, dated 15 April 2019, was refused by notice dated 5 September 2019.
 - The development proposed is described as "application for the erection of one dwelling and replacement double garage."
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling and replacement double garage at the rear of 89-77 Chesterfield Road, North Wingfield, Chesterfield, Derbyshire S42 5LF in accordance with the terms of the application Ref 19/00430/FL, dated 15 April 2019, subject to the conditions outlined in the schedule at the end of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The description of development used above has been taken from the appeal form. The proposal, as originally described on the application form, was for two dwellings, which was subsequently amended to one dwelling and the redevelopment of the garage. The Council considered the amended proposal and I shall do likewise.

Main Issue

4. The main issue is the effect of the proposal on highway safety.

Reasons for the Recommendation

5. The appeal site lies to the rear of a line of dwellings that front Chesterfield Road. It is served by a narrow unmade vehicular access which leads off Chesterfield Road, through a gap between terraced dwellings at nos. 75 and 77. At the rear of the gap, the site opens up to the left, as drivers enter it from
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- the main road, while the wider area of land contains parking spaces and garages behind the frontage housing.
6. Chesterfield Road is a busy road, on which vehicles park in connection with the frontage dwellings on both sides of the road. There is a school nearby, on the opposite side of the road from the appeal site and a bus route, with bus stops within proximity of the site. Given the hazards and speed restrictions which are in place, typical vehicle speeds along the road are on the slow side.
 7. The visibility of vehicles exiting on to the road from the access track is impeded by the low boundary walls of properties nos. 75 and 77 and by parked vehicles. In recognition of difficulties with visibility for drivers, a solid white line has been painted across the junction and for a short distance either side of it. My understanding is that this line is advisory only, in seeking to prevent parking close to the junction, however, at the time of my visit, its restrictions were being observed, with vehicles parked close to it but not on it.
 8. The proposed bungalow would be served by this access. The existing garage/outbuilding would be replaced by a double garage which would be serving the proposed bungalow. The Highway Authority points out that minimum visibility splays cannot be achieved at the junction without encroaching on third-party land and that ordinarily the access would not meet their requirements in terms of its width. However, it already serves a number of the frontage properties. There is ample space within the site to allow drivers entering the main road from it to do so in forward gear and there is ready inter-visibility between drivers entering it from either direction such that no driver should be required to reverse on to the main road. Whilst I acknowledge concerns about the width of the access and the limited visibility, I have not been provided with evidence, for example, accident records, to demonstrate that the current arrangements may be unsafe.
 9. The proposed bungalow would result in additional traffic using the access road and its junction with Chesterfield Road. However, the additional movements from one dwelling would be limited, and the likelihood of vehicles meeting in the access road would not be significantly greater than is currently the case.
 10. I have taken into account the concerns raised by local members and third parties about the on-street parking on Chesterfield Road, however the proposal would not generate a demand for further on-street parking, as off-street parking spaces would be provided. Furthermore, whilst I acknowledge the concerns about the access for emergency vehicles, the Highways Authority did not express any objections on this matter, and I have not been provided with evidence to demonstrate any issue with highway safety.
 11. Accordingly, I conclude that the development would not be detrimental to highway safety and as such there would be no conflict with Policy T2 of the North East Derbyshire Local Plan, which seeks to ensure that development has an acceptable impact on the functioning and safety of the highway network. For these reasons, I recommend that the proposal for one dwelling and a replacement garage should be allowed subject to conditions.

Conditions

12. I have had regard to the Council's suggested conditions, in the event of the appeal being allowed, in the light of advice in the Planning Practice Guidance (PPG) and I have considered them against the six tests, as outlined within the National Planning Policy Framework (the Framework) and the PPG. In the interest of proper planning and to provide certainty I have recommended the standard time limit condition and specified that the development should be carried out in accordance with the approved plans.
13. In order to ensure that the development complements its surroundings, further details on external materials, landscaping and boundary treatments are required. To ensure that any planting becomes well established it needs to be well maintained. Trees that are to be retained also need to be identified and protected during construction.
14. In order to enhance biodiversity, a Biodiversity Enhancement Plan is necessary in accordance with recommendations in the appellant's Ecological Appraisal. To ensure that the development does not overload the existing drainage system resulting in flooding/and or surcharging, a scheme for the provision of surface water drainage is required. In order to ensure the site is safe and stable for the development, site investigations are necessary.
15. To ensure that risks from land contamination to the future users of the land is minimised and to ensure that the development can be carried out safely without unacceptable risks to workers and neighbours, a land contamination assessment is required. This needs to be followed by a remediation proposal if contamination is encountered during development, whether or not expected.
16. In the interests of highway safety, it is necessary for the area shown on the submitted plans as reserved for parking, garaging, circulation and standing of vehicles to be provided. A condition requiring the garage to remain ancillary to the dwelling hereby approved has been suggested by the Council but no reasons have been provided. Given the details of the proposal and the siting of the replacement garage, this condition is not considered necessary.
17. I consider it necessary and relevant to the development to cover all these matters by condition, revising the Council's suggested conditions where relevant in the interests of clarity and precision. I am satisfied that for the matters related to external materials, landscaping, boundary treatments, drainage, ground conditions and land contamination pre-commencement conditions are necessary, and I note the appellant's agreement to them.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

C M Hoult

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan dated 28 November 2018, 01 (Existing Plans), 22 (Ground Floor Plan & Site Layout), 23 (Elevations, Sections and Roof Plans) unless otherwise varied by the following conditions.
- 3) Notwithstanding condition 2, before above-ground works start, precise specifications or samples of the walling and roofing materials to be used shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the submitted details, before above-ground works start a plan to show the positions, design, materials, height and type of boundary treatments to be erected shall be submitted to and approved in writing by the local planning authority. The approved scheme shall then be completed before the first occupation of the dwelling and shall be retained as such thereafter.
- 5) Notwithstanding the submitted details, before the development hereby approved starts, the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land;
 - b) the details of any trees and hedgerows to be retained, together with measures for their protection during development;
 - c) a schedule of proposed plant species, size and density and planting locations; and;
 - d) an implementation programme.
- 6) All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 7) Notwithstanding the submitted details, before the development hereby approved starts, a scheme for the provision of surface water drainage works shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before the development is brought into use and shall be retained as such thereafter.
- 8) Before the occupation of the dwelling hereby approved, the area shown on the approved plans as reserved for parking, garaging, circulation and standing of vehicles shall be provided in accordance with the approved details. Thereafter the area shall be used for those purposes only and maintained free from any impediment to its designated use.

9) Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the local planning authority. Measures shall include (but are not limited to): (i) an integrated bat box, details of which shall include position and specification clearly shown on a plan; (ii) two integrated swift bricks, details of which shall include position and specification clearly shown on a plan; (iii) the provision of gaps in boundary fencing to maintain connectivity for hedgehogs which shall be clearly shown on a plan (fencing gaps 130 mm x 130 mm). The approved measures shall be implemented in full and retained as such thereafter. To fully discharge the condition, photographs of the measures in situ shall be submitted to the local planning authority upon completion.

10) Before the development hereby approved starts:

A Phase I land contamination assessment shall be undertaken and approved in writing by the local planning authority. The land contamination assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health and property, including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy.

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days' notice to the local planning authority (Environmental Health) prior to commencing works in connection with the remediation scheme.

Upon completion of the remediation works required 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.

The dwelling hereby approved shall not be occupied until the approved remediation works required by condition 10 have been carried out in full in compliance with the approved methodology and best practice.

- 11) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then 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 and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated and remediated through the process described in condition 10 above.
- 12) Before development starts, site investigations shall be carried out in order to establish ground conditions on the site. In the event that investigations confirm the need for remedial works to treat areas of shallow mine workings, details of the remedial action required to ensure the safety and stability of the development shall be submitted to and approved in writing by the local planning authority. The approved remedial works shall be carried out in full prior to construction commencing.

END OF SCHEDULE