



Appeal Decision

Site visit made on 17 December 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/P2935/W/19/3238074

22 Links Road, Bamburgh NE69 7AX

- 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 & Mrs Harrison against the decision of Northumberland County Council.
 - The application Ref 18/01724/FUL, dated 11 May 2018, was refused by notice dated 9 May 2019.
 - The development proposed is a new one bedroomed single storey cottage in garden as ancillary accommodation to main cottage, new parking and turning area.
-

Decision

1. The appeal is allowed and planning permission is granted for a new one bedroomed single storey cottage in garden as ancillary accommodation to main cottage, new parking and turning area at 22 Links Road, Bamburgh NE69 7AX, in accordance with the terms of the application, Ref 18/01724/FUL, dated 11 May 2018, subject to the conditions set out in the schedule attached.

Procedural Matters

2. The names of the applicants as stated in the application for planning permission are Mr & Mrs Harrison, whereas the name of the appellant and company as stated in the appeal form is Mr Ben Gibson, Pegasus Group. It has been confirmed by Mr Gibson that he is the agent acting on behalf of Mr & Mrs Harrison and that he has made the appeal on their behalf. I have therefore determined the appeal on this basis.
3. The Council refers to the emerging Northumberland Local Plan, Publication Draft (Reg 19) (January 2019) (NLP) in its delegated report, but no policies from the NLP are referred to in its reason for refusal. Bearing in mind Paragraph 48 of the National Planning Policy Framework (Framework), I have not been provided with any substantive details regarding the stage of preparation of the emerging plan, the extent of any unresolved objections to the relevant policies and the degree of consistency of the relevant policies to the Framework. I have therefore determined the appeal having regard to policies within the Berwick-upon-Tweed Borough Local Plan (1999) (BLP) and the North Northumberland Coast Neighbourhood Plan 2017-2032 (2018) (NNCNP).
4. Although not stated in the Council's delegated report or its appeal questionnaire, it has been confirmed that the appeal site is within the zone of

influence of protected European sites. I am therefore the competent authority for the purposes of the Habitats Regulations. I return to this matter later.

5. A signed and dated Unilateral Undertaking (UU) has been submitted by the appellants relating to a required contribution towards the Council's Coastal Mitigation Service. I return to this matter later.
6. As part of the appeal the appellants have submitted a Landscape Visual Impact Assessment¹ and a Surrounding Land Uses Plan² which were not submitted to the Council as part of the planning application. I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council as local planning authority, and on which interested people's views were sought. The Landscape Visual Impact Assessment and the Surrounding Uses Plan provide additional information in relation to the proposed development and do not evolve or change the proposal in any way. On this basis, I am prepared to accept them for information purposes only. I am satisfied that no interested party has been prejudiced by this approach.

Main Issues

7. The main issues are:

- The effect of the proposed development on the living conditions of occupiers of neighbouring properties;
- Whether the proposed development would provide acceptable living conditions for future occupiers, with regard to the provision of private outdoor amenity space and privacy; and
- The effect of the proposed development on the integrity of the protected European sites.

Reasons

Site description

8. The appeal site comprises 22 Links Road (No 22), the middle property of three single storey cottages, and its rear garden. The rear garden is linear in form and is bound to all sides by residential dwellings and associated gardens. The garden rises up in the middle to a higher level at the south western end. It is enclosed at the rear by a high close-boarded timber fence and at the sides by low picket fences. There is an existing modest timber outbuilding sited in the middle of the garden at the lower level. Access to the garden is currently gained either direct from the rear of No 22 or, for vehicles from the public highway, via an unmetalled shared access to the rear of No 21 Links Road and No 22, for which the appellants currently have permissive access.
9. The appeal site is within 15 metres (m) of the North Northumberland Dunes Special Area of Conservation (SAC), 395m of the Berwickshire and North Northumberland Coast SAC and 430m of the Northumbria Coast Special Protection Area (SPA) and Ramsar Site. It is also located within the Northumberland Coast Area of Outstanding Natural Beauty (AONB) and less than 20m from the Bamburgh Dunes Site of Special Scientific Interest (SSSI).

¹ Landscape Visual Impact Assessment, Ref: P18-2196_001A, Dated Oct 2018.

² Surrounding Uses Plan, Drawing No: SK101, Dated June 2019.

Living conditions of occupiers of neighbouring properties

10. The proposed one bedroomed, single storey cottage would be located at the far end of the rear garden. The existing outbuilding would be demolished and a new parking and turning area would be sited between No 22 and the proposed cottage. The proposed cottage would be used as ancillary accommodation to No 22 which is in use as a holiday let property. Access to the proposed cottage would be as per the existing arrangement.
11. There is a degree of ambiguity and contradiction in the Council's delegated report as to the impact of the proposed cottage on the living conditions of occupiers of neighbouring properties. Consequently, it is not explicitly clear on what basis this issue forms part of the reason for refusal.
12. In its statement of case the Council indicates that, 'the siting of new residential accommodation in this location clearly would have an impact upon neighbouring amenity', but it does not go on to clarify the nature or extent of the identified impact.
13. From the evidence before me and my observations on site, the single storey height and modest size of the proposed cottage, together with its location at the far end of the rear garden of No 22, would not lead to any harmful effects on the living conditions of occupiers of neighbouring properties, with regard to loss of light, outlook or privacy.
14. There may be some increased activity at the appeal site as a result of the appeal proposal. However, the size of the proposed cottage would only allow a maximum of two more visitors to stay. Accordingly, it seems to me that any additional noise or disturbance resulting from the intensification of the use of the site would be indiscernible and would not unduly disturb the occupiers of neighbouring properties.
15. To conclude on this issue, therefore the proposed development would not have a harmful effect on the living conditions of occupiers of neighbouring properties. As such, it would not conflict with Policy F31 of the BLP which states that in applying the policies, weight will be given to the degree to which proposals are foreseen to enhance the quality of life of communities in the plan area, or to complement the range of social or economic functions which any of them performs. It would also accord with Policy 18 of the NNCNP which seeks to ensure that the amenity of local residents is protected when any increased use of holiday lets, through the provision of additional living space by way of extensions is provided. It would also comply with Paragraph 127(f) of the Framework which seeks to ensure high standards of amenity for existing and future users.
16. The Council has also cited Policies F1 and F2 of the BLP in its reason for refusal. However, these policies seek to sustain and enhance the Borough's environmental wealth and conserve and enhance its landscape and coast by ensuring that development accords with its surroundings. As such, they are not relevant to the issue of living conditions.

Living conditions of future occupiers

17. The Council and third parties contend that the plan submitted by the appellants is not truly representative of the amount of functional amenity space that would be available to visitors. I agree. Furthermore, the construction of the

proposed cottage and the creation of car parking spaces and a turning area would lead to a reduction in the total amount of functional private outdoor amenity space available. Nevertheless, from my observations on site, the remaining private outdoor amenity space available to any visitors of the combined units would be sufficient and adequate for active and passive recreational activity on a temporary holiday let basis.

18. Some overlooking may be possible from the two storey dwellings to the south east of the proposed cottage. However, the new building's orientation, the position and size of the facing windows and the intervening separation distance, would serve to minimise the extent of this.
19. In addition, given that the existing low picket fences to the sides of the rear garden of No 22 already allow relatively open views from adjacent buildings and gardens into the appeal site, the proposal would not diminish the current level of privacy afforded to future occupiers within the rear garden.
20. To conclude on this issue, the proposed development would provide acceptable living conditions for future occupiers, with regard to the provision of private outdoor amenity space and privacy. As such, it would not conflict with Policy F31 of the BLP referred to above. It would also accord with Policy 18 of the NNCNP which, amongst other things, seeks to ensure that the outdoor amenity space remaining following the extension of a holiday let is sufficient for the occupiers of the holiday let. It would also comply with Paragraph 127(f) of the Framework referred to above.

Integrity of the protected European sites

21. The appeal site lies in close proximity to the coast which includes protected European sites. Accordingly, following the *People over Wind, Peter Sweetman v Coillte Teoranta* judgement³, it is necessary for me to carry out a Habitats Regulations Assessment.
22. The Council has submitted the Northumberland Coastal Mitigation Service Strategy Document (2018) (NCMSSD) which has been prepared in partnership with Natural England. Reference to the Coastal Mitigation Service (CMS) is included in the Council's appeal statement.
23. Other than a short length of coast around Lynemouth Power Station, the whole of the Northumberland coast below the high tide mark is protected as a SSSI because it is inhabited by populations of wading birds which are of national importance. The particular species for which it is designated are redshank, golden plover, turnstone, purple sandpiper, sanderling and ringed plover. Different populations of these species use the coast when they are on migration in spring and autumn or as their wintering grounds, and so are present between late July and May. Much of the coast is also within SPAs, which are designated because of their international importance for bird species. These include areas of rocky shore of importance for purple sandpiper and turnstone, areas of sandy shore used for nesting by little tern and arctic tern and the extensive mud and sandflats from Budle Bay north to Goswick of international importance for a wide range of wading birds and wildfowl.
24. Many of the sand dunes on the Northumberland coast are also designated as SSSIs because they are of national importance for the communities of wild

³ ECJ case C-323/17 12 April 2018.

plants that they support, and some of these sites are also designated as SACs because they are of international importance for these plant communities. The conservation objectives of the aforementioned sites aim to ensure that their integrity is maintained or restored as appropriate.

25. The NCMSSD indicates that the recreational use of the coast increases the closer the occupiers of dwellings are to it. The appeal site is within the closest coastal zone of influence being within 15m of the North Northumberland Dunes SAC. Therefore, in this case, and taking into account the information in the NCMSSD, I am satisfied that the addition of a cottage for holiday let purposes and additional visitors to the area would be likely to lead to recreational pressure in terms of the use of the aforementioned protected areas. Whilst, on its own, a one bedroom holiday let cottage would be unlikely to have a likely significant effect, given the close proximity of the appeal site to the protected European sites and the activities of holiday makers, such as walking, there could be little doubt that, when considered in combination with other development projects in the locality, there would be a likely significant effect. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development.
26. The NCMSSD includes a scheme whereby developers can pay a contribution into a strategic CMS (paid on occupation of the first unit) which is used to fund coastal wardens who provide the necessary mitigation. The aim of contributing to the warden service is to modify people's behaviour through awareness-raising and education, focussing on high-risk activities such as off-lead dog walking, so that users can develop a clear understanding of how to enjoy the coast while minimising disturbance.
27. Natural England has confirmed that it has worked closely with the Council to develop the CMS Strategy, and is satisfied that this approach provides adequate mitigation to address any impacts on protected European sites and their interest features that may occur from an increase in residential provision. On this basis, I am satisfied that the NCMSSD includes appropriate mitigation for the site specific effects of the proposal on the protected European sites.
28. The contribution per unit in this location would be £600 and can be secured by a legal agreement by virtue of S106 of the Town & Country Planning Act 1990. Natural England has confirmed that the £600 figure has been identified through detailed analysis, and it is satisfied that the £600 contribution from this proposal will be sufficient to ensure no adverse effect on the integrity of the protected European sites.
29. A signed and dated UU has been submitted by the appellants and accepted by the Council which makes provision for a contribution of £600 to be paid to the Council towards the CMS. Natural England has confirmed that it is content that the UU will adequately secure the deliverability of the mitigation measures through the CMS.
30. I have considered the UU against the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL) and Paragraph 56 of the Framework. I am satisfied that the financial contribution is necessary to make the proposed development acceptable in planning terms. The obligation would contribute towards the provision of mitigation services including warden provision. The contribution is directly related to the appeal scheme given the

location of the appeal site in relation to the protected European sites. In addition, as it relates to a standard charge based on the scale and type of residential development proposed, it is fairly and reasonably related to the proposal in scale and kind.

31. For the above reasons, I am satisfied that the UU would meet the requirements of the CIL Regulations and the Framework. I therefore give it significant weight in the determination of this appeal.
32. In conclusion, I am satisfied that with the proposed mitigation measures in place, secured through a UU, the proposed development would have no adverse effect on the integrity of the protected European sites. The development would therefore comply with the Conservation of Habitats and Species Regulations 2010 (as amended). It would also accord with Policy F2 of the BLP which seeks to conserve and enhance the landscape and coast and ensure that the integrity of the internationally important nature conservation interests of the coasts is not adversely affected. It would also comply with the provisions within the Framework which seek to conserve and enhance the natural environment.

Other Matters

33. The proposed development is for holiday let accommodation which would be ancillary to No 22. Accordingly, I am required to consider the appeal proposal on this basis and on its own planning merits. Although the new cottage would have independent facilities, it would be linked to No 22 and the two units would be let together. The use of a restrictive occupancy condition would ensure this.
34. The Council considers that 'the proposal would be viewed in the context of the existing built form and would have the appearance of an ancillary structure and would not have a significant detrimental impact upon the character of this part of the AONB.' I agree with this view. The form and design of the proposed development and the materials to be used would be in keeping with its surrounding context. Furthermore, the proposal would not involve the subdivision of the garden. Accordingly, it would not materially harm the character or appearance of the area.
35. I note that the appellants only have permissive access across the non-metalled grass track access which is owned by the occupant of No 21 Links Rd. I also acknowledge concerns about the potential impact of any construction traffic on the access from Links Road, the grass track and the planted border. However, the Local Highway Authority has raised no objections, subject to the imposition of conditions, and there is nothing in the evidence before me that leads me to take a different view on this matter.
36. There is no substantive evidence to indicate that the site could not be adequately drained.
37. Any noise and disturbance during the construction period would be temporary in nature. In any event, a condition requiring the appellants to submit a construction method statement would enable this aspect of the proposal to be controlled.
38. The issue of the development being contrary to a restrictive covenant is a civil matter and not one for me to consider in the context of a Section 78 appeal. In addition, the loss of views is not, of itself, a planning matter and it is a well-

founded principle that the planning system does not exist to protect private interests.

39. In relation to whether the grant of planning permission for the appeal proposal would set a precedent for other similar developments, no comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its individual planning merits, and a generalised concern of this nature does not justify withholding planning permission in this case.
40. Reference has also been made by interested parties to other applications on this site. However, no information regarding them has been submitted. I have judged the proposed development on its own planning merits and found that it would not cause harm and, as such, would not be in conflict with the development plan.

Conditions

41. The Council and appellants have suggested a number of conditions that they consider would be appropriate were I minded to allow the appeal. Where necessary, in the interests of enforceability, I have amended the wording of the suggested conditions to better reflect the advice in the Planning Practice Guidance.
42. In addition to the standard time limit condition, a condition to ensure the development is in accordance with the approved plans is necessary to provide certainty.
43. In the interests of the living conditions of occupiers of neighbouring properties, a condition requiring the new cottage to be used as holiday accommodation ancillary to No 22 is necessary. In this case I have used the wording suggested by the Council as it provides a degree of enforceability. Furthermore, it is likely that these types of records would be required to be produced and retained by the appellants for other reasons and so it is not unreasonable or overly onerous to impose this as a requirement as part of the condition.
44. In the interests of highway safety and to ensure the adequate provision of parking, a condition relating to parking facilities is necessary. In the interests of highway safety and to ensure the general amenity of the area during the construction period, a pre-commencement condition requiring a construction method statement is necessary. Due to residents' concerns, I have also included a requirement for working hours to be submitted and agreed in this condition. The appellants have provided their written agreement to this pre-commencement condition.
45. To ensure sufficient and suitable facilities are provided for the storage and collection of household waste, a condition relating to the provision of refuse storage is necessary.
46. In the interests of maintaining and protecting the existing landscape and biodiversity value of the site, protecting nesting birds and maintaining the population of a priority species, conditions relating to the protection of trees, nesting birds, hedgehogs and landscaping are necessary. The appellants have provided their written agreement to the pre-commencement condition relating to the submission of a tree and hedge protection plan.

Conclusion

47. I have found that the proposed development, including the mitigation measures, would have no adverse effect on the integrity of the protected European sites. In addition, given the nature, scale and design of the proposal I have concluded that it would not have a harmful effect on the living conditions of occupiers of neighbouring properties and would provide acceptable living conditions for future occupiers, with regard to the provision of private outdoor amenity space and privacy. Therefore, for the reasons given above, and subject to conditions, I conclude that the appeal should be allowed.

F Cullen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 18007-WSJ_01 Rev A, Site Location Plan; Drawing No 18007-WSJ_02, Proposed Plan and Elevations; and Drawing No 18007-A01 Rev A, Proposed Site Plan.
- 3) The dwelling subject to this permission shall be used as holiday accommodation ancillary to the main dwellinghouse (22 Links Road). The property shall not be occupied as a separate independent dwelling and the operators of the site shall maintain an up to date register of all lettings, that should be made available for inspection by an authorised officer of the Local Planning Authority at all reasonable times, unless otherwise agreed in writing by the Local Planning Authority.
- 4) No dwelling shall be occupied until space has been laid out within the site in accordance with Drawing No 18007-A01 Rev A - Proposed Site Plan, for 3 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking of vehicles.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i. details of temporary traffic management measures, temporary access, routes and vehicles;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during construction; and
 - vii. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) The development shall not be occupied until details of refuse storage facilities and a refuse storage strategy for the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the facilities and arrangement for the provision of the bins. The approved refuse storage facilities shall be implemented before the development is brought into use. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with the approved details.
- 7) No development shall be carried out other than in accordance with the guidance set out in BS5837:2012 Trees in Relation to Design, Demolition and Development: Recommendations British Standards Institution, 2012 and a tree and hedge protection plan to be submitted to and agreed in writing by the Local Planning Authority before development begins.
- 8) No removal of vegetation or felling of trees shall be undertaken between 1 March and 31 August unless a suitably qualified ecologist has first confirmed that no birds' nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.
- 9) Any deep (in excess of 300mm) excavations left open overnight to be either securely fenced, covered or provided with an earth or timber ramp not less than 300mm wide and no steeper than 45 degrees to provide an escape route for ground animals that might otherwise become entrapped and all garden boundary fences or walls will include a gap at the base measuring a minimum 13cm x 13cm to allow continued access through the site for hedgehogs.
- 10) Notwithstanding the approved plans, a detailed landscape planting plan, including the planting of locally native trees and shrubs of local provenance, shall be submitted to and agreed in writing by the Local Planning Authority, with the planting to be fully implemented during the first full planting season (November-March inclusive) following the commencement of development.

End of Schedule of Conditions