



Appeal Decision

Site visit made on 10 November 2020 by Ifeanyi Chukwujekwu BSc MSc MIEMA
CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2020

Appeal Ref: APP/P2935/W/20/3255596

Southcroft Stables, The Croft, Ulgham NE61 3BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous outline planning permission was granted.
 - The appeal is made by Mr Peter Richardson against the decision of Northumberland County Council.
 - The application Ref 19/00072/VARYCO, dated 18 December 2019, was refused by notice dated 6 March 2020.
 - The application sought outline planning permission for redevelopment of previously developed land (stables and outdoor yard area) for up to 4no. dwellings without complying with a condition attached to outline planning permission Ref 18/01245/OUT, dated 13 December 2018.
 - The condition in dispute is No 21 which states that: *Development shall not commence until details of the proposed highway works to create a 2.0m footway connection to the development site, together with the provision of highway drainage and street lighting, along with pedestrian dropped kerbs works on Ulgham Lane to access recreational ground and at the junction between Ulgham Lane and The Croft have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until these highway works have been constructed in accordance with the approved plans.*
 - The reason given for this condition is: *In the interests of highway safety, in accordance with the National Planning Policy Framework.*
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Decision

1. The appeal is allowed, and outline planning permission is granted for redevelopment of previously developed land (stables and outdoor yard area) for up to 4no. dwellings without complying with a condition 21 attached to outline planning permission Ref 18/01245/OUT, dated 13 December 2018 at Southcroft Stables, The Croft, Ulgham NE61 3BB in accordance with the terms of the application, Ref 19/00072/VARYCO, dated 18 December 2019, subject to the conditions in the attached schedule.

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.

Procedural Matters

3. The application submitted was in outline with all matters reserved for future consideration. A site location plan has been submitted which is illustrative of the appellant's intentions for siting of the proposed dwelling. I will proceed on this basis.

Background and Main Issue

4. As set out in the banner heading above, outline planning permission was granted on 13 December 2018, subject to a number of conditions, including No. 21 which required a footway connection to the site. The reasons for the imposition of the condition, as stated on the decision notice, were in the interest of highway safety. The appellant is seeking to remove this condition.
5. As such, the main issue in this appeal is whether the condition is reasonable and necessary in the interests of highway safety, with particular regard to minimising conflicts between pedestrians, cyclists and vehicles.

Reasons for the Recommendation

6. The appeal site is located on Ulgham Lane travelling southwards from the village of Ulgham. The section of this rural lane which provides access to the site has maximum speed restrictions of 30 miles per hour. At the time of my visit and over a period of one and half hours, I observed only one other vehicle travel through this lane. I recognise that this is only a snapshot and that traffic levels may vary at different times. The appellant suggests that roughly one vehicle per hour uses the lane and the Council has provided nothing to the contrary. Accordingly, there is no indication from the evidence before me or observations at the site that there is a significant volume of vehicular traffic which would lead to conflicts between pedestrians, cyclists and vehicles.
7. The Council is concerned that residents that occupy the new houses may include vulnerable people, the elderly, those with young families who might need to walk along this lane into Ulgham in order to access facilities. However, as stated above there is minimal traffic on this lane and pedestrians can safely walk along it without fear of collision. The 30mph restriction and the nature of the road are such that vehicle speeds are unlikely to be great and forward visibility is good in both directions such that pedestrians would be well aware of approaching vehicles, even during hours of darkness.
8. There is room to accommodate a passing car on the carriageway or pedestrians or other users could briefly pass onto the grass verges on either side of the lane if required. That is not an uncommon arrangement on rural lanes and would not lead to undue safety concerns or to any notable delay given the quiet nature of the lane. In addition, the distance from the site to the recreation ground or the closest edge of the village is not substantial, the route is relatively flat and the walk along the lane is not unpleasant or arduous. As such, I am satisfied that the nature of the route would not deter use by pedestrians and would not be inherently harmful to their safety.
9. For all of those reasons, I find that the proposal without the provision of a footpath, the proposal would not have an unacceptable impact on highway safety and would not be in conflict with objectives of the National Planning Policy Framework with respect to highway and pedestrian safety. The condition to provide details of proposed highway works to create a footpath is unreasonable and unnecessary.

Conditions

10. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I therefore recommend the imposition of all those that I consider remain relevant relating to access, layout, scale and appearance of the building(s) and landscaping of the site, as well as commencement and avoidance, mitigation and enhancement measures.
11. These are necessary in the interests of the residential amenity of the surrounding area with regard to noise and disturbance, to ensure that the development is commenced within a reasonable period of time from the date of this permission and to achieve a form of development that complies with the Development Plan and other material considerations. In the event that some of those conditions have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion and Recommendation

12. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should be allowed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be allowed.

Chris Preston

INSPECTOR

Schedule 1 – Conditions

1. Approval of the details of the access, layout, scale and appearance of the buildings and landscaping of the site, hereinafter called "the reserved matters" shall be obtained from the Local Planning Authority in writing before any development is commenced. Thereafter, development shall not be carried out other than in accordance with the approved details.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans: Location Plan.
5. The development hereby approved shall not exceed the 625 square metres footprint, 2300 cubic metre volume and 6.2m ridge height of the existing structures on site and shall be limited to no more than 4 dwellings.
6. If during the development contamination not previously considered is identified, then an additional written Method Statement regarding this material shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until a method statement has been submitted to and approved in writing by the Local Planning Authority, and measures proposed to deal with the contamination have been carried out.
7. During the construction period, there should be no noisy activity, i.e. audible at the site boundary, on Sundays or Bank Holidays or outside the hours: Monday to Friday - 0800 to 1800, Saturday 0800 to 1300. Any repeatedly noisy activity at any time may render the developer liable to complaints which could result in investigation as to whether a statutory nuisance is being caused.
8. No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological reports ('Extended Phase 1 Habitat Survey & Bat Risk Assessment - South Croft Stables, Ulgham', Econorth Ltd., January 2015 and 'South Croft Stables, South Croft Farm, Ulgham - Bat Activity Surveys', Econorth Ltd., July 2015) including, but not restricted to, precommencement checking bat survey of existing buildings to be carried out not more than 1 month before the start of demolition works with the results of that survey together with any necessary modifications to avoidance, mitigation or enhancement measures as may be required to be forwarded to and agreed in writing with the LPA before demolition works commence; bat boxes or other such features (bat bricks, bat slates or similar) to be included as intrinsic features of the new buildings with numbers, types and locations to be agreed in writing with the LPA before development commences; adherence to timing restrictions; adherence to precautionary working methods and Method Statement; adherence to external lighting recommendations in accordance with 'Bats & Lighting in the UK' Bat Conservation Trust/Institution of Lighting Engineers, 2008; inclusion of features suitable for nesting swallows within the new

development with types, numbers and locations of such features to be agreed in writing with the LPA before development commences; any deep (in excess of 300mm) excavations left open overnight to be either securely 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.

9. No demolition, removal of vegetation or felling of trees or hedges shall be undertaken between 1 March and 31 August unless an ecologist has first confirmed that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.
10. 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 hedgehog.
11. No development shall be carried out other than in accordance with the guidance set out in 'BS5837:2012 (or subsequent guidance) Trees in Relation to Design, Demolition and Construction: Recommendations' British Standards Institution, 2012 and with a 'hedgerow protection plan' to be submitted to and agreed in writing with the LPA before works commence.'
12. No development shall commence until the applicant has submitted a detailed landscape/hedge planting plan including the retention of existing hedges and the planting of locally native trees and shrubs of local provenance to be agreed in writing with the LPA and to be fully implemented during the first full planting season (November - March inclusive) following the commencement of development.
13. The development shall not be occupied until details of the proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is occupied.
14. The development shall not be occupied until details of car parking area have been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details. Thereafter, the car parking area shall be retained in accordance with the approved details.
15. The development shall not be occupied until details of the vehicular access have been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details. Thereafter, the vehicular access shall be retained in accordance with the approved details.
16. The development shall not be occupied until details of cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before the development is occupied. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be kept available for the parking of cycles at all times.
17. Prior to occupation, details of surface water drainage to manage run off from private land have been submitted to and approved by the Local Planning Authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the

development is occupied and thereafter maintained in accordance with the approved details.

18. 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 approved details.
19. Development shall not commence until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.
20. Prior to commencement of development samples of the materials to be used in the construction of the external surfaces of the highway 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.
21. Development shall not commence until a Construction Method Statement, together with supporting plan has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement and plan shall, where applicable, provide for:
 - i. details of temporary traffic management measures, temporary access, routes and vehicles;
 - ii. vehicle cleaning facilities;
 - iii. the parking of vehicles of site operatives and visitors;
 - iv. the loading and unloading of plant and materials;
 - v. storage of plant and materials used in constructing the development.
22. Notwithstanding details contained within the approved plans, prior to commencement of development the following information shall be submitted to and approved in writing by the Local Planning Authority;
 - The undertaking of an appropriate scheme of intrusive site investigations;
 - The submission of a report of findings arising from the intrusive site investigations;
 - The submission of a scheme of remedial works for approval; and
 - Implementation of those remedial works.

The works shall then be commenced in full accordance with the submitted details.

23. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.
24. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any subsequent Order amending, revoking or re-enacting that Order), no extensions, porches, dormer windows, roof lights or free standing buildings or structures shall be added to or constructed within the curtilage of the dwelling house hereby permitted without the prior grant of planning permission from the Local Planning Authority.