

Appeal Decision

Site Visit made on 6 May 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Friday, 04 June 2021

Appeal Ref: APP/V2825/W/21/3266645

**Land to the rear of The Hollies, Weedon Road, Upton, Northampton
NN5 4EX**

- 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 and Mrs Hollis against the decision of Northampton Borough Council.
 - The application Ref: N/2020/0371, dated 27 March 2020, was refused by notice dated 14 July 2020.
 - The development proposed is outline planning application for a proposed bungalow with all matters reserved except access, siting and scale.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters save for access reserved for future determination. Whilst I have been provided with plans showing the siting of the proposed dwelling, I am advised that these are indicative only and I have therefore determined the appeal on this basis.
3. On the 1st April 2021 Northampton Borough Council ceased to exist and became part of the unitary authority known as West Northamptonshire Council. The development plan for the merged local authority remains in place until such a time as it is revoked or replaced. It is therefore necessary for me to determine this appeal with reference to policies set out in the plan produced by the now dissolved Northampton Borough Council.
4. The appellant claims that a private right of access to the appeal site exists along part of the route of Public Bridleway LB9 (the PRoW). This appears to be a matter of dispute between the parties. Notwithstanding the presence of a pair of gates within the boundary fencing that could provide access to the garage positioned within the appeal site, there is limited information before me to explain or evidence the basis for which a private right exists. Similarly, there is little information before me to support the Council's view that such a right does not exist. In the absence of any clear evidence, I am unable to reach a definitive view on this matter. Even so, irrelevant of whether such a right properly exists, my findings in relation to the main issue would be the same and the outcome of this appeal unaltered. Therefore, for the purposes of this appeal, I have considered it on the basis that a private right of access is legitimately in existence albeit this may not be the actual case.

Main Issue

5. The main issue is the effect of the proposed development on highway safety and the users of the Public Right of Way.

Reasons

6. From my observations at the site visit, it was not apparent to me that the gates were frequently used to allow vehicular access to the garage building that lies within the appeal site. Nevertheless, it would be open to the appellants to continue to use this route to access to the garage. Moreover, should they choose to do so, it could be used more frequently and there could be greater use of the PRow by vehicular movements passing along its length.
7. However, to my mind, given the distance between the garage building and The Hollies together with the convenience of a number of off-street parking spaces in very close proximity to the dwelling, in my view, this makes it considerably less likely that parking would occur within the appeal site on a more frequent nor regular basis, particularly during periods of inclement weather. Moreover, the use of the appeal site as a separate unit of accommodation would incur additional trips along the PRow by visitors, delivery drivers and construction traffic, albeit the latter would be limited to the extent of the period of construction. Nonetheless, I am satisfied that the proposed development would lead to an intensification of use by motor vehicles along the PRow to access the appeal site.
8. The appeal site is accessibly located with a range of nearby supermarkets, shops, leisure facilities, restaurants, bus stops and a school. As a result, the evidence describes the PRow as being well-used by pedestrians and cyclists in providing access to these services and facilities and nearby residential areas. This generally concurred with my observations at the time of my site visit. For the most part, along this section of the PRow, it is mainly narrow and bordered by mature vegetation including trees and shrubs. As a result of its constrained width and an absence of passing bays or places to seek safe refuge, it would be likely that a motor vehicle and a PRow user would be unable to pass each other simultaneously. There would be a significant risk of vehicular conflict with users of this PRow and this would significantly prejudice their safety.
9. In addition, at the point of the boundary with the highway, the width of the access to serve the existing and proposed dwellings measures in the region of 4.3m, taking the Council's measurements, which have not been disputed by the appellants. This falls some way short of the minimum 5.5 metres width prescribed by the guidance within the Local Highway Authority Standing Advice for Planning Authorities (June 2016). I am not satisfied that there is sufficient width available to enable two vehicles to pass each other simultaneously without vehicular conflict being caused. Such instances are likely to result in vehicle conflict and an increased likelihood of motor vehicles reversing along the PRow or into Weedon Road, particularly given that the arrangement of the parking area to the front of The Hollies precludes vehicles from entering and egressing the site in a forward gear. This adds further weight to the potential conflict with users of the PRow in an area where there are no safe refuge points to avoid conflict with oncoming and/or reversing motor vehicles. Furthermore, it has not been satisfactorily demonstrated that the proposed scheme would achieve the necessary visibility splays which would add further weight against the proposal.

10. Overall, taking into account the complexity of this shared access point with multiple dwellings and a variety of PRow users along a well-used route, I find that the proposed development would have an unacceptable impact on highway safety and the safety of pedestrians and other users of the PRow. The proposal would conflict with paragraph 109 and sections 8 and 9 of the National Planning Policy Framework (the Framework) insofar as these seek to promote the creation of healthy and safe communities and safe and suitable access for all.

Other Matters

11. I have had regard to the appellant's desire to downsize to a smaller dwelling adapted for their disability needs and the availability of on-street parking within the vicinity. However, in this instance, the availability of additional parking space elsewhere and the personal wishes of the appellants is insufficient to outweigh the unacceptable harm to highway safety and the safety of users of the PRow.
12. The proposed development would contribute an additional dwelling to housing supply at a time when the Council cannot presently demonstrate a five-year supply of housing land. However, even if the tilted balance of paragraph 11(d) of the Framework is applied, given the significant unacceptable impact on highway safety that would be likely to result from the proposal, the adverse impacts would significantly and demonstrably outweigh the limited benefits of the appeal scheme.

Conclusion

13. For the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR