



Appeal Decision

Site Visit made on 20 September 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29TH November 2021

Appeal A Ref: APP/W0530/W/21/3271445

The Retreat, Fews Lane, CAMBRIDGE, CB24 3DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within a prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Landbrook Homes Ltd against South Cambridgeshire District Council. The application Ref S/0277/19/COND9, dated 15 April 2020, sought approval of details pursuant to condition No 9 of planning permission Ref S/0277/19/FL granted on 9 May 2019.
 - The development proposed is demolition of the existing bungalow and construction of two dwellings including car parking and landscaping.
 - The details for which approval is sought are details for the provision and implementation of foul and surface water drainage.
-

Appeal B Ref: APP/W0530/W/21/3271446

The Retreat, Fews Lane, CAMBRIDGE, CB24 3DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within a prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Landbrook Homes Ltd against South Cambridgeshire District Council. The application Ref S/4471/19/DC, dated 20 December 2019, sought approval of details pursuant to condition No 7 of planning permission Ref S/0277/19/FL granted on 9 May 2019.
 - The development proposed is demolition of the existing bungalow and construction of two dwellings including car parking and landscaping.
 - The details for which approval is sought are revised Traffic Management Plan as prepared by SLR Consulting in May 2019.
-

Decision

1. Appeal A is allowed. Appeal B is dismissed.

Procedural Matters

2. Both the Council and interested parties consider that the appeals are not valid due to the dates upon which they were submitted.
3. In relation to this point, Article 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 relates to appeals. Paragraph (1) (a) of Article 37 confirms that an applicant who wishes to appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990 (as amended), must give notice of appeal to the Secretary of State within (i) the time limit specified in Paragraph (2), or (ii) such longer period as the Secretary of State may, at any time, allow.

4. The appeals were submitted outside of the time limits established within Article 37. However, within the evidence before me, it is clear that communication between the appellant and the Council took place regarding the timeliness of decision making. Accordingly, I am satisfied that this is not a scenario whereby the appellant simply submitted the original applications and then sat idle. Instead, the appellant was chasing the necessary decisions in a timely manner. Accordingly, due to the history of the original applications, in accordance with Paragraph (1) (a) (ii), I am content that a longer period for the submission of the appeals is justified. As a consequence, for the purposes of my assessment, the appeals are valid, and I will proceed on this basis.

Main Issue

5. The main issue for both appeals is whether the information submitted in relation to each condition, is sufficient to comply with their requirements.

Reasons

Appeal A

6. The proposed Drainage Layout drawing demonstrates that drainage for the proposed dwellings would be dealt with via soakaways. The proposal has also been supplemented by an Infiltration Test Report as well as soakaway calculations. I note comments from an interested party regarding the details provided on the Below Ground Construction Details drawing, specifically regarding the water attenuation tank. However, on the basis of the evidence before me, I am satisfied that this element of the broader drainage scheme does not relate to the development that is before me. Accordingly, on this matter, I find that the concerns presented by Few's Lane Consortium Ltd are not relevant to my assessment of the appeal.
7. The evidence before me confirms that the Council's Sustainable Drainage Engineer is satisfied with the drainage proposals. In addition, Anglian Water have also confirmed that the foul water proposals are acceptable. I have no substantive evidence before me to disagree with these findings and consequently, I conclude that the information submitted in relation to Condition 9 of Planning Permission ref: S/0277/19/FL granted on 9 May 2019, is sufficient to comply with its requirements.
8. Notwithstanding the above, the wording of the condition is such that full compliance will not have been achieved until the scheme has been constructed and completed in accordance with the approved plans, prior to the occupation of the development, or in accordance with an implementation programme agreed in writing with the Local Planning Authority.

Appeal B

9. Amongst other things, Condition 7 requires that contractor parking shall be within the curtilage of the site and not on the street. The appeal refers to a detailed Traffic Management Plan dated December 2019 (TMP) and I note that the Local Highways Authority are content with the details submitted. I also note that the TMP has been relied upon when granting consent for other developments on the broader site.
10. Despite this, the TMP clearly states that although parking will be provided on-site, an off-site location will also be used for contractors. The TMP is

thorough on this point and states that alternative transport will be provided for contractors to get to and from the site, and in this respect, the proposal would appear to be mindful of highway safety. However, as identified above, the condition is clear in its requirements regarding contractor parking, and based on the evidence before me, the site would not be developed on this basis.

11. It is not for this appeal to consider the wording of the condition, or whether the condition complies with the tests for the use of conditions as set out within the National Planning Policy Framework. Instead, the judgement is a simple matter regarding whether the information submitted complies with the requirements of the condition. On this basis, for the reasons identified above, I conclude that the information submitted would not comply with the requirements of Condition 7 of Planning Permission ref: S/0277/19/FL granted on 9 May 2019.

Conclusion

12. For the reasons identified above, Appeal A is allowed. However, Appeal B is dismissed.

Martin Chandler

INSPECTOR