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# Appeal Decision

Site visit made on 8 February 2022

**by C Megginson**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> March 2022**

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**Appeal Ref: APP/N1350/W/21/3288824**

**Land to the rear of 21 Barmpton Lane, Darlington, DL1 3HB**

- 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 M Hartley against the decision of Darlington Borough Council.
  - The application Ref 21/01149/OUT, dated 1 October 2021, was refused by notice dated 1 December 2021.
  - The development proposed is residential development comprising the erection of 4 no detached bungalows.
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## Decision

1. The appeal is allowed and planning permission is granted for residential development comprising the erection of 4 no detached bungalows at land to the rear of 21 Barmpton Lane, Darlington, DL1 3HB in accordance with the terms of the application, Ref 21/01149/OUT, dated 1 October 2021, and the plans submitted with it (Location Plan 19004 L01 and Site Access Review JN2052-DWG-0001E), subject to the conditions set out in the attached schedule.

## Procedural Matter

2. Outline planning permission is sought with all matters reserved except for access. I have considered for approval the Location Plan and Site Access Review detailed above. I have had regard to the Indicative Site Layout and Bungalow Types 20009 SK01B, but have regarded all elements of this drawing as indicative.

## Main Issue

3. The effect of the development on the living conditions of occupiers of surrounding properties, with specific regard to noise.

## Reasons

4. The appeal site is fully surrounded by the rear gardens of bungalows and houses in Barmpton Lane, Harley Grove, Jesmond Road and Clarendon Road. The site sits at a lower level to the surrounding gardens and the boundary is made up of a mix of solid mature hedgerows, timber fencing and brick walls. The site contains storage buildings and former stables with an existing access road from Barmpton Lane, hardstanding and a large area of mown grass.
5. The appeal site planning history includes an approved planning application for two bungalows (ref 20/00835/OUT) with all matters reserved except for access. This application was amended from an original 5 bungalows.

6. The access to the appeal proposal would use the existing access to the appeal site, approved under the above permission, which runs between No 21 and No 23A Barmpton Lane.
7. The indicative site layout shows the access road running along the southern boundary of the appeal site, providing individual access to two proposed bungalows to the north. The road would then form a turning head on the western side of the site which would provide individual access to a further two proposed bungalows.
8. The Council's concern focuses on the increased comings and goings of additional traffic along the existing driveway and the extended road into the site and the impact on the amenity of the occupiers of surrounding properties, and what they describe as the tranquil nature of the site. I agree that the properties to the south of the site on Harley Grove, and the two properties either side of the access road on Barmpton Lane, are most likely to experience traffic noise associated with the proposed development. The Council have stated that the traffic generation from the 4 dwellings is likely to be 2-4 two-way trips in the AM/PM peak hours. They have provided no evidence in relation to the likely noise generation from these trips.
9. At the time of my site visit, noise attenuation fencing had been erected along the boundaries of the two properties along the access road and around their rear gardens. It is also proposed to block up the ground floor window to the side of No 21 Barmpton Lane. I agree with the Council that such measures would provide an element of noise mitigation to reduce adverse effects to the properties on either side of the access road.
10. During my site visit, I noted that Barmpton Lane to the east of the appeal site turns into a main through road. No's 21 and 23A Barmpton Lane are in close proximity and both will experience traffic noise from this road. To the south of the appeal site, south of Harley Grove is the A1150 Whinfield Road. During my site visit, whilst standing on the appeal site, I experienced background traffic noise from both roads. The occupiers of Harley Grove would therefore experience traffic noise from the appeal site in the context of the wider traffic noise. Furthermore, the noise generated over and above the already consented two dwellings on the site is unlikely to be significant and would not, I consider, lead to a material detrimental impact on the general amenity of the local community.
11. Consequently, having considered the evidence before me and what I experienced on my site visit, I am satisfied that the proposed development would not harm the living conditions of occupiers of surrounding properties, with specific regard to noise. This would be compliant with Policies CS2 and CS16 of the Darlington Core Strategy (2011) and saved Policy H13 of the Borough of Darlington Local Plan (1997) which seek to protect the general amenity of the community. The Council raise the issue of their emerging policy H8 in their statement of case, which has not been provided to me. However, given that I have found that the proposal would comply with the above policies in the adopted development plan documents I have not considered this further.
12. It would also be compliant with the National Planning Policy Framework ('the Framework'), which seeks to create places that have a high standard of amenity for existing users.

### **Other matters**

13. I have had regard to the objections raised in relation to the proposal. In terms of privacy and overlooking into neighbouring properties, the protection of hedgerows and light pollution, these would be considered as part of a future Reserved Matters application, which will deal with the final design of the dwellings, along with a landscaping scheme. Concerns centred around ecology are noted, and the provisions of a submitted Ecological Impact Assessment, as well as additional measures, are conditioned.
14. Similarly, with regards to surface water and concerns around flooding, I note that the appeal site is within Flood Zone 1 and Northumbrian Water have raised no objections to the proposal. A detailed scheme for the disposal of foul and surface water from the development will be considered as part of a future Reserved Matters application.

### **Conditions**

15. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity.
16. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development.
17. Conditions specifying the details of in curtilage vehicle parking for the proposed dwellings and No. 21 Barmpton Lane; cycle and bin storage; and access for refuse and service vehicles are necessary in the interests of highway safety.
18. To protect the living conditions of occupiers of neighbouring properties it is necessary to include conditions in respect of hours of construction and the submission of a Construction Method Statement.
19. Conditions relating to the internal highway layout; landscaping and tree protection; boundary treatment; finished floor levels; and drainage, are necessary for residential amenity.
20. To ensure the risks from land contamination are minimised in the interests of the water environment I have included conditions in this regard.

### **Conclusion**

21. For the reasons given above, having considered the development plan as a whole and all other relevant matters, I conclude that the appeal should be allowed.

*C. Megginson*

INSPECTOR

## **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of the development precise details of the internal highways layout shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.
- 5) Prior to the commencement of the development, precise details of in curtilage vehicle parking and secure cycle parking / storage shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location and dimensions of all parking spaces within the development and the number, location and specifications of all cycle parking / storage and thereafter the development shall not be carried out otherwise than in complete accordance with the approved details. All parking shall be made available prior to the occupation of the dwellings hereby approved.
- 6) Prior to or at the same time as any Reserved Matters application, details of parking provision for No. 21 Barmpton Lane, shall be submitted to and approved in writing by, the Local Planning Authority. The parking shall be available prior to the occupation of the dwellings hereby approved and retained thereafter.
- 7) No development shall be carried out unless and until vehicle swept path analysis has been undertaken to support the movement framework for refuse and service vehicles for the internal network and, where appropriate, in respect of the off-site highway proposals, details of which shall be submitted to and approved by the Local Planning Authority.
- 8) Prior to the commencement of the development precise details of a bin storage facility and location shall be submitted and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and shall be in place prior to the occupation of any dwellings and shall be permanently retained thereafter.
- 9) 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: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction

- works; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 10) Demolition or construction works shall take place only between 08.00 - 18.00 on Monday - Friday, 08.00 -14.00 on Saturday, [and shall not take place at any time on Sundays or on Bank or Public Holidays].
  - 11) Prior to the occupation of the development hereby approved, details of boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved details.
  - 12) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
  - 13) 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. Thereafter the development shall take place in accordance with the approved details.
  - 14) Prior to the commencement of the development and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.
  - 15) Prior to the commencement of each phase of the development or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and shall be submitted to and agreed in writing with the Local Planning Authority.
  - 16) Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which

shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority.

- 17) Any contamination not considered in the Phase 3 Remediation and Verification Strategy but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.
- 18) The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.
- 19) A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.
- 20) The mitigation measures set out in the Ecological Impact Assessment prepared by Naturally Wild (PP-20-04 August 2020) shall be implemented in full. In addition, no development shall take place until precise details of a landscaping scheme to mitigate for the loss of habitat on the site and secure ecological net gain, and for the provision of bat roosting and bird nesting opportunities on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on site and maintained for the lifetime of the development.
- 21) Prior to the commencement of the development, a detailed survey of trees to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council's Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of

the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to existing ground levels;
  - b) Cutting of roots, digging of trenches or removal of soil;
  - c) Erection of temporary buildings, roads or carrying out of any engineering operations;
  - d) Lighting of fires;
  - e) Driving of vehicles or storage of materials and equipment.
- 22) The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.