



Appeal Decision

Site visit made on 15 February 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/E0915/W/21/3277192

**Land Adjacent to Shortdale Cottage, Tarraby Lane, Tarraby, Carlisle
CA3 0JT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Keith Ormiston against the decision of Carlisle City Council.
 - The application Ref 20/0692, dated 7 October 2020, was approved on 23 February 2021 and planning permission was granted subject to condition.
 - The development permitted is residential development (outline) (Revised Application).
 - The conditions in dispute are:
 - No 4 which states: *Not more than two dwellings shall be erected on the site pursuant to this permission; and*
 - No 12 which states: *Development shall not commence until a Construction Phase Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:*
 - *Pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;*
 - *Details of proposed crossings of the highway verge; · Retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;*
 - *Cleaning of site entrances and the adjacent public highway;*
 - *Details of proposed wheel washing facilities;*
 - *The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;*
 - *Construction vehicle routing;*
 - *The management of junctions to and crossings of the public highway and other public rights of way/footway.*
 - The reasons given for the conditions are: *The local planning authority wish to control the scale of the development to avoid a cramped form of development and its impact on the local highway network in accordance with Policies SP6, IP1 and IP2 of the Carlisle District Local Plan 2015-2030; and In the interests of highway safety.*
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Decision

1. The appeal is allowed and planning permission Ref 20/0692 for Residential Development (Outline) (Revised Application) at Land Adjacent to Shortdale Cottage, Tarraby Lane, Tarraby, Carlisle, CA3 0JT granted on 23 February 2021 by Carlisle City Council, is varied, by deleting condition no 4 and substituting for it the following condition:
 - 1) Not more than four dwellings shall be erected on the site pursuant to this permission.

Applications for costs

2. An application for an award of costs was made by Mr Keith Ormiston against Carlisle City Council. That application is the subject of a separate Decision.

Background and Preliminary Matters

3. Outline planning permission (ref 18/0796) was granted in October 2019 for residential development. That permission does not specify the number of dwellings, but the documents submitted with the planning application refer to 2 dwellings. A subsequent reserved matters application (ref 19/0973), which related to 4 dwellings, has not been determined.
4. The planning application subject of the appeal was granted permission subject to conditions including No 4 which restricts the number of dwellings to 2, and No 12 which requires a construction phase traffic management plan. The appeal seeks to vary these conditions.

Main Issues

5. Therefore, the main issue is whether the disputed conditions are necessary in the interests of the character and appearance of the area and highway safety, relevant to the development to be permitted and reasonable in all other respects.

Reasons

Condition No 4 – not more than 2 dwellings

6. The appeal site is an undeveloped parcel of grass land at the end of Tarraby Lane in the countryside. It is part of an allocated housing site that is currently being developed.
7. The application subject of the appeal was made in outline with details of appearance, landscaping, layout and scale reserved for consideration at a later stage. Neither the description of the development nor the planning application specifies the number of dwellings. However, the plans illustrate 4 plots and this was the basis upon which the application was considered by the Council. The appeal seeks to vary condition 4 to allow for the erection of 4 dwellings.
8. The existing development at the end of Tarraby Lane is low density and rural in character. The neighbouring new development, which can be seen from Tarraby Lane, is higher density with a more urban arrangement including roughly 8 dwellings along the rear of the appeal site. Taking into account the surrounding context, the Council officer report considers that 4 plots would be a reasonable interface. Neither the minutes of the planning committee nor the Council's statement of case refer to impacts on character and appearance. There is little evidence that 2 dwellings is the maximum number that could be accommodated without harm to the character and appearance of the area. Consequently, I find that a restriction on the number of dwellings to 2 is not necessary in the interests of the character and appearance of the area.
9. The reason for condition 4 also relates to impacts on the local highway network and it references Carlisle District Local Plan 2015-2030 (Adopted November 2016) (the LP) Policies SP6, IP 1 and IP 2. Among other things, Policy SP6 requires good design, including that proposals are safe and well integrated. Policy IP1 requires adequate highway capacity and achievable access to

support new development. Policy IP2, in respect of the transport network, resists development that will cause severe issues that cannot be mitigated against or that are likely to generate significant levels of transport within isolated and poorly accessible areas. Policy IP2 aims to avoid proposals that will compromise the safe or effective operation of the transport network.

10. Tarraby Lane is a narrow rural road that serves the small settlement of Tarraby and, beyond that, Shortdale Cottage and Shortdale Farm and a horse training manege. The road is constrained by buildings and boundary treatments as it passes through Tarraby, beyond which it is contained between hedgerows with soft verges and shallow ditches. There are sharp bends in the road, no footway or street lighting and passing places are limited to field gateways. There is no vehicular access beyond Shortdale Cottage, but a public right of way (FP) continues from the end of the road and other FPs link to the road between the appeal site and Tarraby. The section of road that fronts the appeal site is also a FP. At the time of my visit, during a weekday, the road between Tarraby and the appeal site was only lightly trafficked but it was well used by pedestrians.
11. The Transport Statement (WYG, 28 August 2018) in support of the earlier outline application summarises the key aspects of the road as its narrowness, sharp right angle bend between Tarraby and the site, and the highway alignment and general environment through Tarraby itself. It calculates that the field gateway passing opportunities are at roughly 135m and 175m spacing. On the basis that a typical dwelling results in 6 vehicle movements per day, the proposal at that time was predicted would result in 12 one-way trips per day and that cumulatively, taking into account the 2 existing dwellings, farm and delivery vehicles, traffic volumes would not exceed say 20 vehicles each way per day.
12. The updated evidence with the appeal (Tetrattech Technical Note 1, June 2021) indicates that the existing situation at Tarraby Lane is one of perhaps just 20-30 vehicles per day. Each proposed additional dwelling is predicted to add a further 5-6 vehicle movements per day. Clearly, the traffic generated by a total of 6 dwellings in this location would be a marked increase compared to that generated by the 2 existing dwellings. However, it would not be a significantly high volume in the context of the lightly trafficked no through road.
13. The impact on the local highway network was considered by the Council and the consultees as part of the earlier outline and reserved matters planning applications. In this regard, the position of the Highway Authority has consistently been that new residential development in this location has the potential for conflict with regard to traffic along Tarraby Lane. However, it considers that 2 passing places, as was considered adequate for 2 dwellings, would still be adequate to mitigate the increase in traffic and the adverse highway impacts arising from 4 dwellings.
14. The details of the passing places have not yet been agreed. However, the evidence indicates that these would likely be in addition to the informal field gateway passing places. Consequently, there would be increased opportunities at relatively frequent intervals for road users including vehicles, pedestrians, cyclists and horses to safely pass one another.
15. Local residents, including those with children and horses, have previously enjoyed using the lane between the appeal site and Tarraby on the basis that it has been very lightly trafficked and safe for the most vulnerable road users.

Understandably, they would prefer that there was no increase in the number of vehicles along Tarraby Lane. Nevertheless, it is an adopted highway and there is little substantive evidence that the additional vehicles generated by 4 rather than 2 new dwellings would compromise highway safety.

16. The concerns of local residents also extend to the cumulative impact of traffic through Tarraby itself and on the approach from Houghton Road. The representations highlight the public house, access to the nearby water park, and recent residential developments. They note that there has already been an increase in traffic, resulting in increased mortality of wildlife and domestic cats. In relation to Tarraby, the Council officer report notes that the nature of the road through the village, which is narrow and winding with on-street car parking in places, functions to reduce traffic speeds. Moreover, there is little evidence that the village or the approach suffers from significant congestion or highway safety issues. Hedgehogs are a conservation priority species in England but, while they are susceptible to traffic collision, there is little evidence that the proposal would contribute to a significant adverse impact on the population. While the loss of family pets due to vehicle collision is understandably upsetting, there is little evidence that this is a highway safety issue or a planning matter that weighs against the proposal.
17. Therefore, I conclude that the proposed variation of condition no 4, which would restrict the development to no more than 4 dwellings, would not result in harm to the character and appearance of the area nor would the increase in residential traffic associated with 4 rather than 2 dwellings harm highway safety. It would not conflict with the aims of LP Policies SP6, IP1 and IP2 in relation to visual amenity, highway capacity or highway safety.

Condition No 12 – construction traffic management plan (CTMP)

18. The need for a CTMP was identified by the Highway Authority in relation to the proposal for 4 residential plots. The Council's officer report recommended approval of the planning application subject to conditions including restricting the development to no more than 4 dwellings and requiring a CTMP. Notwithstanding the number of dwellings was restricted to 2, condition 12 requiring a CTMP was duly imposed on the permission.
19. The appellant considers that as a CTMP was not necessary in relation to the earlier approved 2 dwelling scheme, it will be similarly unnecessary in relation to the planning permission subject of the appeal which is also for 2 dwellings. Furthermore, he considers that even if permission was granted for 4 dwellings, the CTMP would still not be required. This is not because he objects to the rationale behind condition 12 and the CTMP but rather that he considers such conditions are not typically imposed on small scale developments.
20. As can be seen above, I have concluded that condition 4, which restricts the development to 2 dwellings, is not necessary. Therefore, there is no need for me to consider whether or not condition 12 is strictly necessary in connection with the outline planning approval for 2 dwellings. However, even if I had found that condition 12 was not reasonably imposed on the planning permission, it does not automatically follow that it must be similarly unnecessary in connection with the larger 4 dwelling proposal.
21. There is little evidence that construction activity associated with 4 dwellings, details of which have not been approved, would be indistinguishable from the

construction of 2 dwellings. Moreover, while CTMP may be more commonly required, and their value acknowledged, for large scale developments, I am not aware that there is a numerical or size threshold of development that determines whether or not a CTMP is necessary.

22. Tarraby Lane is a narrow road with soft verges and limited passing places. Even if the 2 new passing places were constructed prior to the commencement of development, rather than prior to the construction of the dwellings as required by condition 5, construction traffic including large HGVs transporting materials could still damage the road. Moreover, taking into account the public rights of way immediately adjacent to the appeal site, and the increased use of the road in the direction of Tarraby, measures to prevent the deposition of material on the highway appear both necessary and reasonable. Furthermore, while the site is only accessible via Tarraby Lane, details of construction vehicle routing including minimising vehicle movements and controlling timings would mitigate construction phase impacts and provide certainty for local residents and vulnerable highway users.
23. I accept that some of the provisions of the CTMP appear similar to other planning conditions but, in the absence of the CTMP, the remaining conditions would not be adequate to avoid adverse construction impacts. Condition 7 relates to the prevention of surface water discharge onto the highway, with details of measures to be approved prior to the development being completed. It does not relate to the construction phase nor to the deposition of material. Condition 11 relates to land for the parking of vehicles engaged in construction operations, but it does not specifically relate to manoeuvring, loading and unloading. Condition 26 requires site provision to enable delivery vehicles to the residential properties to enter and exit in a forward manner. Therefore, it relates to the occupation phase.
24. I note the suggestion that condition 12, particularly the requirement for survey and post-construction road repairs, could have a significant impact on scheme viability. However, little evidence has been provided in relation to viability. Moreover, this suggestion in any case appears to acknowledge, rather than refute, the potential for significant damage to the road during construction.
25. Tarraby Lane is an adopted highway and the Highway Authority has a duty to maintain it, and construction vehicles would be taxed and licensed for use on the public highway. However, as this will be the case for the majority of schemes approved subject to conditions requiring CTMP, it is not clear how this would negate the need for a CTMP here. Section 59 of the Highways Act would presumably similarly apply to schemes elsewhere with and without CTMP and it is in any case a separate regime with separate legislation to planning. Irrespective of traffic volume, there is little evidence that Tarraby Lane is directly comparable to other rural roads or that similar schemes on comparable rural roads have been granted without CTMP.
26. Therefore, based on the evidence before me, I conclude that the construction traffic associated with the proposal for 4 dwellings in this location would have the potential to adversely impact highway safety. Therefore, in connection with the 4 dwelling appeal proposal, condition 12 would be necessary, relevant to the development and reasonable in all other respects.

Conclusion

27. I have found that the proposed variation to condition 4, which would restrict the development to no more than 4 dwellings, would not harm the character and appearance of the area and the domestic vehicles associated with the occupation of 4 dwellings would not compromise highway safety. However, I have found that condition 12, which requires a CTMP, would be reasonably necessary in connection with the construction of 4 dwellings in this location.
28. Therefore, I allow the appeal, deleting the disputed condition 4 and substituting it with an amended condition. However, condition 12 is necessary to make the development acceptable. Therefore, I have not deleted condition 12.

Sarah Manchester

INSPECTOR