



Appeal Decision

Site visit made on 8 March 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th June 2022

Appeal Ref: APP/P2935/W/22/3290663

Land South of The Old Farmhouse, B1337 Ulgham Village, Main Road, Ulgham NE61 3AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Lavery against the decision of Northumberland County Council.
 - The application Ref 21/02984/FUL, dated 23 July 2021, was refused by notice dated 17 December 2021.
 - The development proposed is erection of 4 bedroomed dormer bungalow.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 4 bedroomed dormer bungalow at land south of The Old Farmhouse, B1337 Ulgham Village, Main Road Ulgham NE61 3AW in accordance with the terms of the application, ref 21/02984/FUL, dated 23 July 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Northumberland County Council formally adopted the Northumberland Local Plan 2016-2036 (NLP) on 31 March 2022 during the course of the appeal. The Council has confirmed that this replaces the Castle Morpeth District Local Plan. I have therefore determined the appeal having regard to the relevant policies within the NLP. Both main parties have had the opportunity to comment on the implications of this for the appeal. I am satisfied that no interested party has been prejudiced by this approach.
3. During the appeals process the appellant has submitted a section 106 legal agreement by unilateral undertaking (UU) dated 10 March 2022. The UU provides for the payment of £615 towards the Coastal Mitigation Service. I will return to the agreement later in my decision.

Main Issues

4. The Council has clarified that following the adoption of the NLP the appeal site is no longer within the Green Belt, rather it is located within the Green Belt Boundary inset for Ulgham. The Council considers that Policy STP1 of the NLP supports the principle of development on the appeal site and consequently, the Council no longer wishes to pursue reasons for refusal 1 and 2 of their decision.
5. Therefore, having regard to the above, the main issues are the effect of the development on (i) highway safety, and (ii) the integrity of coastal sites of Special Scientific Interest (SSSIs) and European protected sites.

Reasons

Highway safety

6. The proposed development would be accessed via an unnamed road (U6003) to the west of the appeal site. The U6003 is a rural road which has a 30mph speed limit and is wide enough to take two-way traffic. It has grass verges to either side and rises towards the junction with the B1337.
7. The drawings indicate that the required visibility of 2.4 by 43 metres at the appeal site entrance in a broadly northerly direction can be achieved. Towards the B1337, visibility would be more limited due to the position of the road junction. Without a specific survey the Council are not satisfied that traffic would be traveling at speeds low enough to accept the reduced visibility splay.
8. However, the speed of vehicles turning on to the U6003 from the B1337 is likely to be low due to manoeuvring at the junction. The road has a straight alignment which means that drivers travelling along the U6003 have good visibility of those entering and leaving the appeal site. Also, at the access point there would be clear visibility of traffic turning into the lane from the B1337. In addition, most of the vehicles leaving the appeal site would be travelling towards the B1337 road junction as the road is a no through route in a northerly direction. Therefore, there would be limited conflict between vehicles entering the lane and those turning out of the access.
9. The proposed access arrangements have previously been approved to be used for access to a single dwelling. I have no compelling evidence before me that the road conditions have changed or that the road immediately outside the application site is dangerous. Vehicles would have ample room to park within the site and could leave the site in forward gear.
10. The Council did not make any reference to policy in its reason for refusal, however, following the adoption of the NLP, Policy TRA2 of the NLP has been drawn to my attention. This policy seeks to minimise the effect of development on the transport network including effective and safe access and egress to it. I am satisfied that the proposed access would not be detrimental to highway safety and would accord with Policy TRA2. It would also accord with the Framework where it states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Coastal mitigation

11. The appeal site is within 10 Km of the Coast. It falls within the 'zone of influence' for coastal sites designated at a national and international level as SSSIs and Special Protection Areas / Special Areas of Conservation/ Ramsar sites (designated sites).
12. In accordance with the Conservation of Habitats and Species Regulations 2017, (the Habitats Regulations) planning permission cannot be granted unless it has been concluded through an Appropriate Assessment that the proposal, in combination with other plans and projects, would not have an adverse impact on the integrity of designated sites.
13. General recreational activity can result in damage and disturbance arising to the designated sites. In the appeal case the additional dwelling would result in

a reasonable likelihood that the designated sites would be accessed for recreational purposes by its future occupiers. Although this may be minimal by itself, a significant effect on the integrity of the designated sites would occur, when considered in combination with other residential development in the surrounding area.

14. In order to address these effects, the Council has developed a strategic approach to mitigation in consultation with Natural England (NE) in the form of the Northumberland Coastal Mitigation Service. This is a developer funded scheme with a tariff-based approach which requires all new residential development to make a financial contribution towards the implementation of the mitigation measures. In this case the amount would be £615.
15. During the appeal process the appellant submitted a UU which would secure this contribution. NE and the Council have confirmed that a suitably executed, UU which would provide a contribution towards the mitigation service, would be effective in addressing the likely significant effects arising from the development and would be sufficient to avoid an adverse impact on the integrity of the designated sites and their relevant features. I see no reason to reach a different conclusion. I am content that the submitted UU is robust, and I have taken it into account in reaching my decision.
16. I have considered the UU against the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and Paragraph 56 of the Framework. I am satisfied that the financial contribution is necessary to make the proposed development acceptable in planning terms. The obligation would contribute towards the provision of mitigation services including warden provision. The contribution is directly related to the appeal scheme given the location of the appeal site in relation to the designated sites. In addition, as it relates to a standard charge based on the scale and type of residential development proposed, it is fairly and reasonably related to the proposal in scale and kind.
17. The UU has enabled me to complete my Appropriate Assessment and to conclude that the proposal would not adversely affect the integrity of the designated sites. The scheme would comply with the Habitats Regulations.

Other Matters

18. I acknowledge that the Council has a housing land supply in excess of 5 years. Nevertheless, the appeal site is in an area where the Council no longer raises an objection to the principle of residential development, which is supported by policies in the NLP, the development plan for the area since its adoption in March 2022.
19. Local residents and the Parish Council have expressed a range of concerns including loss of privacy, impact on trees, lack of landscaping details, the design of the development and concerns about vehicles turning right on to the B1337. However, I note that these matters were considered by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I note the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Conditions

20. In addition to the time limit condition, I have imposed a condition in the interests of certainty concerning the approved plans. Details of the materials of the development are needed to ensure that the development has a satisfactory appearance.
21. In the interests of highway safety and protecting the living conditions of the nearest residents during the construction phase of the development I have also applied a condition requiring a construction method statement.
22. Highway conditions are imposed to ensure that the development would meet its own access and parking needs. I have also imposed conditions in the interests of public health concerning land contamination and to prevent the accumulation of ground gas. A condition to protect nesting birds is required to prevent undue risk to the local environment.

Conclusion

23. The development would not be harmful to highway safety and the impact of the proposal on designated sites can be mitigated. The proposal would accord with the development plan when taken as a whole, and material considerations do not indicate the development should be determined other than in accordance with it. Consequently, for the above reasons, the appeal is allowed.

Diane Cragg

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans: location plan; Block Plan drawing No HA107; SW elevation drawing no. HA 104; SE elevation drawing no. HA 103; roof plan drawing no. HA 102; NW elevation drawing no. HA 105; NE elevation drawing no. HA 106; ground floor plan drawing no. HA 100; first floor plan drawing no. HA 101; visibility splays drawing no. HA 151; sightlines, bins and cycles drawing no. HA 150.

- 3) 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:
 - i. vehicle cleaning facilities;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. the loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) Prior to construction above damp proof course level samples of all external facing materials shall have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 6) No foundation works shall be commenced until a report detailing the proposed protective measures to prevent the ingress of ground gases, including depleted Oxygen (<19%), to the standard required in BS8485:2015+A1:2019 (Code of Practice for the design of protective measures for Methane and Carbon Dioxide ground gases for new buildings), or to a Characteristic Situation 2 level of protection, whichever is the highest, has been submitted to and approved in writing by the Local Planning Authority. The report shall also specify to the Local Planning Authority's satisfaction how the annulus of service ducts will be sealed to prevent gas ingress into the living space of the dwelling. The report shall also contain full details of the validation and verification assessment to be undertaken on the installed ground gas protection, as detailed in CIRIA C735 (Good practice on the testing and verification of protection systems for buildings against hazardous ground gases)
- 7) No building shall not be brought into use or occupied until the applicant has submitted validation and verification report to the approved methodology in Condition 6, which has been approved in writing by the Local Planning Authority.
- 8) No demolition, development, tree felling, or vegetation clearance shall be undertaken between 1 March and 31 August unless a suitably qualified ecologist has first confirmed to the Local Planning Authority in writing that

that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.

- 9) The development shall not be occupied until the car parking and turning area indicated on the approved plans has been implemented in accordance with the approved plans. Thereafter, the car parking and turning area shall be retained as constructed and shall not be used for any purpose other than the parking and turning of vehicles associated with the development.
- 10) The development shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans.