
Appeal Decision

Site visit made on 3 April 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2023

Appeal Ref: APP/E0915/W/22/3311702

Land to the rear of 5-8 Sewell Place, Carlisle

- 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 Ken Gearing against the decision of Carlisle City Council.
 - The application Ref 22/0095, dated 9 February 2022, was refused by notice dated 16 June 2022.
 - The development proposed is 3nr. Bedroom single storey dwelling with associated infrastructure and curtilage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposal has been altered from the application form to the decision notice. That on the application form adequately describes the proposal and I have considered the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposal on highway safety and the effect of the proposal on the integrity of the River Eden Special Area of Conservation (SAC).

Reasons

Highways safety

4. The site is accessed from the corner of Sewell Place, which is a short cul-de-sac within a residential part of the city. The evidence indicates that the site comprises a part of former allotments and suggests that three dwellings have previously been granted planning permission using the same access as the appeal scheme from Sewell Place.
5. I accept that the access from Sewell Place is rather constrained, being single track between No.4 and No. 5 and lined with boundary treatment. However, the street environment would necessitate all users of the highway accessing and leaving the site to do so cautiously having regard to other users of the access. The set up also limits the potential for accessing or egressing the site at speed. The access seems to be of adequate width and structural stability to serve its reasonably limited purpose.

6. Although I have been provided with limited detail of the other residential approvals, two of those dwellings, in the form of large, detached residences appeared to have been constructed. I am not aware of any highways safety issues that have arisen from this situation, nor am I convinced that the addition of a fourth dwelling, particularly when this would be a rather more modest three-bedroom bungalow would be unacceptable. There is nothing to indicate that the proposal could not meet with building regulations requirements, were I minded to allow the appeal.
7. There would therefore be no significant adverse impact on highway safety. Subsequently, there would therefore be no conflict with Policy IP 2 of the Carlisle District Local Plan 2015-2030 (CDLP) which in relation to the transport network advises that amongst other things, development that will cause severe issues that cannot be mitigated against will be resisted. Whilst there appears to be disagreement over their relevance, there would also be no conflict with policies LD7 and LD8 of the Local Transport Plan 2006-11 on the basis of the information before me.

River Eden SAC

8. The River Eden SAC amongst other things is designated on account of its varied habitats that support species including White clawed crayfish, Sea, Brook and River lamprey, Atlantic salmon, Bullhead and Otter.
9. Natural England has recently updated the conservation status of the River Eden SAC. Concern over water quality in terms of eutrophication is identified with regard to phosphorus.
10. The appeal site falls within the catchment of the River Eden SAC and would generate wastewater which would discharge to the SAC after treatment at Willowholme wastewater treatment works. An impact pathway is therefore present.
11. As a result, unless development which includes additional residential units would demonstrably achieve nutrient neutrality, it cannot be concluded that it would not have an adverse effect on the integrity of the SAC.
12. No mitigation is proposed. The proposal would therefore conflict with Policy GI 3 of the CDLP, which requires that biodiversity assets across the district be protected and where possible enhanced.
13. Unlike within the area relating to another appeal scheme that has been drawn to my attention¹ there does not appear to be a nutrient mitigation scheme currently available. The comparability with that scheme is therefore somewhat limited and I afford that matter limited weight.
14. I am invited to impose a negatively worded condition to secure a financial contribution towards offsetting the impact associated with nutrient neutrality. However, at this stage, there can be no certainty as to the nature and timing of any forthcoming schemes with respect to these matters.
15. It is possible to use a negatively worded condition to prohibit development authorised from taking place until a specified action has been taken (for example, the entering into of a planning obligation to secure a financial

¹ APP/L2630/W/21/3289198

contribution towards offsetting the impact associated with nutrient neutrality). However, in line with guidance on the use of planning conditions² there are no exceptional circumstances before me to justify such a condition.

16. In the same vein, given the lack of certainty over the nature and timing of any scheme, extending the standard time limit for implementation would not seem reasonable.

Planning Balance and Conclusion

17. There would be no significant adverse impact on highway safety. The proposal would result in the provision of one dwelling which would contribute towards housing supply. However, this benefit would be outweighed by the harm identified above.
18. There is nothing including the provisions of the Framework³ to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

² Gov.uk – DLUHC & MCLG Guidance use of planning conditions Paragraph: 010 Reference ID: 21a-010-20190723.

³ National Planning Policy Framework 2021.