



Appeal Decision

Site visit made on 5 September 2023

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/P2935/W/23/3324404

Land to the north of Southcroft Stables, The Croft, Ulgham, Northumberland

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Thomas Forster (Forric Homes) against the decision of Northumberland County Council.
- The application Ref 23/01214/VARYCO, dated 1 April 2023, was refused by notice dated 19 May 2023.
- The application sought planning permission for a new vehicular access to serve four permitted dwellings without complying with conditions attached to planning permission Ref 21/04875/FUL, dated 12 July 2022.
- The conditions in dispute are Nos 3 & 4 which state that:
(3) Prior to the commencement of development the applicant shall demonstrate in writing to the Local Planning Authority that precise details of the proposed footpath, no less than two metres in width, between the application site and the settlement of Ulgham have been agreed to the satisfaction of the Highway Authority.
- *(4) Prior to first operation of the proposed vehicle access, the footpath works must be fully completed in accordance with the approved plans. The footpath will therefore be retained in accordance with these approved details unless written notification from the local planning authority outlines otherwise.*
- The reasons given for the conditions are:
 - *(3) In the interests of highway safety in accordance with policy TRA 1 of the Northumberland Local Plan and the National Planning Policy Framework.*
 - *(4) In the interests of highway safety in accordance with policy TRA 1 of the Northumberland Local Plan and the National Planning Policy Framework.*

Decision

1. The appeal is allowed and planning permission is granted for a new vehicular access to serve four permitted dwellings at Land to the north of Southcroft Stables, The Croft, Ulgham, Northumberland in accordance with the application Ref 23/01214/VARYCO dated 1 April 2023, without compliance with condition numbers 3 and 4 previously imposed on planning permission Ref 21/04875/FUL dated 12 July 2022 and subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 12 July 2025.
- 2) The development hereby permitted shall be carried out in complete accordance with the approved plans. The approved plans for this development are:-

Location plan drawing no. 001_01 rev. P1 (received 16th December 2021)

Proposed site plan drawing no. 200_01 rev. P8 (received 30th March 2022).

Applications for costs

2. An application for costs was made by Mr Thomas Forster (Forric Homes) against Northumberland County Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Outline planning permission was granted in 2018 for four residential dwellings at Southcroft Stables¹. This permission contained a condition (21) that required a two metre wide footway connection to the development site from the settlement of Ulgham, together with the provision of highway drainage, street lighting and pedestrian dropped kerbs. A planning application² to delete this condition was then made under Section 73 of the Town and Country Planning Act 1990 but refused by the Council. A subsequent appeal³ against this refusal was allowed resulting in a new permission being granted, without the condition in question.
4. A further planning application⁴ was then made for a new vehicular access to serve the four permitted dwellings and this was granted planning permission in 2022. On that permission the Council imposed two planning conditions (3 and 4) requiring details of a footpath of no less than two metres in width between the appeal site and Ulgham and that such a footpath must be put in place before the first operation of the permitted new vehicular access. This too was subject to a planning application under Section 73 to delete the conditions, which was also refused by the Council. It is against that refusal that the current appeal is made.
5. The main issue in this appeal is whether the conditions are reasonable and necessary in the interests of highway safety, with particular regard to minimising conflicts between pedestrians, cyclists and vehicles.

Reasons

6. The Inspector in the previous appeal observed only one vehicle movement past the appeal site during a one and a half hour period on 10 November 2020. I myself remained on Ulgham Lane for the same period of time during my site visit and I saw nine vehicle movements past the appeal site, which represents an average of one vehicle movement every ten minutes. This is broadly consistent with an observation of traffic movements that is set out in the consultation response from Ulgham Parish Council. Even working on the basis of what I saw as opposed to what was observed by the previous Inspector, it would appear that the movement of vehicles past the appeal site occurs only infrequently.
7. I am conscious that in all instances what has been observed represents only a limited snapshot in time. Traffic levels may vary at different times, and it may indeed have been the case that movements in 2020 were to some degree affected by restrictions put in place at that time in relation to the Covid-19 Pandemic. However, it remains that the Council has provided no substantive evidence to validate their counter assertion that Ulgham Lane is not a quiet

¹ 18/01245/OUT

² 19/00072/VARYCO

³ APP/P2935/W/20/3255596

⁴ 21/04875/FUL

rural lane but that instead it is one which provides a key route for both existing residential and agricultural traffic. On the contrary, it would appear on the basis of the evidence that is available, that in terms of traffic movements Ulgham Lane could reasonably be said to be a quiet road.

8. Furthermore, I have not been made aware of any change in circumstances relating to the section of Ulgham Lane between the appeal site and the settlement since the previous appeal decision in 2020. It remains a section of road that is subject to a maximum speed restriction of 30mph, it has good forward visibility, and the route is relatively flat in the direction of the settlement. I concur with the previous Inspector that the walk to the closest edge of the village where a recreation ground and footpath are located is not substantial and that the walk is neither arduous nor unpleasant. These characteristics together with the quiet nature of the road mean that the absence of a footpath would not discourage future residents of the proposed dwellings from walking to the settlement and that its absence would not be inherently harmful to their safety.
9. Whilst some sections of the roadside grass verges are overgrown and there is evidence that vehicles have overrun onto the edges of the verges, this affects only parts of the verges between the site and the settlement. It is also stated that the verges can at times be boggy or flooded. However, given the speed restriction and the general infrequency of movements along Ulgham Lane, even if a grass verge was not immediately available there would not be harm to the safety of persons travelling along the road. In other instances, the grass verges would be available to provide a temporary refuge. Whilst what has been permitted would add the traffic movements of the four new dwellings to Ulgham Lane, this would not result in a substantial increase in vehicles using the road. It would also add to the number of people walking and cycling along Ulgham Lane, however again this would not be a significant increase.
10. I acknowledge that the wording of the conditions subject to this appeal differs from those imposed on planning permission 18/01245/OUT and they do not require drainage, street lighting or dropped kerbs. But they still require the provision of a footpath, which is a requirement that the appellant has sought to remove through the submission of the S73 planning application and this subsequent appeal. Therefore, the key consideration remains as to whether the requirement for the footpath itself is necessary and reasonable. Given that there is no substantive evidence that Ulgham Lane is anything other than a quiet rural lane, and given the specific circumstances including the speed restriction, visibility, topography, grass verges and the distance to the settlement, I conclude that conditions 3 and 4 are neither necessary nor reasonable in the interests of highway safety.
11. The Council considers that removing the requirement for the footpath would in effect set a precedent for other new dwellings to be permitted without footpath links. However, each proposal must be assessed on the basis of the circumstances that pertain to it in terms of whether a footpath is necessary and reasonable in the interests of highway safety. In the case of this appeal, I have set out clear reasons as to why the provision of a footpath is neither. The Council suggests that the policies of the new development plan provide significantly stronger support for connectivity and sustainable transport than those of the previous, superseded, development plan. But the reason for imposing Condition 21 on the 2018 planning permission does not refer to any

development plan policies, and neither did the previous Inspector in their reasoning. Reference is instead made to the National Planning Policy Framework (the Framework), and it is against that document and the policies of the current development plan that I have made my determination of this appeal.

12. In conclusion, taking all of these considerations together, the absence of a footpath would not result in an unacceptable impact on highway safety. The conditions are therefore not required to ensure that the development accords with Policies TRA 1 and TRA 2 of the Northumberland Local Plan 2022, where they seek to promote sustainable connections, provide effective and safe access and egress, minimise conflict between different modes of transport and facilitate the safe use of the transport network. Furthermore, there would be no conflict with the aims of the Framework set out in paragraphs 110 and 111. This means that the conditions also do not meet the tests of necessity and reasonableness set out in paragraph 56 of the Framework.

Conditions

13. There were four conditions imposed on the original permission, of which I have found that conditions 3 and 4 fail to meet the tests set out in paragraph 56 of the Framework. The other conditions related to the time period to commence development and the approved plans, both of which remain necessary to provide certainty. As it is not possible to extend the time period to commence development through a S73 planning application, the applicable period in condition 1 is three years from 12 July 2022, that being the date on which the original permission was granted.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions.

Graham Wraight

INSPECTOR