



Appeal Decision

Site visit made on 22 August 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2023

Appeal Ref: APP/P2935/W/23/3322006

21A Front Street East, Bedlington, Northumberland NE22 5DS

- 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 Mark Wilkinson against the decision of Northumberland County Council.
 - The application Ref 22/04060/FUL, dated 21 November 2022, was refused by notice dated 6 April 2023.
 - The development proposed is erection of 2no 2 storey 4 bed detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development as stated on the Council's decision notice, rather than that given on the application form, as this is more precise. The appellant raises no specific objection to that description, which they have subsequently used on the appeal form.
3. A new proposed site layout plan has been submitted with the appeal which details car parking and refuse storage, it also includes new access details. The Highway Statement includes a plan to show the swept path of a grocery delivery van which is based on the new site layout plan. In this respect the new plans are not part of the plans that were determined by the Council or upon which the views of interested parties were sought. In applying the Wheatcroft Principles, I cannot be certain that if I were to accept them, no party would be prejudiced by my so doing. Accordingly, I have not taken the new plans into account in my assessment of the appeal and I have based my decision on the plans considered by the Council when it determined the application.
4. I saw at my site visit that development is underway but is not yet finished. As such, I have determined the appeal on the basis of the submitted plans.

Main Issues

5. The main issues are the effect of the proposal on:
 - highway safety, with particular regard to access and car parking provision;
 - the living conditions of future occupiers of the dwellings with regard to ground gases; and
 - drainage and flood risk.

Reasons

Highway safety

6. The appellant's Highway Statement indicates that the access arrangements for the appeal scheme would remain the same as for a scheme which has been granted planning permission. The Heritage, Design and Access Statement states that the site is to be accessed from the existing track that runs alongside 21 Front Street East, however there is also a proposed site access plan which appears to show access from Millfield Court. The purpose of this is unclear, however the Council have indicated that this is a secondary access. It is stated that appropriate visibility splays exist, however it is not clearly articulated which access they relate to or detailed on a plan.
7. The width of the access track is in dispute. The Council's Highway Development Management team have indicated that the access track does not meet the minimum required 3m width set out in local guidance or the recommended 4.1m width set out in the government's Manual for Streets. The appellant has not provided any clear evidence or precise measurements to demonstrate that the track is wide enough to achieve safe access for vehicles or that a vehicle could safely pass a pedestrian and/or cyclist.
8. While it may be that vehicles would be travelling at a slow speed to allow for safe manoeuvring and that the volume of traffic would be low, the access track that runs alongside 21 Front Street East is single carriage way, generally narrow in width with poor visibility owing to the presence of a tall close boarded timber fence running alongside the entire length of the track. Even if the primary access were to be via Millfield Court as shown on the proposed site access plan, vehicles would join a short section of the access track which would be at a location where there are tall fences on both sides of the track and visibility is poor. Moreover, it has not been shown that there is sufficient space for vehicles to safely turn onto the narrow access track from Millfield Court.
9. Accordingly, in the absence of any substantive evidence to assess the transport implications of the development, I am not satisfied that there would be safe access and egress for vehicles, cyclists and pedestrians. The appellant largely relies upon the officer report for the previous application at the site however I note that this decision is of some age and was assessed against a different set of policies and in any event, I have reached my own findings based on the circumstances of the present case.
10. It is indicated that the dwellings have been designed to provide sufficient car and cycle parking, and suggested that each unit would have a garage, a drive and two visitor parking spaces which would include an electric charging point. There would also be cycle parking within each dwelling. The layout of the site is said to enable vehicles to access parking spaces easily and ensure sufficient turning space. However, while the proposed plans show a garage for each dwelling, they do not meet the Council's car parking standards. Moreover, the plans upon which the Council made their decision do not include layout details with regard to any other parking provision.
11. As such, it is unclear whether appropriate parking can be achieved at the site to meet the Council's guidelines. The proposed development could therefore lead to indiscriminate on-street parking on the surrounding streets. Given the presence of on-street parking already on Millfield Court and Front Street East,

and the relatively narrow width of Millfield Court and the pavement nearest to the site, additional off-street parking has the potential to affect the free flow of pedestrians, cyclists and traffic. It would also reduce visibility for motorists joining and leaving Millfield Court at the junction with Front Street East.

12. For the above reasons, the proposal would adversely affect highway safety, in conflict with Policies TRA2 and TRA4 of the Northumberland Local Plan (2022) (NLP). Amongst other things, these policies require all developments affecting the transport network to provide effective and safe access and egress to the existing transport network, minimise conflict between different modes of transport, and provide an appropriate amount of off-street vehicle parking in accordance with the parking standards set out in the plan.
13. It would also be contrary to the guidance set out in the National Planning Policy Framework (the Framework) in Paragraph 110 and 111 which seeks safe and suitable access for all users.

Ground gases

14. The appellant indicates that while a gas membrane was successfully installed at the site when construction started it has been identified that further gas protection measures are required. It is suggested that a strategy for the removal of the existing membrane and retrospective installation of new protective measures has been agreed with their consultants. Despite the appellant's statement indicating that the strategy would be provided as part of this appeal, the information has not been forthcoming.
15. The Gas Risk Assessment (2020) identified that gas protection measures are required at the site. As such, it is appropriate to adopt a precautionary approach. In the absence of any substantive evidence that appropriate gas protection has either already been installed or can be retrospectively installed it is not possible to ascertain that the future occupiers of the dwellings would not be put at unacceptable risk or harm from ground gases. This is not a concern that could be rectified by a planning condition to secure the submission of a ground gases strategy given that development has already started on site and the appellant has identified that there are additional complexities with installing gas protection retrospectively.
16. Consequently, the proposal would be detrimental to the living conditions of the future occupiers of the dwellings with regard to ground gases, in conflict with Policy POL2 of the NLP which requires development proposals to not be in locations that would be put at unacceptable risk of harm from noxious substances. It is also contrary to the provisions of the Framework in relation to creating places that have a high standard of amenity for existing and future users.

Drainage and flood risk

17. Limited evidence has been provided in respect of minimising and controlling surface water run-off, to demonstrate what effect the proposal would have on flood risk to people, property and infrastructure from all potential sources or how it will be minimised, as required by Policies WAT3 and WAT4 of the NLP. Despite a request from the Lead Local Flood Authority team, no drainage strategy has been provided to demonstrate how surface water would be disposed of to prevent an increased risk of flooding elsewhere. I note that the

Highway Statement suggests that additional surface water run-off would be collected by drains in the vicinity, and that there would be no change to surface water on the access track. However, I have no firm details to demonstrate the current drainage system or capacity, nor the effect of the proposal on it.

18. I have considered the suggestion that drainage details could be secured by planning condition, however, I am unable to establish from the limited information whether adequate drainage could be provided at the site and I have little certainty any planning permission granted would not be negated by the lack of suitable drainage. Therefore, this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition to ensure that adequate drainage could be achieved.
19. Therefore, the proposal would adversely affect drainage and flood risk, in conflict with Policies WAT3 and WAT4 of the NLP. It would also be contrary to the guidance in the Framework which advises development should ensure that flood risk is not increased elsewhere.

Other Matters

20. It is not disputed that the appeal site is in an accessible location and the scheme would provide for a small increase in supply in housing. While these are clear benefits of the scheme, they carry modest weight given the scale of the proposal.
21. The appeal site lies within 10km of designated sites on the Northumberland coast, including the Northumbria Coast Special Protection Area, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). One of the reasons for refusal concerns the absence of a completed planning obligation or any other satisfactory alternative mitigation to demonstrate that the proposed development would not have a significant effect on the protected sites.
22. I note that the submitted Ecological Impact Assessment Report (2022) confirms the appellant's commitment to paying contributions to the Council's coastal mitigation service. Notwithstanding this, the Regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat. However, it is not necessary for me to consider the implications of the proposal upon the protected sites because the scheme is unacceptable for other reasons.
23. The appeal site also falls within the Bedlington Conservation Area (BCA). The significance of the conservation area, insofar as is relevant to this case, is primarily derived from its historic fabric and the associated architectural detailing and layout of the buildings within it. Although in a backland location, as part of a plot of land that establishes the development pattern lining Front Street East, the appeal site makes a positive contribution to the significance of the BCA. Having considered the proposal and visited the site, the appeal scheme would preserve the significance of the conservation area.
24. A sprinkler system is proposed within the dwellings to mitigate for direct access to the site for fire engines not being possible. I note that the Fire and Rescue Service were consulted but did not respond and that the appellant has provided a copy of a response from the fire service to the previous planning application which did not object to that proposal. The previous response is from a number

of years ago and for a previous scheme, nevertheless, this matter was not a reason for refusal or a point of concern for the Council and I have no substantive evidence to dispute the Council's conclusion.

25. While the appellant has expressed frustrations with the Council's handling of the case, this does not alter or outweigh my findings which are based on the planning merits of this case. It is also open to the appellant to consider whether they wish to submit another planning application to the Council for its consideration.

Conclusion

26. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR