



Appeal Decision

Site visit made on 2 January 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2024

Appeal Ref: APP/M3455/W/23/3326136

Land at Maunders Road, Milton, Stoke on Trent, Staffordshire ST2 2PQ

- 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 TFK Property Limited against the decision of Stoke-on-Trent City Council.
 - The application Ref 63977/FUL, dated 8 May 2019, was refused by notice dated 17 February 2023.
 - The development proposed is demolition of existing lock-up garages and erection of 7 two storey residential dwellings.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing lock-up garages and erection of 7 two storey residential dwellings at Land at Maunders Road, Stoke on Trent, ST2 2PQ in accordance with the terms of the application Ref 63977/FUL, dated 8 May 2019, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. The proposal was amended during the application consideration process from 8 to 7 dwellings. I have dealt with the appeal on the basis of the amended plan, which does not materially change the substance of the proposal and which would not prejudice any party.
3. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 19 December 2023. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.

Main Issue

4. The main issue is the effect of the proposed development on pedestrian and highway safety.

Reasons

5. The appeal site is a plot of land used to accommodate nine garages and facilitates rear access parking for a number of dwellings that address Station Grove. The site gains access onto Maunders Road via a single width roadway which is around 12 metres in length. The access is opposite the junction with Foxley Lane. Maunders Road is a residential through road that narrows in front of the site. The Council identifies that Maunders Road is a busy thoroughfare

- and a well-used school route. The footway is also of varying width in front and either side of the site entrance, providing good visibility for motorists leaving the site in both directions.
6. The proposed access route would be a surface shared by motorists and pedestrians. It would allow two cars to pass for most of its length but tapers close to the entrance to the site where only a single width access would be available. The front of the site is adjacent to the driveway of 60 Maunders Road, having a boundary wall along its side, this creates a pinch point where traffic could only pass in single file.
 7. The Appellant's Transport Report¹ (TR) considers the effects of traffic using the single width access. This calculates that the proposal would generate six arriving vehicles and five exiting vehicles during an hour at peak periods, with vehicles taking around 4 seconds to pass through the access. It states that this would create a very low probability of vehicles, from opposing directions, seeking to use the access at the same time. Furthermore, in the event of opposing vehicles meeting, the TR states that an inbound vehicle would only have to wait slightly in the carriageway, as shown at appendix C and only then for a maximum period of 4 seconds.
 8. Such activity would result in vehicles waiting in the highway for an extremely limited period of time. Furthermore, once a vehicle has turned into the entrance, an opposing vehicle would be likely to wait in site for the vehicle to fully enter before proceeding, resulting in waiting within the site rather than in the carriageway. Any following vehicle would clearly see a vehicle waiting partly on the carriageway and would be able to slow and/or stop safely on the highway provided they employed the normal driving expectations of care and attention.
 9. Moreover, the site is currently occupied by 9 garages and provides access for vehicle parking for a further 5 properties of Station Grove. The garages have historically been used by local residents. As a result, the site already accommodates a certain level of traffic based on its lawful use, even if the current level activity is regarded by the Council as being of only low intensity. Accordingly, the existing use of the site is similar to the proposed use and could be in use to a similar intensity. Accordingly, the traffic associated with the proposed development would be unlikely to substantially increase traffic using the access.
 10. Furthermore, the TR demonstrates that a 2m by 2m pedestrian vision splay exists at the site's entrance from the extrapolated back edge of the footway. Appendix G demonstrates that motorists would have a clear line of sight of pedestrians on the footway as motorists enter the highway.
 11. The TR includes sweep path analysis at appendices E and F. These demonstrate that there is sufficient space within the carriageway for a vehicle to use the site access without having to reverse or adjust their turn. This demonstrates that there is sufficient space for a vehicle to undertake the manoeuvre without crossing the centre line of Maunders Road or crossing third party land, albeit this would be a turn that would require some care and attention and crossing part of the slightly raised kerb edge. As such, it would be possible for a

¹ Transport Planning and Traffic Engineering Written Representations, by Cameron Rose, July 2023

motorist to turn left into the site, despite the tight radii, without requiring multiple manoeuvres in the footway.

12. Tracking plans have also been submitted, at appendix H, that demonstrate that a fire tender, and other fixed base vehicles, could safely enter the site by reversing into the site if arriving eastbound on Maunders Road. This therefore demonstrates that construction vehicles and post construction delivery and refuse lorries could enter the site safely. This includes for those vehicles turning left into the site. As a refuse truck could enter the site, it would not be essential for residents to need to place refuse bins along Maunders Road. Consequently, on street and on-site options for refuse collection appear to be readily available.
13. The site access road is a shared surface. The Council's Highway Officer notes this issue as a concern but has not demonstrated why it would be demonstrably hazardous to pedestrians. The access drive would be only lightly used, by vehicles travelling at low speeds. Pedestrians using the driveway would have access to refuge areas on the grassed sides of the route. These characteristics would enable the shared surface to be used safely. As such, no material or demonstrable conflict between pedestrians and motorists using the driveway would occur.
14. Accordingly, the proposed development would not result in harm to pedestrian or highway safety. Consequently, the proposal would accord with policies SP3 and CSP1 of the Newcastle-under-Lyme & Stoke-on-Trent Core Strategy (CS) and the Framework. These seek, among other matters, for development to be easy to get to, be accessible to all users and to maximise the accessibility of new residential development.

Other Matters

15. I am cognisant of the relatively high number of objections raised in representations against the scheme on the basis of the loss of the garages and with respect to highway safety. I have addressed most matters of highway safety as a main issue. However, in addition interested parties have indicated that at least some of the garages on site remain in use to house vehicles. A result of the proposal would be to displace this parking provision off-site. Nonetheless, as the site is being actively disposed of by the Council, access to the garages would be unlikely to be permanently available in the future. In any event, I am satisfied that the displacement of a small number of on-site parking spaces, onto local streets, could be accommodated without causing detriment to highway safety.
16. Local residential occupiers have raised concerns that the proposed dwellings would overlook neighbouring plots eroding privacy, exacerbated by the proposed removal of trees. However, the separation distance between plots 1-5 and existing housing on Station Grove would meet the Council's separation distance requirements. Furthermore, the houses of Station Grove are at a higher elevation and this, in combination with the angled orientation of the proposed dwellings, would maintain the privacy of existing occupiers. Furthermore, construction disturbance would be limited due to the relatively small scale of the scheme and could be controlled through the imposition of a condition to secure a Construction Environmental Management Plan.

17. Interested parties have also raised concerns with respect to the impact on wildlife and habitat. The initial phase 1 habitat survey², whilst now dated, found no protected species or habitats were present on site although the site was found suitable for nesting birds. It recommended that further survey work for nesting birds would be necessary if work was to take place during the bird nesting season. It also recommended that habitat enhancement measures could be undertaken through new planting and the addition of bird boxes to offset the loss of ruderal vegetation. The ecological information was updated in 2020, without change to the initial findings and identifying a general location for bird and bat boxes.
18. The submitted Biodiversity Impact Assessment³ identifies a net loss of biodiversity units and hedgerow units, with a combined loss of 0.43 biodiversity units, requiring off-setting. The ecological scheme includes the provision of bird and bat boxes, a sensitive lighting scheme and new tree and hedgerow planting. These measures would be adequate to ensure biodiversity net gain can be achieved as sought by the Framework, subject to the imposition of conditions to require the submission of a walkover badger survey, the specific location and type of bird and bat boxes to be installed, a biodiversity mitigation scheme and a landscaping scheme.
19. The proposal would accommodate the rear parking currently available to some residents of Station Grove. As a result, access for these residents would be accommodated by the proposal. The access track provided would be relatively generous in width and enable suitable access to the rear parking areas. This would also be adequate for people who require wheelchair access, from a suitable vehicle, into the rear of plots via level access.
20. Interested parties have also raised concerns as to the effect of the proposal on the existing drainage system. The submission does not include substantive evidence that drainage or flooding is a significant issue in the area. As such, a condition could be applied to require the proposal to provide a sustainable drainage system. Such a system would capture surface water runoff on site and discharge off-site at a regulated rate, limiting off-site drainage impacts, in compliance with CS policy CSP3.
21. Furthermore, I have taken into account representations made with respect to the impact on school places and the railway embankment, but these matters do not affect my findings on the main issue.

Conditions

22. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity.
23. It is necessary for details relating to levels, tree protection measures, a biodiversity mitigation plan, badger survey, construction environmental management plan, contamination survey, land stability survey and sustainable drainage strategy to be submitted prior to the commencement of development. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse

² Extended Phase 1 habitat survey, Rachel Hacking Ecology, August 2019

³ Biodiversity Impact Assessment, Rachel Hacking Ecology, November 2022

permission. The conditions are required prior to construction commencing because works may occur within the footprint of the building and relate to the initial setting out of the site.

24. Details of building footprint levels are required to ensure that the development would respect the height of adjacent buildings and neighbour's living conditions [3]. The conditions for a biodiversity mitigation plan and badger survey are necessary to maintain and enhance the ecological value of the site [4 and 5]. A condition, in regard to construction environmental management, would be required to protect the living conditions of adjacent residential occupiers [6]. The conditions that relate to contamination, land stability and drainage are required as the site has been previously developed. These conditions are also required to ensure that the development would be safe for future occupiers and the wider members of the public and be suitably drained [7, 8 and 9].
25. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Conditions are also necessary with respect to hardstanding, site and plot boundaries and materials in the interests of the character and appearance of the area [11, 12 and 14]. Details with respect of the location of the proposed bird and bat boxes, to implement the tree protection plan, a landscaping scheme and lighting scheme would be necessary to ensure these would, in combination, support the delivery of the required biodiversity net gain [10, 13, 15, 16 and 17].
26. The Framework advises that conditions should not be used to restrict permitted development (PD) rights unless there is clear justification to do so. However, based on the size of the plots PD rights associated with extensions and outbuildings should be removed. A condition is therefore reasonable to remove such rights in the interests of the living conditions of future and existing occupiers. The Council has advised that a condition would be necessary with respect to electric charging points. However, I have not sought such details as this would be secured by Building Regulation requirements and it would be unnecessary to duplicate other legislative requirements.

Conclusion

27. The proposal would accord with the development plan, when taken as a whole, and there are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. As such, the appeal is allowed, and planning permission granted subject to the attached conditions.

Ben Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Site Layout Drawing No. 00312 PL(0) 01 Revision J and Proposed Floor Layout and Elevations Drawing No. 00312 PL (0) 02 Revision B.
- 3) Prior to the commencement of the development hereby approved, precise and full details of existing and proposed ground levels of the site shall first be submitted to, and approved in writing by, the Local Planning Authority. The development shall then be fully constructed in accordance with the approved ground levels.
- 4) Prior to the commencement of the development, a scheme including both on site and off-site provision, if necessary, that demonstrates that the proposed development would not result in any net loss to biodiversity, shall first be submitted to, and approved in writing by, the Local Planning Authority. The development shall then only be implemented in accordance with the approved scheme.
- 5) Prior to the commencement of the development hereby approved, a walk-over badger survey of the site shall first be carried out. The results of the badger survey, including any recommended mitigation measures, shall first be submitted to, and approved in writing by, the Local Planning Authority prior to any development commencing on site. The development shall then be undertaken in strict accordance with the agreed measures.
- 6) Prior to the commencement of the development hereby approved, a Construction Environmental Management Plan (CEMP) shall first be submitted to, and approved in writing by, the Local Planning Authority. The approved management plan shall include details relating to construction access, hours of construction, the location of the contractor's compounds, cabins, material storage areas and contractors parking and a scheme for the management and suppression of dust from construction activities including the provision of a vehicle wheel wash. It shall also include a method of demolition and restoration of the site. All site operations shall then be undertaken strictly in accordance with the approved CEMP for the duration of the construction programme.
- 7) Prior to the commencement of the development, a site investigation of the nature and extent of contamination shall be carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 8) Prior to the commencement of development, a site investigation of the nature and extent of any land instability shall be carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any land instability issues are found resulting from, for example past mining activity, during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any unexpected hazards are found which have not been identified in the site investigation, additional measures for their remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

- 9) Prior to commencement of the development hereby approved, precise details of the way in which surface water is to be disposed of from the site shall first be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall make provision for the use of sustainable drainage techniques and surface water limitation where practicable. The development shall take place in accordance with the approved details only.
- 10) Prior to commencement of the development hereby approved, all trees shown to be retained on the approved site layout drawing no. 00312 PL(0)01 Revision J, shall be protected, in a manner previously agreed in writing by the Local Planning Authority. Each tree shall be protected in the agreed manner for the duration of building operations on the application site. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed.
- 11) Before any above ground works commences, details of hard surfacing of the car parking and vehicle access areas for the proposed dwellings, shall first be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall then be fully implemented in accordance with the approved details prior to the first occupation of the development hereby approved and those areas shall not be used for any other purposes thereafter other than for their intended use.
- 12) Before any above ground works commences, details of all external facing materials shall first be submitted to, and approved in writing by, the

- Local Planning Authority. The development shall then be fully constructed in accordance with the approved materials.
- 13) Prior to first occupation of the development hereby approved, precise details for the incorporation of bat and bird boxes within the development shall first be submitted to, and approved in writing by, the Local Planning Authority. The agreed scheme shall then be fully implemented on site prior to the first occupation of the residential dwellings hereby approved and retained in perpetuity.
 - 14) Prior to first occupation of the residential dwellings hereby approved, details of all boundary treatment shall first be submitted to, and approved in writing by, the Local Planning Authority. The proposed boundary treatment shall be fully implemented in accordance with the approved scheme prior to first occupation of the residential dwellings hereby approved.
 - 15) Prior to first occupation of the residential dwellings hereby approved, a landscaping scheme, to include those details specified below, has been submitted to and approved in writing by the Local Planning Authority: the treatment proposed for all ground surfaces, including hard areas; full details of any tree planting; planting schedules, noting the species, sizes, numbers and densities of plants; finished levels or contours; any structures to be erected or constructed; functional services above and below ground; and all existing trees, hedges and other landscape features, indicating clearly those to be removed.
 - 16) The approved landscaping scheme shall be fully completed, in accordance with the details approved under the terms of the above condition, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously approved in writing by the Local Planning Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 10 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
 - 17) Prior to the first occupation of the residential dwellings hereby approved, a scheme for the future maintenance, management and lighting of the proposed access road and any other areas outside the individual plot boundaries shall first be submitted to, and approved in writing by, the Local Planning Authority and those areas shall be maintained and managed in accordance with the approved scheme thereafter.
 - 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re-enacting that Order, with or without modifications, no enlargement, improvement or other alteration of the residential dwellings shall be carried out and no outbuilding, enclosure or other structure shall be erected within the curtilages without the prior consent of the Local Planning Authority.

End of conditions