



Appeal Decision

Site visit made on 28 May 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2024

Appeal Ref: APP/M2840/W/23/3323363

46 Cartrill Street, Raunds, Northamptonshire NN9 6ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Tophaven Sustainable Construction Limited against North Northamptonshire Council.
 - The application Ref is NE/23/00040/VAR.
 - The development proposed is variation of condition 11 to allow for retention of porous driveway with gravel topping instead of the approved hard surface driveway pursuant to application 18/01510/OUT Outline: Demolition of existing building and residential development consisting of 5 No 4-bedroom dwellings with amended access, associated parking and amenity space (all matters reserved except access); and to reflect the changes proposed to the site plan approved under condition 1 pursuant to 20/00346/REM - Reserved matters for Appearance, Landscaping, Layout, Scale, pursuant to Outline Planning Permission 18/01510/OUT.
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Decision

1. The appeal is dismissed and planning permission for variation of condition 11 to allow for retention of porous driveway with gravel topping instead of the approved hard surface driveway pursuant to application 18/01510/OUT Outline: Demolition of existing building and residential development consisting of 5 No 4-bedroom dwellings with amended access, associated parking and amenity space (all matters reserved except access); and to reflect the changes proposed to the site plan approved under condition 1 pursuant to 20/00346/REM - Reserved matters for Appearance, Landscaping, Layout, Scale, pursuant to Outline Planning Permission 18/01510/OUT is refused.

Applications for costs

2. The appellant has made an application for an award of costs. This is the subject of a separate decision.

Preliminary Matters

3. The Appellant has confirmed that the correct company name is Tophaven Sustainable Construction Limited rather than Tophaven Homes Ltd. Accordingly, I have used this in my banner heading above.
4. The driveway that has been constructed is not consistent with the plans before me in pursuance of the condition. At the time of my visit, I observed a linear strip of solid bound surfacing to one side of the driveway. In determining the appeal, I have had regard to the submitted information and not what I saw on site.

5. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. The main issue below is taken from the information contained within the Council's statement, the appellant's statement of case, as well as having regard to third party representations and my site visit.
6. The Council adopted Part 2 Local Plan for East Northamptonshire (LP) in December 2023, after its refusal of planning permission. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision. The appellant and Council were invited to make comments on the relevant LP policies, and I have taken these comments into account in reaching my decision.
7. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issue

8. The main issue is the effect of the driveway surfacing proposed for the development on accessibility.

Reasons

9. The Planning Practice Guidance sets out that a local planning authority may adopt a policy to provide enhanced accessibility or adaptability by reference to Requirement M4(2) and/or M4(3) of the optional requirements in the Building Regulations. This is reflected in Policy 30 c) of the North Northamptonshire Joint Core Strategy 2011-2031 (JCS) which states that new dwellings must meet Category 2 of the Proposed National Accessibility Standards as a minimum.
10. The Appellant has drawn attention to Building Control certificates as evidence to suggest that the development plan policy has been met. However, from the evidence before me I find the certificates to be inconclusive as they appear to exclude compliance Part M optional requirement M4(2) (Category 2 – Accessible and Adaptable Buildings). Even if this were the case, I have considered the broader requirements of the Framework, which is a significant material planning consideration. The Framework is clear that local planning authorities should plan to create safe, accessible environments and promote inclusion and community cohesion. This includes buildings and their surrounding spaces.
11. Whilst noting that the driveway is partly solid bound the majority of the driveway has been laid to loose aggregate. From the evidence before me, including representations from interested parties, the proposed aggregate would likely cause accessibility issues for users who may have mobility issues, including users with wheelchairs, pushchairs, bicycles or similar. The proposed surfacing of the driveway would therefore be harmful to pedestrian connectivity by hindering the convenient and safe passage for users who are less mobile.
12. My attention has been drawn to the Northampton County Council Local Highway Authority Standing Advice for Planning Authorities: Domestic Vehicle

Access serving 1 to 5 dwellings and Advertisement Applications June 2016 (Standing Advice). Insofar as this document provides guidance on access surfacing, the need to have a solid bound surface for a minimum of the initial 5.0m from the highway boundary is to prevent loose material being carried onto the highway and thereby creating a highway safety hazard. This is not in dispute, and based on the evidence before me and my observations at my site visit, I have no reason to reach a different view in this regard.

13. Notwithstanding that the proposal may comply with the Council's Standing Advice in terms of preventing loose material being deposited onto the highway in the interests of highway safety, I cannot be satisfied that the proposal would provide safe and suitable access for pedestrians, particularly those with mobility needs.
14. For the reasons stated I conclude that the proposed revised driveway surfacing for the development would be harmful to accessibility. Accordingly, it would not provide safe and suitable access for all users and, in this regard, would be contrary to Paragraph 114 of the Framework. Furthermore, it would conflict with paragraph 116 of the Framework which states that decisions should address the needs of people with disabilities and reduced mobility in relation to all modes of transport and paragraph 135 (f) which seeks to create places that are safe, inclusive and accessible and which promote health and well-being.

Other Matters

15. Visually the proposed surface materials would not have a harmful effect on character and appearance. It is noted that there are no objections from statutory consultees, including the Highway Authority, local Police and the Environmental Protection team at the Council. However, these are neutral matters that neither weigh for or against the proposal.
16. The appellant states that the aggregate would be likely to improve the drainage at the site. I acknowledge that drainage improvements would be a public benefit of the proposal. However, in the absence of any evidence as to the extent of the current drainage problems and that it has not been demonstrated that the proposal is the only solution to improve drainage at the site, I therefore attach limited weight to the stated infiltration benefits of the proposed aggregate.
17. I do not consider that the Local Highway Authority Parking Standards (2016) are determinative to the appeal proposal before me.
18. Whilst the appellants submission refers to revised lighting, parking and surfaces these do not form part of the appeal scheme before me.

Conclusion

19. The proposal conflicts with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.
20. For the above reasons, I conclude that the appeal should be dismissed, and planning permission refused.

R Gee INSPECTOR