



Appeal Decision

Site visit made on 30 July 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2024

Appeal Ref: APP/M0933/W/24/3342905

Dallam School Car Park, Princes Way, Heversham, Milnthorpe LA7 7EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 imposed on the approval of reserved matters or details pursuant to a previous planning permission.
- The appeal is made by Dallam School against the decision of Westmorland and Furness Council.
- The application reference is SL/2023/0429.
- The application sought planning permission for erection of two dwellings and alterations to car park without complying with conditions attached to planning permission Ref SL/2019/0726, dated 4 November 2019.
- The conditions in dispute are Nos 1, 4, 5 and 6 which states that:
 - 1 – The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 scale - Site location plan - Dwg No 1807-SLP Rev C - received 03/09/2019; Composite scale - Site, block sections and street scene plan - Dwg No 2122-20 Rev C - received 03/09/2019; 1:100 scale - Elevations Plot 1 - Dwg No 2122-021 Rev B - received 03/09/2019; 1:100 scale - Elevations Plot 2 - Dwg No 2122-022 Rev A - received 28/10/2019; Composite scale - Drainage layout - Dwg No D2951-D-01 - received 23/09/2019; Composite scale - Landscape - Yew Tree Planting Condition - received 03/10/2019; Composite scale - Tree Protection Plan - Yew Tree - received 03/09/2019.
 - 4 - a) The development shall not be occupied until the surface water and sewage disposal works have been provided on the site in accordance with the approved plans. b) The approved works shall be retained as such thereafter.
 - 5 - All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out before any part of the development is occupied or in accordance with a programme to be agreed in writing with the Local Planning Authority prior to any development commencing. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.
 - 6 - Prior to the occupation of either of the proposed houses the approved parking layout (and turning space) for the Dallam School car park shall be constructed, marked out and made available for use in accordance with drawing number 1807-010C and shall be retained as such thereafter. The parking spaces shall be used solely for the benefit of the staff and visitors of Dallam School and for no other purpose. No development, other than works to implement the access, shall begin until the access have been implemented in accordance with the Proposed Access Layout drawing number.
- The reasons given for the conditions are:
 - 1 – For the avoidance of doubt and in the interests of proper planning.
 - 4 - To ensure adequate provision is made for the management of surface water and sewage disposal in accordance with Policies DM1, DM6 and DM7 of the Development

Management Policies Development Plan Document and Policy CS8.8 of the South Lakeland Core Strategy

5- To safeguard and enhance the character of the area and secure high-quality landscaping in accordance with Policies DM1, DM2 and DM4 of the Development Management Policies Development Plan Document.

6 - To ensure safe provision of the access for construction traffic and subsequent residential traffic in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS10.2 of the South Lakeland Core Strategy.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Reserved matters approval was granted in 2019 for the relevant details relating to the erection of two dwellings following the grant of outline planning permission¹. The two houses are to be constructed on the northern part of the car park serving Dallam School which will mean the loss of parking spaces. There was concern about the highway safety implications of vehicles parking on the highway because of inadequate car park capacity for school vehicles. To compensate for the loss of parking spaces, the scheme included an area of new car parking which would be created by lengthening the area of existing surfacing towards the south.
3. Condition no. 6, as described in the banner heading above, requires that the compensatory car parking area is provided prior to the occupation of either of the two houses. The change to the condition sought by the appellant would require the new car parking area to be completed 12 months after the occupation of the houses.
4. The appellant states that United Utilities will not accept the stormwater discharge from the new car park area. It is therefore proposed that the new car parking area would have a permeable surface and so it would not need to be connected to the mains drainage. This change would alter the approved plans identified in condition 1. The change to the approved plans would also impact conditions 4 and 5 by virtue of the drawing details. The Council has not raised a concern with the proposed change to the surface of the compensatory car parking area and it does not form part of the Council's reason for refusal. Based on the evidence before me, I see no reason to take a different view.
5. The main issue is therefore whether the timescale for the provision of the compensatory car parking area is necessary and reasonable in the interests of highway safety.

Reasons

6. The spaces in the northern part of the car park will be lost during the construction period for the two houses and will remain lost once they have been built. The Council's reason for refusal refers to the timing for the provision of the compensatory parking during the construction phase. The reason given for the condition refers to ensuring safe provision of the access for construction traffic as well as subsequent residential traffic. However, condition no. 6 as

¹ Reference SL/2016/1085

- worded only requires the compensatory parking area to be completed and made available for use prior to the occupation of either of the proposed houses.
7. The current capacity of the car park is identified as 45 vehicles. The number of spaces that will be lost due to the construction of the houses is 21.
 8. The appellant identifies that consideration of the scheme for the two houses was at a time when the school's Heversham site was in full use. Since Brexit and Covid, the appellant states that pupil and staff numbers in the Boarding House have reduced, with current use being around half its capacity. There has also been a reduction in activities that take place at the Heversham site with the holiday club no longer operating and fewer adult education classes taking place onsite. This has led to a reduced need for parking provision, with the appellant identifying a current requirement of around 34 spaces. The appellant considers that the level of use at the Heversham site is unlikely to change in the short to medium term.
 9. However, while the appellant states that they do not expect numbers to greatly increase in the next three to four years, there is a lack of clear evidence to substantiate this claim. Furthermore, my attention has not been drawn to any restrictions or controls over the nature or intensity of the use of the Heversham school site. It could be a considerable time until the houses are occupied, and longer still for the completion of the compensatory car park with the timescale variation requested. It cannot therefore be assured that the current level of use will remain during that period.
 10. The requirement for the compensatory car park is to address concerns about the highway safety implications of vehicles parking on the highway. This does not appear to be in dispute. From what I observed at my site visit, which I appreciate was a snapshot during the school holiday period, I concur with the highway safety concerns. While there is school keep clear markings at the entrance to the existing car park and to the school, these do not prevent on-street parking further along the highway towards the junction with the A6 or to the north where I observed several parked cars. Any vehicle parked in the sections of highway beyond the keep clear markings would result in vehicles having to cross the central line close to the bus lay-bys and entrance points to the school grounds.
 11. Consequently, in my judgment, there is a risk that the on-street parking of vehicles displaced due to a lack of car parking capacity at the school would increase the risk of accidents and incidents for road users, including cyclists and pedestrians. This would arise from the resulting congestion along with reduced visibility in locations close to a junction, near to bus stops and where pedestrians, including children, would be trying to cross.
 12. Harm to the safe use of the highway for all users, especially in the vicinity of a school, is a matter of overriding concern. I therefore give significant weight to this matter and to the importance of ensuring that the compensatory car park is provided in a timely way to minimise the risk to highway safety. The condition as worded would achieve this. It provides certainty that the car park will be provided and a precise and enforceable trigger to secure delivery.
 13. The change requested by the appellant would delay the delivery of the compensatory car park. It would enable the houses to be occupied for around 12 months, even taking account of the specific date suggested by the

appellant. This would markedly prolong the period during which the increased risks to highway safety as described above would be experienced, and with the additional vehicle movements generated by the two houses as their drives would be just to the north of the car park access.

14. I am sympathetic to the position that the appellant finds themselves in regarding the potential developer and the desire to have more time to provide the compensatory parking area after the sale of the site has been completed. However, the Council has already allowed flexibility for the delivery of the compensatory car park by requiring its provision prior to the occupation of the houses rather than prior to their construction.
15. The appellant has identified other parking areas within the school site which could be made available if parking demand increases before the compensatory car parking area is completed. However, only limited information is provided on these areas. For example, it is difficult to understand the extent to which they would represent additional parking capacity, or how their use as vehicle parking would affect the operation of the school site. Furthermore, it is hard to see what trigger would ensure implementation of the appellant's fallback plan to create additional capacity if the need for parking increases before the work to provide the car park is complete, being mindful of the need for planning conditions to be precise and enforceable.
16. I therefore conclude that the retention of condition no. 6 in its current form is necessary and reasonable in the interests of highway safety. The proposed variation of the disputed condition would be contrary to the highway safety requirements of Policy CS10.2 of the 2010 adopted South Lakeland Local Development Framework Core Strategy and Policy DM1 of the 2019 adopted South Lakeland Development Management Policies Development Plan Document.

Conclusion

17. The proposal would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight that would indicate a decision other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR