Appeal Decision

Site visit made on 10 February 2015

by Mark Caine  BSc (Hons) MTPL MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 March 2015

Appeal Ref: APP/P2935/A/14/2220012
Mill House, West Road, Ponteland, Newcastle upon Tyne, NE20 9SG

• 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 Galliford Try Partnerships North Ltd against the decision of Northumberland County Council.
• The application Ref 13/03134/FUL, dated 11 October 2013, was refused by notice dated 26 March 2014.
• The development proposed is the construction of 18 new dwellings and associated access, landscaping and engineering works.

Decision

1. The appeal is allowed and planning permission is granted for the construction of 18 new dwellings and associated access, landscaping and engineering works at Mill House, West Road, Ponteland, Newcastle upon Tyne, NE20 9SG in accordance with the terms of the application, Ref 13/03134/FUL, dated 11 October 2013, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Galliford Try Partnerships North Ltd against Northumberland County Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are:

   (i) The effect of the proposal on the character and appearance of the surrounding area.

   (ii) The effect of the proposal on highway safety, in regards to the level of off-street car parking provision.

Reasons

Character and appearance

4. The appeal relates to a piece of vacant previously developed land that is situated in a predominantly residential area adjacent to the River Pont and Ponteland Park. Due to the topography of the area the appeal site and a neighbouring scout hut building sit at a considerably lower level than the West Road highway which they are accessed off. There are a diverse range of properties of various ages and styles located on this highway, which along with
the neighbouring park, mature trees and grassed highway verges provide a varied but pleasant and relatively green suburban character.

5. I recognise that the proposed apartment block would be five-storeys in height. However the appellant’s contextual elevations and section plans show that the differences in levels between the appeal site and West Road are such that the proposal would appear at a similar height as the two-storey residential properties on the opposite side of this highway. Unlike a number of dwellings on the southern side of West Road that are situated in close proximity to its edge the proposal would be set back from this highway. Along with a number of mature trees that are to be retained this would present a relatively open, softly landscaped frontage.

6. Although it would be clearly apparent from Ponteland Park, it would be seen against a backdrop of the woodland and the substantial embankment, and in the context of other buildings, including the scout hut, and the exposed rear elevations of those dwellings on the southern side of West Road. I also do not consider that the proposal’s modern contemporary design would appear conspicuous in the context of the diverse range of nearby properties and the varied street scene.

7. The appellant has pointed out that 6 three-storey dwellings and 1 four-storey dwelling could be erected on this site on the basis of a permission granted in 2012. In the absence of any firm evidence to the contrary I am satisfied that if the appeal proposal were not constructed, there is every likelihood that such a development would be built. Although these buildings are of a smaller size, scale and height than the proposed apartment block when viewed individually, they would be positioned in close proximity to each other and cover a similar cumulative area as the proposal. Two of the approved dwellings would also be dug into the steep embankment, which would result in their elevated height (similar to that of the proposal) but in much closer proximity to the West Road highway. This would have a significantly greater impact on the street scene and I therefore regard the likely construction of this development to represent a valid “fallback position” which weighs in favour of the proposal.

8. In light of all of the factors above, I do not consider that the proposal’s contemporary design, appearance, size, scale and massing would be so conspicuous as to result in a dominant, incongruous, alien feature that would be out of keeping with Ponteland or its park setting.

9. I subsequently conclude that the proposal would not harm the character and appearance of the surrounding area. In this respect it would not conflict with the aims of Policy H15 of the Castle Morpeth District Local Plan 2003 (Local Plan) which I consider to be consistent with the design objectives of the National Planning Policy Framework (the Framework). Amongst other matters, this requires proposals for housing development to be compatible with any distinctive vernacular character present in the locality, in respect of layout, design and materials.

Highway safety

10. The proposal would provide a total of 22 car parking spaces, 18 for the use of the future residents of the apartments and 4 visitor parking spaces. It has not been disputed by the Council that the proposal would meet the car parking
requirements of Column B of Appendix F of the Local Plan which relates to developments within the central areas of Morpeth, Ponteland and Conservation Areas. I also note that the Council’s Highway Section has not raised any objection in regards to the proposed car parking provisions and there is no firm evidence before me to indicate that these standards are inconsistent with the criteria set out in paragraph 39 of the Framework.

11. Nonetheless, the Council now dispute that the location of the site is on the outskirts of the centre of Ponteland and therefore warrants a higher level of parking. However it is uncontested that the appeal site is located within the settlement boundary of Ponteland and I saw on my site visit that is accessible to a number of local shops, services and bus services. As such I consider it to be in a sustainable central location. Moreover, at the time of my site visit there was sufficient space on the section of the West Road highway directly in front of the appeal site and in the surrounding streets to accommodate additional cars.

12. The Council has not produced any evidence of substance to indicate why the proposed parking arrangements are unacceptable or how they should be amended, for instance the number of additional car parking spaces that might be required. Although concerns have been raised regarding highway safety and the usability of the steep access road, particularly in bad weather, this access is proposed to be widened and upgraded to an approved specification. Furthermore, the Council’s Highway Section has no objections to this access point or visibility at the junction, subject to a swept path analysis, which can be secured by way of a condition.

13. My attention has been drawn to a planning application for affordable housing on land west of the Grove on New Ridley Road in Stockfield where one car parking space per flat plus a further 50% for visitors and people with disabilities was granted permission. However I do not have the full details of the circumstances that led to this being accepted so cannot be sure that it represents a direct parallel to the appeal proposal. I have, in any case, determined the appeal on its own merits.

14. For these reasons and in the absence of any firm evidence to the contrary I am unable to conclude that the proposal would not provide adequate off-street car parking or that it would have a harmful effect on highway safety. In this regard it would not conflict with the aims of Local Plan Policy H15 which amongst other matters requires appropriate off street parking provision to meet the requirements of the local planning authority in consultation with the local highway authority.

15. In reaching my conclusion I have also take account of the Framework which advises that decisions should take account of whether safe and suitable access to the site can be achieved for all people, which minimise conflicts between traffic and cyclists or pedestrians. It also indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe. For the reasons given above the proposal does not conflict with this advice.

Other matters

16. Local residents and interested third parties have raised a number of other matters, including concerns regarding drainage and flooding, ecology, noise
and light pollution, and the amount of changes to the plans for this site over the years.

17. With regards to drainage and flooding, I understand that the appeal site is located within Flood Risk Zone 3. Whilst I note the concerns of local residents in this respect, there is no substantive evidence before me to demonstrate that the proposed development would, of necessity exacerbate existing flooding problems in the locality. A Flood Risk Assessment (FRA) was submitted with the original application and the Environment Agency and the Council’s SuDS Officer have now removed any objections that they had, subject to conditions for, amongst other things, the submission and approval of a drainage scheme and an evacuation plan. I also note that Northumbrian Water has agreed a scheme for foul drainage to be connected to the mains sewer system.

18. I appreciate that the proposal would be sited near to the River Pont, and that it lies within a Landscape Corridor as defined in the Local Plan. Nonetheless, only the north-east corner of the building would encroach into the 15 metre landscape buffer, and this is by a modest 1 metre which is a significant improvement from the extant planning permission. In regards to the proximity of the proposal to the river an ecological survey has been submitted and Natural England, The Environment Agency and the Council’s Ecologist have not raised any objections, subject to mitigation measures that can be secured by way of condition. Again, in the absence of any substantive evidence to the contrary, I have no reason to suppose that the proposal would cause material harm to ecology or wildlife. Nor is there any firm evidence to suggest that the development would lead to a significantly harmful level of noise or light pollution.

19. The amount of changes to the plans for the development of this site over the years has also not had any bearing on my decision as I have determined the appeal proposal based on its own merits.

Conditions

20. I have considered the conditions suggested by the Council against advice in the Planning Practice Guidance: Use of planning conditions (PPG). I agree that a condition is needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. In the interests of the character and appearance of the surrounding area it is also considered necessary to attach a condition to ensure that samples of the materials to be used on the building are submitted for the local planning authority’s approval.

21. Conditions requiring the provision of schemes for hard and soft landscaping, the design and specification of the access road, a turning area within the curtilage and a swept path analysis for refuse vehicles, contamination and drainage, tree protection measures, emergency evacuation, the provision and management of a buffer zone alongside the watercourse, lighting, removal of Himalayan Balsam, and integrated bird boxes are also considered to be necessary for the reasons put forward by the Council.

22. I consider suggested conditions 5-9 which require details of the temporary parking of vehicles of site operatives and construction vehicles, wheel washing, measures to control the emissions of dust and dirt during construction, the storage of plant and materials used in constructing the development, and necessary repairs to the highway to be reasonable and necessary in the
interests of highway safety. However these can all be incorporated into one condition for the submission and approval of a construction method statement. As such I have deleted these suggested conditions and replaced them with condition 7. I have also not imposed condition 16 which replicates the requirement for control dust.

23. I am also satisfied that suggested conditions 10 and 11 are reasonable and necessary in the interests of highway safety. However suggested condition 13 requires that the vehicular access to the site is constructed in accordance with NCC standard specifications. Whilst this is appropriate, suggested condition 4 already requires a scheme to be submitted for the design and specification of the access. This does not need to be duplicated and I have therefore deleted suggested condition 13.

24. To reduce the risk of flooding a condition for development to be carried out in accordance with the approved FRA is reasonable and necessary. The appellant has suggested that this condition be reworded to include reference to a FRA which was dated February 2014. I do not consider the minor alterations within this document would result in any further risk to flooding and I have therefore amended the wording of this condition to refer to the latest FRA.

25. The Council’s Trees and Woodland Officer has confirmed that the trees remaining on the site are not proposed to be removed. As such a condition for a tree felling method statement is therefore not necessary. Conditions are needed to deal with any protected species and to ensure that vegetation is not removed in the bird-breeding season. However suggested condition 25 requires development to take place in accordance with the submitted Otter Statement, which requires a 5 metre exclusion zone to be demarcated along the bank of the river. Given that the proposed building would encroach into this area and that suggested condition 20 already requires a scheme for the provision and management of a buffer zone to be submitted and approved I do not consider this part of the Otter Method Statement to be reasonable. I have therefore removed this requirement.

26. Suggested condition 26 also requires all development to be carried out in accordance with the Environment Agency’s pollution prevention guidelines. This guidance is based on good practice and compliance with other regulatory regimes and is therefore not necessary or relevant to planning. As such I have not imposed this condition.

27. For the reasons given above, I therefore conclude that this appeal should be allowed.

Mark Caine
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: Drg Nos 12032-P-102-Rev C, 12032-P-105-Rev A, 12032-P-200-G, 12032-P-202-G, 12032-P-103-Rev F, 12032-P-301-Rev D, 12032-P-300-Rev D, 12032-P-201-E and (DR) S104 Rev E.

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) Prior to the commencement of any development a detailed landscaping scheme showing both hard and soft landscaping proposals shall be submitted to, and approved in writing by, the local planning authority. This shall include, where required, the planting of trees and shrubs including provenance and details of all retained trees and hedgerows; a planting schedule setting out species; numbers, densities and locations; the provision of screen walls and fences; the mounding of earth; the creation of areas of hardstanding, pathways etc; areas to be seeded with grass and other works or proposals for improving the appearance of the development. The scheme shall be carried out in accordance with the approved drawings not later than the expiry of the next planting season following commencement of the development. The landscaped areas shall be subsequently maintained to ensure establishment of the approved scheme including watering, weeding and the replacement of any trees, plants or areas of seeding or turfing comprised in the approved landscaping plans, which die or fail within 5 years from the completion of the development.

5) Prior to the commencement of any works on site details of a scheme specifying the means by which those trees to be retained as a part of the landscaping scheme will be protected during construction works have been submitted and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the carrying out of any site works and thereafter retained for the duration of the works.

6) No development shall take place until details of the proposed access road, including its width, design and specification have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the occupation of any building.

7) Prior to the commencement of any works on site a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period and shall provide for: the parking of vehicles of site operatives and construction vehicles; storage of plant and materials used in constructing the development; wheel washing facilities; measures to control the emissions of dust and dirt during construction, and details of any post-construction restoration of the highway.
8) The areas allocated for parking on the approved plans Ref 12032-P-102-Rev C and 12032-P-200-G shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

9) The development hereby approved shall not be occupied until a minimum of 22 car parking spaces have been provided within the curtilage of the site.

10) The development hereby approved shall not be occupied until a turning area within the curtilage of the site, and a swept path analysis for refuse vehicles turning left out of the site have been provided in accordance with a scheme which shall first be submitted to and approved in writing by the local planning authority.

11) If during development contamination not previously considered, is identified, then a Method Statement regarding material shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the Method Statement has been submitted to and approved in writing by the local planning authority, and the measures proposed to deal with the contamination have been carried out.

12) Development shall not commence until details of a drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details, which shall include:
   i) a timetable for its implementation; and
   ii) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

13) The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (FRA) produced by bdn ltd ref R0218 Rev F dated Feb 2014 and the following mitigation measures detailed within the FRA:
   i) Provision of compensatory flood storage as per drawing no. (GA)00_01 Rev P01, and sections (GA)00_03, 04, and 05.
   ii) Identification and provision of safe route(s) into and out of the development as per section 5.3.
   iii) Ground floor levels are set no lower than 59.65m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the approved scheme.

14) No development shall take place until a scheme for emergency evacuation has been submitted to and approved in writing by the local planning authority. The approved scheme, shall include a timetable for its implementation, and shall be carried out in accordance with this thereafter.
15) Prior to the commencement of any works on site details of a scheme for the provision and management of a buffer zone alongside the watercourse shall be submitted to and approved writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping. The details of the scheme shall include:

i) Plans showing the extent and layout of the buffer zone.

ii) Details of any proposed planting scheme.

iii) Details demonstrating how the buffer zone will be protected during development and a management/maintenance plan.

iv) Details of the proposed fencing and lighting.

v) Details of the protection of the buffer zone and watercourse from silt and other polluted run-off from the site.

16) No development shall take place until a method statement for the eradication of Himalayan Balsam from the site has been submitted to and approved in writing by the local planning authority. The eradication shall be carried out in accordance with the approved method statement and no dwelling on the site shall be occupied until eradication has been completed.

17) No external lighting shall be used or installed until details of an illumination scheme have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of any building.

18) All works and development shall be undertaken in accordance with the following recommendations and mitigation measures set out in the Working Methods Section of the Otter Method Statement Ref E3 Ecology Ltd, Otter Method Statement – Mill House, West Road, Ponteland.

i) All works to the riverbank will be undertaken in daylight hours, avoiding the first hour after dawn and the hour before sunset.

ii) The use of high intensity lighting which will illuminate the river corridor will be avoided both during the working period and following on from the completion of the project. This will involve the absence of security lighting from the rear of properties adjacent to the river.

iii) Any excavations that are left over night will either be covered or include a ramp of 45 degrees or less on one face to allow otter and other wildlife to climb out should they fall into the excavation.

iv) Contractors should be made aware that otter may lie-up in stacked pipes or beneath pallets. These features should be inspected daily before the start of works.

v) Immediately following repair works to the riverbank, the area will be planted with dense scrub planting along the burn to reduce access for increased footfall created through residential development. Appropriate species are holly, bramble, hawthorn, blackthorn, alder and willow.
vi) Should holt or resting sites be identified at any stage during works, a licence from Natural England will be sought prior to further works within 30m of the river continuing.

19) No vegetation shall be removed from the appeal site between 1 March and 31 August unless an ecologist has first confirmed in writing that no birds’ nests that are being built or are in use and that no eggs or dependent young birds would be destroyed or damaged.

20) No development shall take place until a scheme for the provision of integrated bird boxes and tree mounted boxes has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the occupation of any building.