



Appeal Decision

Site visit made on 27 November 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/F4410/W/19/3236983

Land At Clifton Hill, Conisbrough, Doncaster DN12 2DA

- 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 C Morte (Kilnbridge Developments Ltd) against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 17/01254/FULM, dated 15 May 2017, was refused by notice dated 25 July 2019.
 - The development proposed is the erection of 9 detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 9 detached dwellings at Land At Clifton Hill, Conisbrough, Doncaster DN12 2DA in accordance with the terms of the application, Ref 17/01254/FULM, dated 15 May 2017, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr C Morte (Kilnbridge Developments Ltd) against Doncaster Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The number of dwellings proposed was reduced during the course of the determination of the planning application and therefore I have used the description of development stated on the decision notice and appeal form, in the banner header above. For the avoidance of doubt, I have assessed the appeal on the basis of the plans referenced in the schedule of conditions, which follows at the end of this decision.
4. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement (ES) is therefore not required

Main Issue

5. The main issue is the effect of the proposed development upon highway and pedestrian safety.

Reasons

6. During my visits to the site I found there to be no significant impediment to the movement of vehicles along Kendal Crescent. There were instances of vehicles parked partially on the pavement and thus impeding pedestrian use, however this is an existing occurrence and is likely to continue regardless of whether the appeal development proceeds. Furthermore, the proposed dwellings have on-site car parking provision and there is no substantive evidence that the proposal would increase parking on Kendal Crescent.
7. Whilst the occupiers of the proposed development would marginally increase the number of people using the pavements on Kendal Crescent, the proposal would not discriminate against disabled people and those with reduced mobility because the proposed dwellings would not lead to a material change to the existing parking situation on Kendal Crescent or to the accessibility of pavements. Accordingly, there would be no conflict with the aims of the Public Sector Equality Duty contained in the Equality Act 2010.
8. My attention has been drawn to instances where access along the road for larger vehicles has been difficult due to the positioning of parked cars. However, this appears to have arisen as a result of vehicles being parked too close to one another, rather than due to an inherent deficiency in the specification of the road. The Highway Authority (HA) has not suggested that it has concerns about the use of Kendal Crescent to access the development and from my own observations the road is accessible to larger vehicles, provided that other vehicles are responsibly parked along it. For this reason, I also do not share the concern of the Council and interested parties that emergency and service vehicles would be unable to access the proposed dwellings.
9. Furthermore, the increase in the number of vehicles, including larger vehicles travelling along Kendal Crescent and the single-track Clifton Terrace would not be significant in relation to highway capacity given that only 9 dwellings are proposed. I note comments made in respect of refuse trucks but these will continue to travel along the existing road regardless of whether or not the proposal goes ahead.
10. The proposed access point to the development would be on a section of Kendal Crescent away from the majority of existing dwellings on the road. Due to its separation from the existing dwellings, it does not appear to be an attractive area in which to park vehicles. Therefore, the proposed access is not likely to materially alter the way residents currently park. Furthermore, as parking of vehicles close to the proposed junction would not be particularly convenient to the majority of existing residents, it is unlikely that an unacceptable conflict would arise and the HA have not raised concern with respect to the visibility splays that have been shown. Therefore, the access and egress from the new road is unlikely to be impeded by parked cars. The residual cumulative impacts of the proposed development on the road network would not be severe and in reaching this conclusion I have been mindful that the HA did not object to the proposal.
11. The access to the site construction compound would be from Clifton Hill, via an existing access point. A construction management plan has been submitted which outlines how the compound would be managed during the construction period. This reasonably addresses the constraints relating to the use of the existing access, including with respect to the co-ordination and timing of

deliveries and the size of vehicles to be used. Given that the compound would only be in use for the temporary period whilst the dwellings are constructed and that a construction management plan would be in place, I am satisfied that this element of the proposal would not cause harm to highway safety.

12. For the reasons given above, I conclude that the proposed development would not cause harm to highway or pedestrian safety. Accordingly, there would be no conflict with Policy CS14 Part A (3) and (7) of the Doncaster Council Core Strategy 2012 or the National Planning Policy Framework 2019, both of which seek to ensure that new development does not cause harm to highway and pedestrian safety.

Other Matters

13. Concern has been raised with regard to the potential impact upon trees, health, pollution, biodiversity, crime, the provision of public services, land contamination, the impact on the wall to the rear of properties on Clifton Hill, land stability, light pollution, utility supplies, flood risk and drainage. However, based upon the responses from the relevant consultees and upon the information available to me, there is no clear evidence that harm would arise with respect to these matters. Furthermore I am satisfied that, where necessary, any additional measures required could be adequately secured by planning conditions.
14. Reference has been made to previous refusals of planning permission, however I have not been provided with any details of the circumstances of these. In any event, I am required to assess the appeal primarily upon its own merits and accordingly I have done so. Whilst the construction of the dwellings is likely to cause a degree of noise and disturbance, this would only be a temporary occurrence, and does not justify the withholding of planning permission. Given that the buildings would be in domestic use, the noise levels generated from them would be appropriate in a residential area. I have assessed the proposal on the basis it has been submitted and cannot give regard to speculation about any future planning applications that may be submitted on the site as these would be a matter for the local planning authority.
15. Representations have raised concern that the development would have an adverse impact upon living conditions including through loss of privacy, outlook and light. However, the proposal would be well separated from the nearest dwellings and would not in my judgement cause harm to living conditions. The Council has not raised concern with respect to the design of the dwellings, and I consider that the design would be appropriate within its context.

Conditions

16. The Council has requested that a number of conditions be imposed, to which no objections have been received from the appellant. Conditions relating to the time period for implementation and to the approved plans are necessary to define the terms of the permission. With respect to the approved plans, the sectional drawings for house types A and C have not been amended to reflect the most recent elevational drawings, which show both house types with a reduced roof pitch and ridge height. I have therefore made it clear in the respective condition that the approval of the sectional drawings for these house types relates to the setting out of their ground levels only.

17. Conditions relating to land contamination and imported soil are required to ensure that the development is undertaken in a safe manner, whilst conditions relating to tree protection and drainage are necessary to ensure that the development puts adequate safeguards in place and meets the required standards of construction. The materials to be used and the landscaping of the site require control in the interests of securing an appropriate visual appearance. Details of acoustic fencing adjacent to the adjoining commercial use are required in the interests of the living conditions of the future occupiers of the dwellings and a condition relating to electric vehicle charging points is reasonable in the interests of promoting environmental interests.
18. I have not imposed conditions relating to the access point to the proposed development, as the submitted plans contain details regarding its construction and visibility. Nor have I imposed a condition regarding details of the drainage and hard surfacing of highway areas, as this would duplicate the requirements of other conditions. The Badger Survey Report finds no evidence of Badgers on the site and predicts that the proposed development would have no impact on this species. I have however included the Badger Survey Report in the approved plans/details as it includes a precautionary method statement, so it is not necessary to impose a separate condition relating to this matter.
19. I have reworded the Council's proposed conditions where appropriate, in the interests of precision and to avoid the use of pre-commencement conditions in instances where details are not reasonably required before development begins.

Conclusion

20. For the reasons given above, I conclude that the appeal, subject to conditions, should be allowed.

Graham Wraight

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:
 - 01 Revision J
 - 02 Revision C (with regard to ground levels only)
 - 03 Revision B
 - 04 Revision A (with regard to ground levels only)
 - 05
 - 06 Revision A
 - House Type A 01 Revision A
 - House Type B 01
 - House Type C 01 Revision C

- Badger Survey Report dated 5.3.19 MAX.18.1.2019
 - Construction Management Plan Revision B 10.7.19 version 3.
- 3) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 4) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 6) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable

contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the local planning authority prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the local planning authority prior to any soil and soil forming material being brought on to site.

- 7) Fencing for the protection of retained trees T2 and T3 shall be erected in accordance with the details shown on the Tree Protection Plan (KCC 03) before any construction works commence on plots 7, 8 or 9. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority. The fencing shall be retained for the duration of the construction period.
- 8) Prior to the first occupation of the dwellings hereby permitted details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments, including the provision of acoustic barriers adjacent to existing commercial premises;
 - ii) hard surfacing materials;
 - iii) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities.
 - iv) an implementation programme.

The approved landscaping works shall be carried out in accordance with the agreed implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Acoustic barriers shall be retained in accordance with the approved details for the lifetime of the development.

- 9) No above ground construction of the dwellings hereby permitted shall take place until details of all external facing materials to be used in their construction have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved materials.
- 10) No development shall commence until details of the foul water, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved in writing by the local planning authority. These works shall be carried out concurrently with the development in accordance with the approved details and the drainage systems shall be fully operational prior to the first occupation of the development.
- 11) The dwellings hereby permitted shall not be occupied until they have been fitted with electric vehicle charging points, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.