



Appeal Decision

Hearing held on 23 April 2013

Site visit made on 24 April 2013

by Anthony Lyman BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 June 2013

Appeal Ref: APP/P2935/A/12/2188338

Former Headmaster's Lawn, Cottingwood Lane, Morpeth, NE61 1DN

- 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 McCarthy & Stone Retirement Lifestyles Ltd against the decision of Northumberland County Council.
 - The application Ref 12/01106/FUL, dated 4 April 2012, was refused by notice dated 13 November 2012.
 - The development proposed is retirement living housing for the elderly (category II type accommodation), communal facilities, landscaping and car parking. Creation of new access onto Cottingwood Lane following demolition of existing bungalow.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by McCarthy & Stone Retirement Lifestyles Ltd against Northumberland County Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are, i) whether the site complies with national and local planning policies with regard to sustainability, ii) the effect of the proposed development on the safety of users of the highway, iii) the effect on the character and appearance of the area and surrounding properties.

Reasons

4. The appeal site is within the grounds of the King Edward VI School, in the built up area of Morpeth. The land appears to have been the subject of earth works in the past to create a level playing field, although it is now an informal grassed area surrounded by residential properties on three sides, mostly at lower levels. The proposal is to erect a development of 51 retirement flats together with communal facilities, landscaping and car parking. The proposal includes the demolition of an adjacent bungalow to create a new access directly on to Cottingwood Lane as the existing access is through the school grounds and would not be available.

Sustainability

5. The site is previously undeveloped land in an established, predominantly residential area of Morpeth. Both parties agree that it is a sustainable site, with which I agree, although I have reservations about the accessibility of the site which I discuss later. The Council's first reason for refusal claims that there are more sustainable and sequentially preferable previously used sites closer to the town centre. An assessment by the appellants concluded that none of the nine suggested alternative sites was suitable due to each one being within flood zones 2 or 3, and for a variety of other reasons including inadequate size, ownership issues, and site availability. Work has recently started on a flood alleviation scheme for Morpeth which would make the sites less prone to flooding. Nevertheless, in the light of further evidence submitted by the appellants, the Council conceded that eight of the sites were no longer realistic alternatives.
6. One site, at Davidson's Garage, Castle Square, was considered by the Council to be a possible alternative brownfield site for the proposed development. This site is in a more sustainable location and has an extant permission for a development of sixty flats and three commercial units, despite being in flood zone 3. The appellants state that they have been interested in acquiring this site and have held negotiations with the various owners over a number of years. However, they have not been able to reach agreement over the current asking price which they claim would make the scheme unviable. I have no good reason to doubt these claims which, in effect, render this site as unavailable to the appellants at the present time.
7. Examining the potential of brownfield sites first is a sound approach in response to one of the core planning principles of the National Planning Policy Framework (the Framework) which encourages the effective use of land by reusing land that has been previously developed. However, since the recent revocation of the Regional Strategy, there is no longer a policy basis in the development plan restricting development on the basis of a sequential approach. Although the Framework advocates a sequential approach in relation to town centre uses and for sites susceptible to flooding, such an approach to the location of housing development is not reflected in the Framework. This is confirmed in a recent Secretary of State Decision.¹ Therefore, there is no justification to restrict the use of this broadly sustainable, albeit greenfield site on the basis of sequentially preferable sites elsewhere in the town, even if sites were readily available.

Highway safety

8. Cottingwood Lane is a relatively lengthy and narrow, no through road comprising detached, semi-detached and terraced houses. In addition to serving these properties, the lane provides access to residential side streets, the school's driveways and an adult education centre. Some of the houses do not have off-street parking and there is a considerable amount of parking on the street, which I saw at different times of the day over three days. The on-street parking reduces long lengths of Cottingwood Lane effectively to a single track road with on-coming vehicles often having to use gaps as passing places.

¹ APP/U4230/A/11/2157433

9. The school is said to have about 1400 pupils and generates considerable vehicular and pedestrian movements at the start and end of the school day and to a lesser extent at lunchtime. School buses do not access the school via the narrow lane and instead use Morpeth bus station approximately 0.5km from the school. For most of the lane's length, there is a footpath only on the western side which is often compromised with cars parked half way or more across it. There is no footpath on the side of Cottingwood Lane adjacent to the proposed access to the development.
10. The proposal includes parking spaces for 26 cars, 19 of which are intended for resident parking, 6 for visitors and 1 for the house manager. The appellants claim that, as many residents give up their car before or shortly after moving into a McCarthy & Stone development, this provision would meet the needs of this proposal without vehicles having to be parked in Cottingwood Lane. This level of parking provision is said to be based on the appellants' extensive experience from their similar developments throughout the country. However, I note the argument by Cottingwood Lane Residents' Action Group (CLRAG) that many McCarthy & Stone developments are in more sustainable locations with better access to public transport and local facilities.
11. The appeal site is said by the appellants to be about 400m from the nearest bus stop in the town centre, although I agree with local residents that the distance is significantly longer by the safest walking route avoiding a difficult junction. Morrisons Supermarket is claimed to be a similar distance, although it is about to move into new premises which are further from the site across a main road. Therefore, given that the average age of McCarthy & Stone residents on entry is said to be more than 75 years, it is questionable how many residents would undertake a round walk of about 1km with the return trip slightly uphill carrying shopping. The parties to the Statement of Common Ground agree that the site is in a sustainable location for residential development. Nevertheless, based on the evidence and information submitted by CLRAG and other residents about distances and walking times, and my own observations, I am not persuaded as to the accessibility of the site for the intended elderly residents. I attach little weight to the appellants' claim that the site is within convenient walking distance of the centre of Morpeth, supermarkets and public transport provision.
12. Nevertheless, the proposed number of parking spaces for residents satisfies the Council's car parking standards. Although a similar number of visitor spaces would normally be required, the standards allow for a lower or no provision in situations where, for instance there would be no adverse implications for road safety or traffic management. At the Hearing the appellants conceded that, at times, visitors may have to park in Cottingwood Lane. This would be an inconvenience for local residents, particularly for those properties with no off-street parking. However, there is no evidence that additional parked cars would cause significant highway safety problems. Furthermore, the Council's parking standards predate the Framework which states that in setting local parking standards, account should be taken of, amongst other things, the type, mix and use of the development and its accessibility.
13. The new access would join the eastern side of Cottingwood Lane on the inside of a bend. The road is subject to a 20mph restriction and although evidence submitted by the appellant indicates that the speed limit is generally

observed, as I saw on a few of my site visits, there are occasions when cars passing down the hill do so notably in excess of the limit. The proposal includes the introduction of an extensive speed table intended to reduce vehicular speeds approaching the new junction.

14. According to the appellants the available visibility splays exceed the requirement of 25m advocated in Manual for Streets (MfS). For vehicles emerging from the development, visibility to the right can be achieved from a driver's eye line of 1.05m down to below 600mm above the carriageway, as referred to in MfS. The appellants claim that clear visibility down to around 900mm above the road would be achievable to the left of the entrance subject to reducing the height of an existing stone wall immediately at the back of the carriageway.
15. The appellants argue that, as there is no footpath adjacent to the wall, pedestrians including small children and wheelchair users would be unlikely to use this side of the road, and that oncoming vehicles would be seen with the wall reduced in height to 900mm. However, I witnessed pedestrians walking along the highway close to the wall and photographs submitted by CLRAG show pupils on both sides of the road. Although the school confirm that pupils are shepherded across Cottingwood Lane from the school entrance, the pavement is not very wide, is at times partially obstructed by parked cars and appears to have difficulty accommodating the large number of pupils leaving the school over a short period of time. The appellants suggest that a negatively worded Grampian condition could resolve the issue of vertical and horizontal visibility splays by requiring an approved scheme before development commences. I agree with this approach, subject to there being no long term damage to the health of the protected trees. Nevertheless, the following matters must also be considered in relation to the safety of the proposed access arrangements.
16. Elderly residents emerging from the new access on foot or mobility scooters would have to cross the road to the pavement opposite or walk/drive along the carriageway. However, as I saw on my site visits with all parties present, if cars are parked opposite there is no safe direct access to the pavement. Residents would have to cross the road diagonally almost to the junction with the side street Dawson Place where there would be further potential conflict. Similarly, on a return journey mobility scooter users might have to emerge from between parked cars to cross the road, with obvious highway safety consequences.
17. Submitted swept path diagrams demonstrate that, with no cars parked opposite the proposed access, large vehicles such as a refuse vehicle, would be able to enter and leave the site safely. However, the appellants confirmed at the hearing that access by large vehicles would not be possible if cars were parked legally outside No.12 Cottingwood Lane. I am not persuaded by the appellants' rebuttal that it is unlikely that visits by such large vehicles would coincide with cars parked opposite. Given the observed level of on-street parking in the lane, it is highly probable that large vehicles would be unable to access the development on a fairly regular basis.
18. The appellants argue that, if that occurred, the development could be adequately serviced with the refuse vehicle parked across the entrance. However, this would be likely to block Cottingwood Lane. Although this is the normal procedure for collecting refuse from domestic properties, the length of

time taken to collect from the storage area in the main building multiple large waste bins serving 51 dwellings, wheel them down the lengthy drive, and return them once emptied would cause unacceptable inconvenience to other road users. Of significant concern is the accessibility for similar large vehicles such as furniture removal wagons and emergency fire engines. This is a significant deficiency in the layout and design of the scheme.

19. Traffic movements along Cottingwood Lane are relatively low, except at the start and end of the school day, and there is a low level of recorded accidents. The appellants argue that road safety will not be prejudiced because the elderly residents "*will have no need to travel at school start and finish times when pedestrian and vehicle movements increase*"². There is no evidence to support this claim which seems to me to ignore doctors and hospital appointments or indeed whether some of the less elderly residents may still go out to work. Nevertheless, it is unlikely that the volume of car traffic generated directly by residents of the development would have a significant adverse impact on highway safety.
20. In conclusion on this issue, I am not persuaded that the accessibility of the development for the elderly residents of the proposed dwellings, nor the proposed highway access in this challenging position in Cottingwood Lane, would secure a safe environment for users of the highway. The Framework requires, amongst other things, development to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. It has not been demonstrated satisfactorily that the proposed development, due to the deficiencies in the design of the access and the lack of safe and secure routes for pedestrians and wheelchair users, would accord with this requirement of the Framework to which I attach significant weight.

Character and appearance

21. The appeal site is a level plateau significantly higher than the surrounding residential properties which are predominantly two storey houses. The area is characterised by a variety of architectural styles dating from the nineteenth century onwards, comprising larger houses in substantial grounds on King's Avenue to the east, and mostly smaller properties immediately to the south (South Terrace), south-west (School Close) and to the west on Cottingwood Lane. The appeal site forms a visually attractive green open space surrounded by groups of trees mostly protected by Tree Preservation Orders, and makes a positive contribution to the character and appearance of the area.
22. The development would comprise elements of two, three and four floors, although the ground would be lowered to accommodate the lower ground floor in the four storey block and to create relatively level access. The main blocks would be predominantly three storeys in height above existing ground level although the south eastern section closest to South Terrace would be two storeys. To reduce the visual mass of the structure, the building would have a broken form with a variety of roof heights.
23. Separation distances between the various blocks and the surrounding properties would satisfy the minimum required by Policy H15 of the Castle Morpeth District Local Plan (the Local Plan). However, because of the

² Highway Appeal Statement – paragraph 5.28

elevated site relative to the surrounding properties, the building would appear significantly larger and more prominent than its dimensions would suggest. The appellants submitted photo-montages to demonstrate how the building would appear from surrounding properties and the area in general. However, the accuracy of these images was vigorously disputed by CLRAG who submitted their own images taken from similar locations. These show the development as significantly more prominent, dominating the surrounding area and properties.

24. I have had regard to the two sets of images and compared both on my site visits. On the formal site visit, the appellants conceded that their View 8, on which the development is shown as being hardly visible from South Terrace, misrepresents the correct position and height of the building when compared to the trees evident in the photograph and the layout evident on the day. On that basis photographs 7 and 9 also appear to me to under-represent the scale and prominence of the proposal. Furthermore, standing on the pavement in Cottingwood Lane, the upper parts of the adult education centre can clearly be seen. The proposed building would be significantly nearer to the road and yet the appellants' image No.6 suggests that only the upper floors would be visible. Given the eye height in this photograph the image seems to me to portray the buildings at a lower ground level than the top of the bank, compared to the elevated position shown in section E-E on plan 1788-01-14. In reality, I consider that the proposed buildings would appear more dominant and harmful to the surrounding area.
25. Despite the attempt to break up the appearance of the building with varying elevations and roofs, its overall scale and mass, accentuated by the elevated position, would not be sympathetic to the urban grain of the area. It would dominate the surroundings, particularly when seen from windows to habitable rooms and rear patios and gardens of the nearby properties. As I saw on my site visit, the ground floor of the proposed building would be higher than the first floor bedroom windows in the houses in South Terrace, from where the over-dominant impact of the development would be seen.
26. Some car parking spaces would be provided almost adjacent to the rear garden boundary of No.3 School Close. Although the cross section E-E on plan No. 1788-01-14 appears to show the car park level with the first floor windows of the adjoining property and considerably above road level, on site it was claimed by the appellants that the car park would be almost the same level as the dwelling's rear patio. Irrespective of this apparent inconsistency, and despite the erection of a boundary wall and a screen trellis, the car park in such close proximity to domestic gardens would not respect the verdant character of the area. The comings and goings of cars, with engines revving and car doors being slammed adjacent to the short rear garden of No.3, would also harm the resident's enjoyment of their garden.
27. The group of trees fronting Cottingwood Lane makes an important, positive contribution to the street scene. The intention is to retain these mature trees between the new entrance and School Close. However, the proposed highway access and circulation area to the car parking spaces would require the excavation of the ground to a depth of a few metres in close proximity to the trees. Although these works and the construction of a retaining wall would take place immediately outside the root protection areas, I am persuaded by the evidence submitted by CLRAG and Professor Davison that the deep

excavations and retaining wall would significantly reduce the current supply of ground water to the trees from the upper slopes of the field.

28. The appellants argue that the trees would survive on the rainfall dripping from the canopy until a surface water drainage scheme is implemented which would direct water from linear soakaways and car parking areas to the roots. However, such drainage particularly from the parking areas would be well below the current ground level around the trees where the majority of fibrous roots are to be found in the upper levels of the soil. Furthermore, the excavation of the access would be amongst the first things to occur on the site, and until any drainage scheme was implemented there would be the potential for significant drought damage to the trees, which could threaten their future life span.
29. Further harm to the trees could be caused if it was necessary to lower the soil levels associated with the reduction in height of the front wall to accommodate visibility splays. The potential loss of these trees, together with the opening up of views into the development following the demolition of the existing bungalow and the removal of trees to the north of the access to accommodate car parking spaces, would cause significant harm to the attractive street scene and the character and appearance of the area, contrary to the objectives of policy H15 of the Local Plan which accords with the principles of high design standards and quality housing of the Framework.
30. One of the Core Planning Principles of the Framework is to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The Framework also advocates that good design is a key aspect of sustainable development and should contribute to making places better for people. I conclude on this issue that the proposal, due to its scale, mass, over-dominance and potential loss of trees would be detrimental to the character and appearance of the area and surrounding properties and would not enhance the amenity of existing residents contrary to these objectives of the Framework.

Other matters

31. There are concerns that lowering the level of parts of the site to create the access, car parks and lower ground storey would significantly reduce the capacity of the site to store and reduce the rate of downhill flow of surface water runoff, thereby increasing the risk of flooding to lower properties. I understand the residents' concerns but I have insufficient firm evidence to substantiate them. The matter could, in any case, be addressed by a condition requiring the submission of a drainage scheme and attenuation measures if the appeal were to succeed.
32. Morpeth Town Council states that it has Frontrunner status for the development of a Neighbourhood Plan. The Council argues, amongst other things, that the development should not be supported as it could prejudice the ability of the town to decide its best options for growth. Although I heard that work was progressing on the plan, its progress will be dependent on adoption of the Northumberland Core Strategy which is not imminent. The Town Council refer to recent decisions of the Secretary of State regarding neighbourhood plans. However, few details are given and in the circumstances I consider that insufficient progress has been made on

Morpeth's neighbourhood plan for it to carry any significant weight in my Decision.

33. The appellants submitted a s106 Unilateral Undertaking (UU) regarding the payment of a sum of £13,078 towards the provision of affordable housing in Morpeth. Although representations were made by a Councillor about the small scale of the contribution, the Council confirmed at the Hearing that there was no policy basis for seeking a contribution. Therefore, I consider that the UU does not satisfy paragraph 204 of the Framework or the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have therefore, attributed no weight to the UU in my decision.

Conclusions

34. The Framework states that the achievement of sustainable development requires economic, social and environmental gains to be sought jointly and simultaneously. Pursuing sustainable development also involves seeking positive improvements in the quality of the built environment as well as people's quality of life and improving the conditions in which people live, work, travel and take leisure. Where the development plan is absent, silent or where relevant policies are out-of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits.
35. The development would help to satisfy the growing, overall demand for retirement homes for the elderly and would benefit the King Edward VI Foundation and the school through the value of the land. However, the detrimental impacts that the development would have on the character and appearance of the area, surrounding properties and on highway safety would significantly outweigh those benefits. Therefore, for the reasons given and having had regard to all other matters raised, the appeal is dismissed.

Anthony Lyman

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Giles Cannock of Counsel	Kings Chambers, Manchester
Neil Appleton	Bryan G Hall
Andrew Brown	Woodhall Planning and Conservation
Christopher Butt	The Planning Bureau Limited
Ian John Keen	
George Martin	The Planning Bureau Limited

FOR THE LOCAL PLANNING AUTHORITY:

Mark Ketley	Northumberland County Council
Tony Carter	Northumberland County Council
Andrew Dmoch	W A Fairhurst & Partners

INTERESTED PERSONS:

Les Cassie	Cottingwood Lane Residents Action Group
Jon Laws	Cottingwood Lane Residents Action Group
Paul Raven	Cottingwood Lane Residents Action Group
Ken Brown	Morpeth Town Council
Graham Trotter	Morpeth Town Council
Councillor Andrew Tebbutt	Northumberland County Council
Henry Warne	Morpeth Civic Society
Timothy Nichol	The Foundation of The King Edward VI School
K Bodenham	Local Resident
Professor Alan Davison	Local Resident
M Duckworth	Local Resident
Stuart Falconer	Local Resident
Dr W Paul MacDonald	Local Resident
Ruth Robson	Local Resident
Joan Tebbutt	Local Resident
Marilyn Tweddle	Local Resident

Several other local residents contributed to the Hearing

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Statement of Common Ground – dated 23 April 2013
- 2 Statement of Common Ground on Highway Matters – dated 19 April 2013
- 3 Letter from Councillor Andrew Tebbutt dated January 2013
- 4 Draft condition relating to provision of visibility splays