



Appeal Decision

Site visit made on 15 November 2022

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2022

Appeal Ref: APP/H4505/W/22/3306505

Telephone Exchange, Whickham Bank, Whickham NE16 4AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Sinkinson against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/21/01447/OUT, dated 13 December 2021, was refused by notice dated 8 April 2022.
 - The development proposed is Outline Planning Application for the demolition of the existing telephone exchange (*sui generis*) and development of 1 no C3 residential dwelling with creation of a new vehicular access from Whickham Bank.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with matters of scale, appearance and landscaping as reserved matters to be determined at a later stage. I have assessed the proposal on this basis and treated the drawings as being an illustration of how the site could be landscaped in relation to the indication of the proposed location of replacement trees within the site.

Main Issues

3. The main issues are the effect of the development on:
 - highway safety; and
 - biodiversity

Reasons

Highway Safety

4. Whickham Bank is a steeply inclined road with several bends along its length. It leads to busy traffic light controlled junctions at the top and bottom of the hill. The Council advise that traffic stands stationary on the bank at peak times, particularly in the afternoon. At the time of my site visit the road was busy and traffic was free flowing. However, given its location in the urban area, I have no reason to dispute that the road is much busier at peak times during the day. The appeal site is close to a bend in the road. No other dwellings are located onto this section of the road.
5. Vehicular access to the appeal site would be moved from its current location to a position approximately 40 metres further north, away from the bend. The proposed gradient of the access at the point which it meets the highway would be 11.3% by the Council's calculation. The Council's highways design standards

indicate that gradients at junctions are particularly important for highway safety reasons. At a junction the gradient of any non-priority road should not exceed 4%. Although the proposal is for a private driveway, rather than a road, the need to facilitate safe refuse collection from the proposed dwelling means that the driveway has been designed to accommodate such vehicles and therefore highway standards should be applied.

6. I note that the Council has indicated that a smaller refuse vehicle could be used to service the site. However, this could not be reasonably conditioned and therefore could not be guaranteed. It is therefore not certain that the proposed access would be suitable for refuse vehicles or any other larger vehicles which may have cause to access the appeal site.
7. No pedestrian footway is provided on this side of the road in either direction leading from the appeal site. Pedestrians would therefore need to cross the road to reach the footway opposite to reach nearby services and amenities. The Council is concerned that pedestrians would be crossing the road in a location where drivers would not expect to encounter pedestrians. They may also need to cross the road through stationary traffic queueing to the traffic lights at the top of the hill. Their presence would therefore be concealed from oncoming traffic travelling in the opposite direction downhill.
8. A safety risk assessment has been carried out by the appellant which concludes that any pedestrian safety concern is perceived rather than actual, as no accidents have occurred involving pedestrians in the most recent data available. Nevertheless, the risk assessment does indicate that several accidents have occurred close to the appeal site involving both vehicles and cyclists. Some of the accidents have been serious. In this context and with the concerns outlined above, the appeal would create an undue risk to highway safety.
9. The proposal would therefore conflict with Core Strategy and Urban Core Plan¹ Policy CS13 and Making Spaces for Growing Places Policy (Local Plan) Policy MSGP15, which seek to ensure that development is safe for both vehicular and pedestrian users. The proposal would also conflict with paragraph 111 of the Framework in this respect.

Biodiversity

10. The proposal involves the demolition of the existing telephone exchange building and the removal of trees and vegetation from the site to facilitate the construction of the proposed access. No ecology survey or biodiversity net gain assessment has been submitted with the appeal. Therefore, it has not been established what habitats may be present on the site, including those of protected species which may be affected by the proposal.
11. The presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

¹ Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010 -2030

12. I acknowledge that the Council did not request either a survey or net gain assessment to be submitted during the application. Nevertheless, Local Plan Policy MSGP37 is clear that development proposals must demonstrate how they would avoid or minimise any adverse impacts on biodiversity and must also provide net gains in biodiversity. To this end, I consider that sufficient evidence has not been put forward to ensure that there would be no harm to either protected species or the natural environment in general nor how any net gain for biodiversity would be provided.
13. I therefore conclude on this issue that in the absence of surveys, there cannot be any certainty as to whether the proposal would have any effect on the biodiversity of the site, including whether there would be impacts on protected species and on what basis that might be. Consequently, it is not possible to ensure that any required mitigation measures would specifically address any potential harm. It would not therefore be reasonable to condition further surveys in this instance. The proposal would therefore conflict with Local Plan Policy MSGP37 which, amongst other things, seeks to ensure that development avoids or minimises any adverse effects on biodiversity and provide biodiversity net gain where appropriate through mitigation or compensation.

Other Matters

14. The proposal would provide one additional house and would represent an efficient use of land in an area where there are good transport connections, and it is within easy reach of nearby local centres. Given the small scale of the scheme any contribution towards housing supply or mix would be limited. Consequently, I attach little weight to these benefits. These factors are not sufficient to outweigh harm that I have identified above.

Conclusion

15. For the above reasons, having considered the development plan as a whole, I conclude that the appeal should be dismissed.

K L Robbie

INSPECTOR