



Appeal Decision

Site visit made on 5 September 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2023

Appeal Ref: APP/H4505/W/23/3324153

Land to the rear of 2 Ashfield Road, Newcastle Upon Tyne NE16 4PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Neville Rodgers against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/22/01226/FUL, dated 14 October 2022, was refused by notice dated 27 April 2023.
 - The development proposed is construction of Dutch bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane.
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Decision

1. The appeal is allowed and planning permission is granted for construction of Dutch bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane on land to the rear of 2 Ashfield Road, Newcastle Upon Tyne NE16 4PL in accordance with the terms of the application, Ref DC/22/01226/FUL, dated 14 October 2022, subject to the conditions set out on the attached schedule.

Procedural Matters

2. The address in the above banner heading has been taken from the decision notice as this accurately describes the location of development.
3. The appellant has submitted a Highways Statement and Swept Path Analysis drawing as part of their appeal statement. Such details do not change the overall scheme and my acceptance of this is not therefore considered prejudicial to any party and the Council has also had the opportunity to comment on such details. I have therefore taken these details into account in reaching my decision.

Main Issues

4. The main issues of the appeal are the effect of the proposed development on;
 - The character and appearance of the site and surrounding area;
 - The living conditions of neighbouring properties with particular regard to outlook, privacy and daylight/sunlight; and
 - Highway/pedestrian safety.

Reasons

Character and appearance

5. The appeal site relates to a reasonably sized and deep parcel of land located to the rear of No. 2 Ashfield Road with access taken from Whaggs Lane to the west. The site is set back from Whaggs Lane behind a substation and row of residential properties that front onto Whaggs Lane. The site has a sloping topography from south to north, and the majority of the site cannot be seen from the main road as it is tucked away behind the substation and row of residential properties. Further, it is well screened on all sides by hedging, trees, and other boundary treatment.
6. The surrounding properties vary in size from detached bungalows to two storey properties that are set back from the main road and footpath with garden areas/parking to the front and long gardens to the rear. I observed onsite that the land whilst detached from any residential property, still reflects the general size and layout of the surrounding plots, and is well maintained.
7. Policy MSGP23 of the Site Allocations and Development Management Policies Making Spaces for Growing Places Local Plan Document for Gateshead, 2021 (MSGP) relates to Areas of Special Character and it is undisputed that the site is located within the Broom Lane / Whaggs Lane Area of Special Character. Policy MSGP23 explains that a high level of importance must be given to the design of development within, or affecting the setting of Areas of Special Character and that development will maintain or enhance the character of the area and inappropriate development will be resisted.
8. The Gateshead Council Placemaking Supplementary Planning Document, Areas of Special Character and Routeways and Gateways, 2022 (SPD) provides design guidance on how to address development in such areas. It sets out that the main characteristics of this particular area are low density houses and bungalows on deep plots, behind a building line set well back from the roads, which are often fronted by hedges; dense coverage of mature trees; and long, well-established gardens. The guidance amongst other matters, resists backland development within the gardens to protect the character and setting of existing buildings and resists infill development which would detract from the setting of existing buildings and character of the locality.
9. The proposed development seeks to construct a detached Dutch bungalow on the site and whilst the sites overall use/function as a garden area is disputed, its location to the rear of No. 2 Ashfield Road and behind the substation and a row of other properties that front Whaggs Lane, could be described as backland/infill development.
10. As referred to above, the surrounding properties vary in size but generally comprise of relatively low-density housing, of a variety of designs. Whilst the proposed bungalow would sit further back into the site from its neighbours that front onto Whaggs Lane, it would comprise a bungalow of a similar footprint, scale and size to others in the area and would sit comfortably into the site, leaving sufficient space between its boundaries and neighbouring properties. The proposed materials would also ensure that the overall appearance would be in keeping with surrounding properties.

11. Additionally, the site is visually contained and views into the site are restricted when viewed from the main road given the setback nature, position of surrounding properties and existing landscaping that exists which further restrict views. On this basis, the proposed bungalow would have very limited impact upon the street-scene. Whilst it would be visible from the rear of neighbouring properties that surround the site, its overall size, layout and form would not be so dissimilar to other plots and properties in the area and thus the positive and main characteristics of the area would largely be maintained.
12. I accept that Areas of Special Character are of limited extent covering only 2.2% of the Borough and I note comments made in relation to the strengthening of policy overtime. However, development not so dissimilar to others in the area on this particular site that is set back and well screened from public vantage points, would not have a materially significant effect on the overall character of the area. It would therefore not conflict with the overall aim of the SPD which seeks to protect the character and setting of existing buildings and character of the locality.
13. For the above reasons, I conclude that the proposed development would not be harmful to the character and appearance of the site and surrounding area and would comply with Policies MSGP23 and MSGP24 of the MSGP which together, amongst other matters, requires development to maintain or enhance the character of the area. For the same reasons, the proposed development would comply with the aspirations of the National Planning Policy Framework (the Framework) relating to achieving well designed places and the aspirations of the SPD.

Living conditions

14. As referred to above, the proposed bungalow would sit further back into the site from its neighbours that front onto Whaggs Lane. However, with this exception, it would be relatively reflective of the positioning and size of other dwellings in this part of the street including its overall relationship to the site boundaries to the north and south. I am aware of the Council's concerns regarding the height of the proposed bungalow and separation distance from the adjacent properties particularly No. 76 Whaggs Lane which is located to the southwest of the site. However, the relationship that exists and positioning of the adjacent properties means that whilst the proposed bungalow would be visible from the rear elevation of adjacent properties, this would be at an angle where most of the views from the properties and their associated gardens are away from the appeal site and thus outlook would largely be retained. Additionally, the existing landscaping that exists and is indicated to be retained would further restrict views and I am therefore content that the proposed development would not appear as an overbearing addition or of a size and scale to severely restrict outlook for occupiers of adjacent properties.
15. The proposed bungalow includes large, glazed elements to the front, west facing elevation. However, the proposed glazing at ground floor level would be screened by existing landscaping which would restrict views and the glazing at first floor level would be low within the elevation given the dormer nature of the property where views would also be restricted albeit to a lesser extent. Given the relationship that exists and positioning of adjacent properties, there would not be any direct and open views from this particular elevation in any

case as such views would be angled away from the adjacent properties. On this basis, there would not be an undue loss of privacy for adjacent occupiers.

16. I note a third-party comment regarding the potential removal of the boundary hedging to the north which separates the site including its access from No. 74 Whaggs Lane. However, there is no indication that this hedge would be removed to facilitate the development and thus would not result in any adverse impacts having regard to privacy.
17. In terms of daylight/sunlight, I am content that the proposed development would not result in any unacceptable harm given the overall positioning and distance between properties along with the limited height and width of the proposed development. Consequently, I consider that overall, existing occupiers would not be unduly harmed by daylight and sunlight.
18. For the above reasons, I conclude that the proposed development would not have an unacceptable impact on the living conditions of neighbouring properties with particular regard to outlook, privacy and daylight/sunlight. It would therefore comply with Policy MSGP17 of the MSGP which amongst other matters, requires development to safeguard the enjoyment of light, outlook and privacy. For the same reasons, the proposed development would also comply with the aspirations of the Framework which amongst other matters, ensures that development creates places with a high standard of amenity for existing and future users.

Highway/pedestrian safety

19. Having regard to the additional information provided by the appellant in the form of a Highways Statement and Swept Path Analysis drawing, the Council's transport team has since acknowledged that some of the highway issues have been addressed, such as providing a drawing that can be scaled from, tracking to demonstrate that a driver would be able to turn within the curtilage of the site and enter Whaggs Lane in a forward gear as well as emergency access to the site. Based on the evidence before me and my own observations on site, I am also satisfied that sufficient information has been provided in relation to these matters and I do not find it necessary to consider such matters further.
20. The additional information also shows the required car parking space dimensions and cycle parking provision which is acceptable, and the Council do not appear to dispute this based on the additional information provided. I am aware of the Council's comments in relation to electric vehicle charging points and whilst the appellant has confirmed that such provision would be made, this matter is covered by building regulations in any case and I therefore do not need to consider this matter further.
21. The existing access serving the site is relatively narrow, formed by two brick pillars and a gated entrance which leads directly onto the footpath that runs across the front of the site. It is also bound to the north and south by hedging/other boundary treatment. Consequently, views upon exiting the site are restricted. However, the majority of existing properties along Whaggs Lane are served by driveways leading onto the main road and also cross the footpath to the front. As such, pedestrians are likely to proceed with caution in such a setting and are already familiar with the existing access point even if it is not used for vehicles, it still has a gated entrance and has the appearance of a vehicle entrance like others in the area and is not uncommon in this setting.

Additionally, the footpath is wide along this stretch and I observed that given the presence of other nearby entrances, pedestrian movements tended to be at the far end of the footpath away from the point of access which reduces any potential conflict with moving vehicles.

22. Vehicle movements upon exiting the driveway are also likely to be at very low speed given the nature and site constraints. Generated trips associated with one bungalow would also be limited and thus unlikely to result in a significant number of comings and goings as to adversely impact the safety of drivers and pedestrians. I acknowledge the appellant's commitment to widen the existing access and provide an improved pedestrian visibility in either direction by removing the pillars in addition to the hedge along the southern boundary. Whilst the required 2x2 metre pedestrian visibility splay has not been provided, such measures would increase the overall visibility at the site.
23. The officer's report explains that a vehicle dropped crossing would not be provided without the required visibility splay. Whilst noted, this would not change my findings on the impact of highway/pedestrian safety.
24. Refuse would be stored to the west of the proposed bungalow at a location closest to the access lane as possible without causing obstruction. This location is a very short distance from Whaggs Lane where bins could easily be wheeled out for collection. It would also not be so dissimilar to the arrangements that exist for other properties along this row which are all set back from the main road.
25. My site visit appeared to be on refuse collection day which was useful to understand the current arrangements that exist in connection with other properties in the area. Bins were stored on the footpath along Whaggs Lane but these were either stored in a location closest to the property they served or at the far side of the footpath closest to the main road. Despite there being no allocated place to leave a refuse bin on collection day near the adopted highway, this is not an uncommon arrangement for bin collections in residential settings and the location of bins did not appear to obstruct either the footpath or the main road. As referred to above, the footpath is wide in this location where the size and scale of a bin would not cause obstruction and the separation distance from properties means that bins are adequately spaced from one another and thus further reducing any obstruction even if left out all day. Whilst I cannot control situations where individuals may choose to place bins further into the footpath, I am content that the proposed arrangements would not be substantially different to that of the existing situation or lead to a harmful impact in relation to highway safety.
26. For the above reasons, I conclude that the proposed development would not harm highway/pedestrian safety. As such, it would accord with Policy CS13 of the Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030, 2015 and Policy MSGP15 of the MSGP which together, amongst other matters, requires development to not have an unacceptable impact on the safe operation of the transport network. For the same reasons, the proposed development would also accord with the aspirations of the Framework relating to promoting sustainable transport.

Other Matters

27. I acknowledge the planning history associated with the site and that the Council previously granted consent for the erection of a detached bungalow amongst other works under reference DC/07/01424/FUL. I also recognise that the proposed bungalow may be of a larger scale, mass, and form to that previously approved. However, it is undisputed that this consent has expired, and I have determined the current appeal based on its own merits and evidence in front of me. This has therefore not affected my findings on the main issues.
28. I appreciate the concerns regarding future construction noise/activity associated with the proposed development as well as subsidence in the area. However, any construction activity associated with the development could be controlled by a suitably worded planning condition which I have applied. Conditions have also been applied in relation to ground conditions to ensure the safety and stability of the development.
29. Financial matters relating to the diversion and relocation of a wastewater pipe has not affected my findings in relation to the main issues.

Conditions

30. I have considered the Council's suggested planning conditions in their consultee responses and in light of the Framework and Planning Practice Guidance. As a result, I have amended these where necessary for clarity. The standard time for commencement of development is necessary as well as a plans condition in the interests of certainty. A condition relating to materials is necessary in the interests of the satisfactory appearance of the development. A condition relating to a Construction Method Statement is necessary in the interests of highway safety and amenity. I have attached a condition requiring the window at first floor level on the south elevation to be fitted with obscured glazing which is necessary in the interest of residential amenity of neighbouring occupiers. A scheme of hard and soft landscaping is also necessary in the interests of residential and visual amenity. Conditions relating to ground conditions and coal mining legacy are necessary to ensure the safety and stability of the development. I have also attached a condition relating to ground levels given the sloping nature of the site to ensure a satisfactory form of development is achieved.

Conclusion

31. For the above reasons and having had regard to the development plan as a whole, the appeal should be allowed subject to conditions.

N Teasdale

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development must be begun within three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site and Roof Plan as Existing and Proposed; Plans as Proposed - Site Plan 1:100 (with the exception of car parking which is shown on the Swept Path Analysis Drawing); Plans as Proposed - Ground Floor Plan 1:50; Plans as Proposed - First Floor Plan 1:50; Plans as Proposed - West elevation 1:50; Plans as Proposed - North elevation 1:50; Plans as Proposed - East elevation 1:50; Plans as Proposed - South elevation 1:50; Plans as Proposed - Section A-A, Section B-B, Section C-C - 1:50; Plans as Proposed - Section D-D - 1:50; Plans as Proposed - Section E-E 1:50; Swept Path Analysis Drawing No. JP01.
 - 3) No development shall commence until details / 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 / samples.
 - 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from construction works;
 - delivery and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) The building hereby permitted shall not be occupied until the window at first floor level on the south elevation has been fitted with obscured glazing, and no part of that window in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
 - 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.
 - 7) No development shall commence until an assessment of the risks posed by any contamination, carried out 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), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.

8) No development shall commence until;

a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

9) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

10) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

End of schedule