

Report to Planning Committee

Application Number: 2021/0042

Appeal Ref: APP/N3020/W/22/3290775

Site Address: Land previously Warren Hill Community Church, NG5 9QR

Application description: Erection of 6 two storey dwellings

Case Officer: Peter Langton

The planning application was refused permission under delegated powers on 19th November 2021 and for the reason outlined below:

Plots 1 and 2 of the proposed development would be set forward of the existing building line which forms an important part of the street scene to the east of the application site. As such the proposed units would result in an overly prominent addition that would be harmful to the street scene. Furthermore the relationship between plots 1 and 2, and 3 and 4, is considered to be result in a cramped and over intensive form of development that would be out of keeping with the character of the surrounding area. Subsequently the proposed development is contrary to Section 12 of the NPPF, policy 10 of the Aligned Core Strategy (2014) and policy LPD 40 of the Gedling Part 2 Local Plan (2018).

The Planning Inspector considered that whilst Plots 1 and 2 would be sited forward of 121 Muirfield Road, and they would be visible from the Highway:

“they would appear as a continuation of the existing residential development. Furthermore, due to the varied building line along Muirfield Road and the sense of enclosure created by the existing boundary fences, the siting of these dwellings would not be incongruous to the character or appearance of the surrounding area or appear unduly prominent.

The eastern and western boundaries of the appeal site are currently defined by landscaping in the form of mature hedges and trees which screen the appeal site from Muirfield Road. This landscaping would reduce the appearance of the proposed development. Even if this landscaping were to be replaced, I am satisfied that the replacement planting could also soften the impact of the development and partially screen the proposed dwellings from Muirfield Road. Such a landscaping scheme should be secured by condition.

The plot sizes of neighbouring dwellings vary in size and shape, and consequently the spacing between them. It is recognised that some plots are larger than those at the appeal site, but equally there are examples of plots that are commensurate in size with a similar grain of development as is proposed here. I therefore do not agree that the development would appear cramped or result in an over-intensive form of development that is out of character with the surrounding area.

The development is largely the same as a previous scheme that was approved by the Council, ref: 2017/0557 (the 2017 permission). The Council state that due to the recent publication of the Gedling Borough Local Planning Document Part 2 Local Plan (Part 2 Local Plan) and amendments to the National Planning Policy Framework (NPPF), the development should be dismissed. No evidence has been provided as to how the Council's design policy has changed in the intervening period. Therefore, on the basis of the above evidence, even with the greater emphasis on design and the need to create beautiful places in the NPPF, I consider that the proposal would provide an acceptable effect on the character and appearance of the surrounding area.

Consequently, the development would have an acceptable impact on the character and appearance of the street scene, compliant with Policy 10 of the Broxtowe Borough, Gedling Borough, Nottingham City Aligned Core Strategies Part 1 Local Plan and Policy LPD40 of the Part 2 Local Plan, which together seek to provide a high standard of design and layout and for development to have regard to local context.

Notwithstanding the Inspector's assessment of the scheme, they had to consider the requested pre-commencement conditions for if the appeal was allowed. These included a requirement for the appellant to submit information in respect of contamination and a Construction and Emissions Management Plan (CEMP). Section 100ZA(5) of the Town and Country Planning Act 1990 (as amended) states that "planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition..." The appellant did not accept the pre-commencement conditions in respect of contamination and a CEMP as they were not imposed on the previous condition.

The Inspector noted that the contamination condition had been included on the previous permission. As the required information had not been submitted by the appellant the Inspector could not ascertain whether the proposed dwellings would be satisfactorily safe from sources contamination. Whilst the Inspector agreed that the CEMP condition had not been included on the previous application, they noted that the Part 2 Local Plan had been adopted since this permission had been granted and therefore the proposed development would be assessed against different policies. The Inspector determined that the recommended CEMP condition was clearly justified in accordance with LPD 11 of the Part 2 Local Plan.

The Inspector was satisfied that these conditions could not be imposed other than as pre-commencement conditions and they are so fundamental to the proposed development that the appeal could not be allowed without them. As the suggested pre-commencement conditions cannot be imposed without the appellant's agreement and the appellant did not accept their imposition the Inspector concluded that the development would not comply with Policies LPD 10 and 11 of the Part 2 Local Plan.

As a result, the appeal has been dismissed.

Recommendation: To note the information.