



Appeal Decision

Site visit made on 14 April 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2022

Appeal Ref: APP/T4210/W/21/3288575

41 Arthur Lane, Radcliffe BL2 5PR

- 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 Gary Spillard against the decision of Bury Council.
 - The application Ref 67550, dated 16 September 2021, was refused by notice dated 6 December 2021.
 - The development proposed is described as 'conversion of stable to dwelling, with extension'
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of stable to dwelling, with extension at 41 Arthur Lane, Radcliffe BL2 5PR, in accordance with the terms of the application Ref 67550 dated 16 September 2021 subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on highway safety.

Reasons

3. The appeal site comprises a three bay stable block located off Arthur Lane on a private access road serving surrounding properties, and across from the dwelling at No. 41. The proposal seeks to convert the stable block to a single storey residential dwelling with side extension. The main parties agree that the proposal would have no impact on highway safety in terms of the access from the site onto the private road. However, the Council has raised concerns regarding the junction where the access road meets Arthur Lane.
4. This junction is near two bends in Arthur Lane, with poor visibility for vehicles exiting the access road. In particular, there is a curve in the road immediately to the north of the junction with tall, dense hedging further reducing visibility.
5. A Transport Statement has been submitted by the appellant, concluding that speed is reduced in the immediate vicinity due to the road layout, and that adequate sightlines can be achieved in one direction. Nevertheless, even acknowledging the difference in opinions between parties on recent collisions, including details submitted by interested parties in this regard, this junction is difficult to manoeuvre for vehicle users making a right turn from the access road. The potential therefore remains for collisions with vehicles travelling along Arthur Lane.

6. It is notable that this junction currently serves surrounding properties along the access road, in addition to the stables at the site. The issue therefore relates to whether the proposal would result in a level of increase of vehicular movements to and from the site that would significantly impact highway safety at the junction between Arthur Lane and the access road.
7. My attention has been drawn to a previous appeal decision¹ relating to a similar proposal at the site. This concluded that the conversion of the stables to a dwelling would generate additional traffic movements that would add to the potential for conflicts with vehicles along the main road. The Inspector stated that an existing level of use of the site, over and above an incidental use associated with No. 41, had not been demonstrated. As such it could not be concluded that the proposal would not result in an intensification of the existing use for the purposes of highway safety.
8. The appellant has now submitted an agreement relating to the lease of two of the stables to a third party, along with three months' receipt for rental payments. This demonstrates that two of the stables have recently been in use by a party other than the owners of No. 41. As such, this use of the site has resulted in vehicular movements associated with the stable, generating trips in its own right and separate to those connected with No. 41.
9. The Transport Statement concludes a worst case scenario of no change to the number of trips associated with the site due to the proposal. However, I acknowledge these results may have been impacted by a general reduction in travel due to the COVID-19 pandemic. Nevertheless, while the proposal would by its nature lead to daily movements to and from the site by residents, visitors and deliveries, even acknowledging the fact that two car spaces would exist at the site, the number of trips generated are likely to be modest. These would be limited by the small scale, single dwelling nature of the proposal. In addition, it would also result in the cessation of trips solely associated with the stables to include those by the tenant, vets and food stuffs and other deliveries. Overall, it is therefore likely that the change in trips generated by the proposal when compared with the stable use would be negligible.
10. As such, notwithstanding the current poor visibility and risk of collision associated with the junction, the nature and extent of the proposed use would not result in a notably increased level of traffic that would raise additional highway safety concerns. Even if daily trips due to the residential use were greater than those connected with stable use by a single tenant, it is likely that the overall net increase would not be so significant as to unduly impact the current operation of the surrounding highway network from a safety perspective.
11. The Council's second reason for refusal raises concerns about securing access onto the adopted highway. In this regard I agree with the conclusions of the Inspector on the previous appeal. While the submitted plan does not include the access road within the red line boundary, the proposal would use the existing vehicular access road from the site to Arthur Lane, which I observed to be suitable for this purpose. While unadopted, there is no reason or evidence that this would not continue to be available for access to the properties along this road. I further note that the Council has agreed this could be addressed by an appropriately worded condition.

¹ APP/T4210/W/20/3258314

12. For the reasons given above I find that the development does not have a significant adverse effect on highway safety. As such, it accords with Saved Policy OL1/4 of the Bury Unitary Development Plan (UDP) which requires that suitable access and likely traffic generation can be accommodated without creating a traffic hazard, and the Conversion and Re-use of Buildings in the Green Belt Supplementary Planning Document 2007, which states that development should not lead to excessive traffic generation.
13. The Council has also referred to Saved Policy H2/2 of the UDP in its decision notice, which relates to the layout of new residential development. However the provisions of this policy do not apply to the issues in dispute in this appeal.

Other Matters

14. Comments have been received regarding the position of the appeal site in the Green Belt. However, the Council have concluded that the proposal would not unduly impact upon the openness of the Green Belt or cause harm in this regard. Based on my observations I have no reason to disagree.

Conditions

15. I have had regard to the conditions suggested by the Council. Where necessary I have amended or amalgamated them in the interests of clarity and consistency. I have imposed a condition specifying the standard time frame and the relevant drawings, as this provides certainty and clarity. While the Council made reference to various site plan references in its suggested condition, it appears that this is a typographical error. In any event, I have cited those plans provided with the appeal and noted in the decision notice.
16. As required by the relevant regulations I have received and considered the response from the appellant confirming they are agreeable to pre-commencement conditions. These relate to the materials to be used in construction and the submission and implementation of a landscaping scheme, for both certainty and in the interests of character and appearance. A condition has also been imposed relating to the details of the vehicular access between the site and Arthur Lane for clarity and to ensure adequate access for the development. A condition is required to secure proper drainage and manage the risk of flooding, and in the interests of nature conservation an assessment of bat roosting potential should also be carried out.
17. Further conditions have been imposed to minimise risks from contamination and asbestos, given the former use of the appeal site. In order to appropriately manage the appeal site going forward and to ensure adequate levels of highway safety I have also included a condition relating to the provision of car parking spaces.
18. The Officer's Report also suggested a condition relating to the location for refuse storage. In the interests of living conditions of future and surrounding occupiers, I have imposed. The Officer's Report also suggested a condition that any non-habitable rear window be obscured and non-opening in the interests of privacy of surrounding residents. However, based on my observations of the site, and the fact that other habitable windows along this elevation would not be subject to this condition, I do not deem this to be necessary.
19. In addition, the Council has suggested a condition to restrict permitted development rights at the site. Planning Practice Guidance indicates that conditions removing PD rights should only be used in exceptional circumstances. While I

acknowledge that the appeal site is within the Green Belt, I do not consider that this alone amounts to such an exceptional circumstance. As such, I do not consider this condition to be necessary.

Conclusion

20. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions in the attached schedule.

C Rafferty

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: Location Plan; Existing and Proposed Site Plan; Existing Floor Plans Drawing No. 20/541/01; Proposed Floor Plans Drawing No. 20/541/02; and Existing and Proposed Elevations Drawing No. 20/541/03; and Existing and Proposed Site Plan.
3. No development shall commence until details / samples of the materials to be used in the construction of the hardstanding and external surfaces of the development 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 commence until details of the vehicular access between the site and the adopted highway at Arthur Lane shall have been submitted to and approved in writing by the local planning authority.
5. No development shall commence until drainage works for foul and surface water have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
6. No development shall commence until the building has been reassessed for bat roosting potential and the findings supplied to and agreed in writing by the local planning authority.
7. No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, including a boundary native hedge planting scheme. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development; and 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.
9. Prior to demolition of the structures on site an asbestos survey is to be carried out by an appropriately qualified contractor. Any asbestos identified shall be disposed of in an appropriate manner.
10. Any contamination that is found or suspected 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.

11. The development hereby permitted shall not be brought into use until the car parking indicated on the approved plans is surfaced, demarcated and made available for use.
12. The development hereby permitted shall not be brought into use until details of a dedicated area for the storage and management of refuse and recycling bins has been submitted to and approved in writing by the local planning authority. The approved area for the storage and management of refuse and recycling bins shall be provided before the use is commenced and shall be retained exclusively for this use thereafter.