
Appeal Decision

Site visit made on 19 December 2016

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/A4710/W/16/3158720

135 Gibraltar Road, Halifax, West Yorkshire, HX1 3UH

- 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 Allan Greenwood Haulage against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref: 16/00445/FUL dated 31 March 2016 was refused by notice dated 23 June 2016.
 - The development proposed is two dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two dwellings at 135 Gibraltar Road, Halifax, West Yorkshire, HX1 3UH, in accordance with the terms of the application Ref: 16/00445/FUL dated 31 March 2016, subject to the conditions set out in the attached Schedule.

Main Issue

2. The one main issue in this case is the effect of proposal on highway safety.

Reasons

3. The appeal site comprises an HGV garage and associated hard-surfaced areas, presently used for the storage and repair of trucks and trailers. The site has a frontage to Gibraltar Road and existing dwellings lie to the north and east. There are further dwellings and a workshop building to the south.
4. The existing garage building would be demolished to accommodate two dwellings which would be of traditional appearance with natural stone walls and slate roofs. They would form a matching pair with accommodation over three storeys, with the upper storey contained partly within the roof space. Each dwelling would have four bedrooms, a small area of garden to the rear, and two car parking spaces each in the open front forecourt.
5. The site is within a predominantly residential area where saved Policy H2 (Primary Housing Areas) and H9 (Non Allocated Sites) of the *Replacement Calderdale Unitary Development Plan 2009* (UDP) applies. Notwithstanding other considerations the Council is satisfied that the proposal meets these policies. The site is previously-developed land, is in close proximity to services and public transport links, and as such may be considered to represent sustainable development. At the heart of the *National Planning Policy Framework* (the Framework) is a presumption in favour of sustainable

- development which, for decision taking, means approving proposals that accord with the development plan without delay.
6. The Council's sole reason for refusal concerns the impact of the proposal on highway safety. It says the proposed development would result in an intensification of hazardous reversing manoeuvres in the highway, having regard to the lack of on-site turning facilities, existing traffic volumes, and the proximity the junction of Gibraltar Road and Parkinson Lane.
 7. However, the Council's Highways Network Manager (HNM) has raised no objections to the proposal in principle. Specifically in relation to these highway safety concerns the HNM has made the following points: *"Parkinson Lane is a traffic-calmed unclassified road subject to a 20mph speed limit. It is also a bus route and used as a local distributor road. The accident record of the junction between Parkinson Lane and Gibraltar Road has been reviewed, and there have been no recorded personal injury accidents at the junction, or its approaches, since 2005. There is sufficient visibility between the proposed driveways, and approaching vehicles in both directions, and it is also noted that the site has been in use for a number of years as a commercial garage with a forecourt layout, such that reversing onto the highway would have been a regular occurrence"*. In conclusion, the HNM states that *"on balance, it is therefore considered that an objection on highway grounds would be difficult to sustain"*.
 8. Based on my own observations I find no reason to disagree with the professional views of the HNM. The existing commercial use of the garage, if continued, would result in similar reversing manoeuvres in the highway, with a potentially more disruptive effect. Furthermore, the replacement of a commercial use with a residential development in an otherwise predominantly residential street might be viewed as beneficial purely in land use terms, and to my mind weighs in favour of the proposal. Gibraltar Road appears to carry modest levels of traffic, with low prevailing traffic speeds, and traffic calming measures including marked parking bays to either side. Overall, considering the above, I am satisfied that the proposal would not cause unacceptable hazards or be materially harmful to highway safety.
 9. As such I find no conflict with saved UDP Policy B5, which says the design and layout of accesses should ensure the free and safe flow of traffic in the interests of highway safety, or with saved UDP Policy T18 which requires new development to provide off-street parking where appropriate (normally two spaces per dwelling).

Other Matters

10. A letter of representation has been received from the occupier of No 133 Gibraltar Road saying that the northernmost dwelling would so close to No 133's side elevation that it would be difficult to carry out maintenance works when needed. Whilst I note these concerns, I do not consider this matter in itself sufficient reason to withhold permission. Nor do I find that the proposed dwellings would result in significantly harmful overshadowing of No 133, or be unduly oppressive when viewed from it.

Conditions

11. I have considered the conditions put forward by the Council in the light of the advice in the Framework and the *Government's Planning Practice Guidance*. I

have amended the wording some of these in the interests of clarity, precision or consistency with national policy. In addition to the standard time condition for the commencement of development (1), a condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning (2).

12. Conditions requiring the surfacing and retention of the approved parking areas (3), and the surfacing of the footway crossing (4) are necessary to ensure that suitable parking provision is made available in the interests of highway safety.
13. Details of boundary treatment are required in the interests of the appearance of the area (5). Details of foul and surface water drainage are required to ensure that the site is connected to suitable drainage systems (6).
14. The Council has suggested a condition to remove normal permitted development rights to retain control over future extensions, alterations and outbuildings. This is necessary in my view in order to safeguard the living conditions of the occupiers of adjacent dwellings (7).
15. A condition is justified to ensure that each dwelling is provided with the potential to connect to the internet/high speed broadband, in order to meet modern communication and technology needs (8).
16. A condition to secure the provision and operation of electric car charging points within the development has been put forward, and paragraph 124 of the Framework says planning policies should comply with and contribute towards EU limit values or national objectives for pollutants. However, there is no current local policy requirement for such measures, and I consider it would be unduly onerous and over-prescriptive for a charging point to be provided for each dwelling in the context of this scheme. Therefore I do not intend to impose it.

Conclusion

17. I also note the comments of the ward member and a petition signed by a number of local residents objecting to the proposal. These concern the potential danger arising from vehicles reversing into the highway, over-development of the site, and the proportions/design of the dwelling. Nonetheless, whilst I note these and other concerns, for the reasons given above none is sufficient to alter the considerations that have led to my conclusion.
18. I find that the proposal would accord with the relevant policies of the development plan and the policies of the Framework when taken as a whole. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Nigel Harrison

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: 0819/01 dated March 2016; and 0819/02 dated March 2016.
- 3) No dwelling shall be occupied until the off-street parking provision shown on the approved plan No. 0819/02 has been constructed and surfaced using permeable materials, with surface water being directed to sustainable drainage outlets or porous surfaces within the site. That space shall thereafter be kept available at all times for the parking of vehicles.
- 4) Notwithstanding the details shown on the approved plans, the footway over which vehicles will cross to gain access to the driveways shall be formed by a block paved construction. The footway crossing shall be completed before the dwellings are brought into use.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected, including the treatment between the dwellings. The boundary treatment shall be completed in accordance with the approved details before any dwelling is occupied.
- 6) No development shall take place until foul and surface water drainage details, incorporating sustainable drainage principles if feasible, have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before any dwelling is occupied.
- 7) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (or any Order revoking, re-enacting or modifying that Order), Article 3, Schedule 2, part 1, no enlargements, improvements or other alterations to the dwellings (Class A), alterations to the roof (Classes B and C), porches (Class D) or buildings incidental to the enjoyment of the dwellings (Class E) shall be erected without the prior permission of the local planning authority (other than those expressly authorised by this permission).
- 8) No dwelling shall be occupied until arrangements to facilitate broadband and/or high speed internet connection to that dwelling have been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.