
Appeal Decision

Site visit made on 21 February 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 2 March 2017

Appeal Ref: APP/A4710/W/16/3164226

Land to the west of 20 Northgate, Elland, HX5 0RU

- 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 Phillip Hopkins against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 16/00538/OUT, dated 22 April 2016, was refused by notice dated 17 August 2016.
 - The development proposed is outline application for the erection of one dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling at land to the west of 20 Northgate, Elland, HX5 0RU in accordance with the terms of the application, Ref 16/00538/OUT, dated 22 April 2016, subject to the conditions in the attached schedule.

Procedural Matter

2. The application was submitted in outline with all matters reserved for subsequent approval.

Main Issue

3. The main issue is whether the proposed dwelling would provide acceptable living conditions for its future occupiers with regard to odour and noise.

Reasons

4. The site is located adjacent to Dobson's sweet factory which operates both day and night. The general area has a mixture of commercial and residential uses and there are other dwellings adjoining the appeal site. On the wall of the factory which bounds the site there are 2 functioning external flues. One is to a boiler and the other is for factory floor ventilation.
 5. The appellant has undertaken an Odour Assessment. Three odour surveys were undertaken on different days and at different times. These found that intermittent barely detectable "delightful" scents were experienced within the site boundary. There were stronger detectable scents in other places downwind of the factory but no unpleasant smells were detected anywhere. At my visit I did not detect any smell from the factory.
 6. The Institute of Air Quality Management Guidance (IAQM) "*Guidance on the Assessment of Odour for Planning*" 20 May 2014 specifically deals with assessing odour impacts for planning purposes, namely potential effects on
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amenity. The report says that applying the IAQM assessment method indicates that the sweet factory is likely to have a negligible impact on the proposed housing development.

7. Dobson's dispute these findings and say that the odour can be a lot stronger than reported and that strong smells are noticed throughout the town. The Council also disputes the findings of the odour assessment. However, from what I have read, the general consensus amongst locals is that the smells are pleasant. Therefore, in my judgement, they are not a nuisance. In any event, one more dwelling in the town would not threaten the viability of the factory if so many other residents can smell the sweets too.
8. The appellant does not dispute that there is some noise emanating from the sweet factory. Noise measurements were taken from within the site during the day and night and showed that the noise came from the flues and distant traffic. The flue noise was barely audible during the day but was audible at night against the lower residual noise climate. That said, the noise survey indicates that providing that suitable noise mitigation design features are incorporated into the proposed dwelling, the noise is not such that it is a constraint to the proposed residential development of the site. No significant noise breakout was noted from the factory buildings during the course of the noise surveys.
9. The Council's Environmental Health Officer (EHO) has expressed concerns that the noise survey did not take account of any external plant or the service yard. I appreciate that that large and articulated vehicles deliver glucose syrup which is pumped into a silo tank at the rear of the factory. However, it is not unusual for dwellings to be located amongst other businesses that require deliveries from such vehicles and this, in itself, is not a reason to withhold planning permission.
10. I note the Council's reference to historic complaints from residents about the sweet factory but these go back to 2005/2006 and to 2009 and from the evidence before me, it seems that the issues raised at the time were resolved. Given that I have no real evidence of complaints since, I have little reason to conclude that noise and odour are a current problem for nearby occupiers. Furthermore, I note that the closest neighbour at No 20, which adjoins the appeal site, supports the application saying that there are no access or noise issues. I appreciate that the appeal site is a little closer to the factory than other dwellings but the difference in distances is slight.
11. I therefore conclude that the proposed development would provide acceptable living conditions for the future occupiers of the dwelling. Consequently, I find no conflict with Policy EP8 of the Replacement Calderdale Unitary Development Plan 2006 (As amended 2009) which seeks to protect living conditions and to avoid conflicts between land uses. Furthermore, I find no conflict with paragraphs 109, 120 and 123 of the National Planning Policy Framework which seek to protect development from pollution, including noise.

Other Matters

12. The site is within the Elland Conservation Area which is characterised by traditional stone buildings with slate roofs. The site is currently in an untidy condition and detracts from the special characteristics of the conservation area. Providing that the dwelling is constructed to high design standards to respect

the character and appearance of other nearby dwellings, I am satisfied that the proposal would at least preserve the character and appearance of the conservation area.

13. I have taken into account all other matters raised, including representations from interested parties but none outweigh the conclusions I have reached.

Conditions

14. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance (PPG). In addition to the standard implementation and submission of reserved matters conditions, it is necessary, in the interests of precision, to define the plans with which the scheme should accord. A condition has been imposed in the interests of the satisfactory drainage of the site. In the interests of reducing carbon emissions a condition is necessary to require an electrical car charging point and a sound insulation condition is necessary in the interests of living conditions.
15. I have not imposed a condition requiring measures to facilitate the provision of high speed broadband as I have no evidence that broadband provision is lacking in the area and it is normal that residents arrange their own provider. I have not required details of boundary treatment as this will form part of the reserved matters application. I have not removed permitted development (PD) rights as the PPG advises against such conditions except in exceptional circumstances and no such circumstances have been advanced and in any event, the application is in outline with no details of the actual building so it is impossible to know if removing PD rights would be necessary. A condition in respect of parking, turning and surfacing is not necessary as this can be dealt with at reserved matters stage.

Conclusion

16. For the above reasons, the appeal is allowed subject to conditions.

Siobhan Watson

INSPECTOR

Schedule

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 16NP061/01/ -001A & -003A.

- 5) The development shall not begin until full details of the foul and/or surface water systems of drainage for the development have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.
- 6) An electrical car charging point shall be provided on the site before the first occupation of the dwelling and shall be retained thereafter.
- 7) Construction work shall not take place until a scheme for protecting the proposed dwelling and its garden from noise from the adjoining sweet factory has been submitted to, and approved in writing, by the local planning authority. All works which form part of the scheme shall be completed before the dwelling is occupied and retained thereafter.