
Appeal Decision

Site visit made on 9 May 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 26 May 2017

Appeal Ref: APP/Z4718/W/17/3169900

Land adjacent to 18-20 Marsh Platt Lane, Honley, Huddersfield HD9 6JZ

- 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 F Eaton against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/90582/W, dated 24 February 2015, was refused by notice dated 12 December 2016.
 - The development proposed is described as the erection of 2 dwellings, replacement garaging to existing dwellings and formation of a turning head.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings with integral garages and two detached garages to Nos 18 and 20, and formation of a turning head at land adjacent to 18-20 Marsh Platt Lane, Honley, Huddersfield HD9 6JZ in accordance with the terms of application Ref 2015/62/90582/W, dated 24 February 2015, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The Council changed the description of application Ref 2015/62/90582/W from that contained on the application form to 'the erection of two detached dwellings with integral garages and two detached garages to Nos 18 and 20, and formation of a turning head'. This is a more accurate description of the development proposed which I have therefore used in this decision.

Main Issue

3. The main issue is the effect of the proposed development on highway and pedestrian safety.

Reasons

4. The appeal site comprises a roughly rectangular area of land containing a number of mature trees and is located between No 16 Marsh Platt Lane to the west and Nos 18 and 20 to the east. The proposed access would be off Marsh Platt Lane which is an unadopted road that is surfaced for most of its length and which the Council suggests provides existing access to ten dwellings. The road is also the route of a public right of way but is a cul-de-sac for vehicular traffic. It has no footways, is relatively narrow in parts and other than existing entrances to residential properties it has few passing places.
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5. The proposed development would involve the construction of two detached dwellings and the construction of two detached garages to serve Nos 18 and 20 located to the east. The proposed dwellings would have sufficient space for the off-road parking of three vehicles. In addition, a wide turning head is also proposed for all users of the road which would facilitate the turning of service vehicles. An additional visitor car parking bay is also proposed close to the turning head.
6. As a consequence of the narrow width of Marsh Platt Lane the speed of vehicles using it is low. Whilst there are no formal passing places, there is sufficient space at intervals along the road to allow vehicles to pass. Other than in the vicinity of a sharp bend near No 14, pedestrian and vehicular indivisibility is adequate and the road width is sufficient for pedestrians to seek refuge either on the road, or on the verge, to avoid any conflict with traffic. Given the quiet, semi-rural nature of the area, even in the position where the road bends any traffic in the vicinity can be heard.
7. Owing to the cul-de-sac nature of the road and the small number of residential properties served from it, the road is lightly trafficked. The limited number of additional vehicles associated with a development of two dwellings would not materially impact on the overall volume of traffic using the road to the extent that highway and pedestrian safety would be compromised.
8. I have no evidence of any accidents associated with the use of the road and I note that the Council's Highway Engineer raised no objections to the proposed development. I have also attached significant weight to the benefit of the provision of the turning head. This would assist in reducing the reversing movements of large vehicles along a considerable length of the road which currently occur as a consequence of the limited opportunity to turn and thereby provide some improvement to the existing highway and pedestrian safety conditions.
9. Taking the above factors into account, the proposed development would not cause demonstrable harm to the interests of highway and pedestrian safety of an extent to warrant the dismissal of this appeal. Consequently, there would be no conflict with Saved Policies D2 and T10 of the Kirklees Unitary Development Plan (2007). These policies seek, amongst other things, to ensure that new development does not create or add to highway safety problems.

Other matters

10. I have taken into account the concerns of local residents regarding the long term use of the proposed turning head and the perceived lack of any swept path analysis. Whilst I recognise the concerns that the future occupiers of the proposed dwellings may have a desire to encompass the turning head into their domestic curtilage, an appropriate planning condition can be imposed to ensure that this facility is only used for the manoeuvring of vehicles. I have no evidence that a swept path analysis has been produced but equally I have no evidence to suggest that the proposed turning head would not be suitable for the manoeuvring of vehicles. Consequently, the lack of any swept path analysis would not be a sufficient sustainable reason to dismiss the appeal.

Conditions

11. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed conditions concerning the external materials to be used, details of the proposed building and site levels, details of boundary treatment, the implementation of a scheme of landscaping and the protection of trees.
12. In order to protect the living conditions of the occupants of the proposed dwellings and the occupants of properties to the west and east, with particular regard to privacy, a condition is necessary requiring the provision of obscure glazing in the windows in the side elevations of the proposed dwellings. For the same reason, I also agree that a condition limiting the insertion of any additional windows in the side elevations is also necessary. However, I have amalgamated the Council's suggested conditions relating to these matters into one condition.
13. The National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary as no detailed explanation for it is given and no other evidence is provided that would provide any justification for such condition to be considered appropriate.
14. In the interests of highway and pedestrian safety I agree that a condition is necessary requiring the provision of the turning head and parking arrangements prior to the occupation of the dwellings. For the same reason and to minimise to risk of on-road parking, a condition requiring that the proposed attached garages are retained for such use is also necessary and reasonable. Also, given the narrow nature of the road and similarly in the interests of highway and pedestrian safety, a condition is necessary requiring details of the parking of vehicles associated with the construction of the development and the delivery of materials within the site is necessary.
15. In order to encourage the use of more sustainable vehicles than those using an internal combustion engine I agree that a condition requiring the provision of electric vehicle charging points is reasonable and necessary.
16. Given the semi-rural nature of the site, in the interests of mitigating the effects of the proposed development on ecology, conditions are necessary relating to the undertaking of surveys for the presence of protected species. Given the degree of statutory protection afforded to such species these surveys are required to be undertaken prior to the commencement of development. In the interest of protecting the habitat of nesting birds I have imposed a condition that restricts vegetation clearance to a period outside of the bird nesting season.
17. I note that the Council's Highway Engineer did not suggest a condition relating to the submission of a pre and post development condition survey of Marsh Platt Lane. I do not consider that the Council's suggested condition relating to this matter is reasonable, enforceable, necessary or related to planning matters, particularly as other development recently has occurred on Marsh Platt Lane and there would be some difficulty in identifying which development

caused any alleged damage. There are other powers available to deal with extraordinary damage to the road as a consequence of construction work contained within other legislation and I have therefore deleted the suggested condition.

Conclusion

18. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 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; Drawing Nos 2232 -01; 2232-03B; 2232-04C; 2232-05C; 2232-06; 2232-07; 2232-08B; 2232-09A; 12525/SR.
- 3) No development above foundation level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 4) The finished floor and ground levels shall be no higher than those shown on the approved plans and these shall be thereafter retained as such.
- 5) All side facing windows in the new dwellings shall be fitted with obscure glazing (minimum grade 4) before the dwellings are first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) windows of this type shall thereafter be retained and no additional windows shall be formed in the side elevations of either of the new dwellings at any time.
- 6) Timber fencing shall be erected along the full length of all side boundaries in accordance with the details shown on the approved plans before the dwellings are first occupied and shall thereafter be retained.
- 7) All of the parking and turning arrangements both for the new dwellings and the existing dwellings, shown on the approved plans, including the provision of the shared turning head within Marsh Platt Lane, shall be provided in accordance with the details shown on the approved plans and shall be laid out with a hardened and drained surface, before either new dwelling is first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) these areas shall be thereafter retained, kept clear of all obstructions and shall only be used for the parking and manoeuvring of vehicles. The turning head shall be used for no purpose other than for the manoeuvring of vehicles traveling on Marsh Platt Lane.
- 8) Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) the integral garages shall be retained as such and shall not to be converted to living accommodation.
- 9) One electric vehicle recharging point shall be installed within the dedicated parking area or integral garage for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a

minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

- 10) Prior to the commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority identifying the measures to ensure that the safety of the users of the public footpath network is not compromised during the construction period. The measures identified in the approved scheme shall be implemented prior to the commencement of the development works and shall thereafter be retained for the duration of construction works.
- 11) An Arboricultural Method Statement, in accordance with British BS 5837, shall be submitted to and approved in writing by the Local Planning Authority, which shall include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. No works shall be carried out on site except in accordance with the approved Method Statement, for the duration of the construction works.
- 12) In the event of additional tree works being required during the construction process other than those identified within the approved Arboricultural Method Statement, full details of these shall be submitted to and approved in writing by the Local Planning Authority prior to such works being carried out. The additional tree works shall not be carried out other than in accordance with the approved details.
- 13) Before development commences, a schedule of means of access to the site for construction traffic including construction deliveries and the parking of construction workers' vehicles within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall come into effect before the commencement of the development and shall be maintained in accordance with the details agreed for the duration of the construction works.
- 14) Prior to the commencement of development a badger survey shall be undertaken and the report of the survey including (where applicable) any mitigation measures proposed, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the requirements of the approved report.
- 15) Prior to the commencement of the development any mature or semi-mature trees scheduled for removal shall be inspected to confirm bat roost potential by a qualified ecologist and a report of the survey, including any mitigation and enhancement measures proposed, shall be submitted to and approved in writing by the Local Planning Authority. Any enhancement measures (artificial bat roost features) recommended in the report shall be installed before either of the two new dwellings is first occupied and shall thereafter be retained.
- 16) Any vegetation clearance shall be undertaken outside of the bird breeding season (March to August inclusive), or else shall be preceded by a nesting bird check by a qualified ecologist and any nests shall be protected until such time that the young have fledged.