The Planning Inspectorate

Appeal Decision

Site visit made on 10 July 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 21 July 2017

Appeal Ref: APP/C4235/W/17/3168959
5 Lime Kiln Lane, Marple, Stockport SK6 6BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Richard Purcell against the decision of Stockport Metropolitan Borough Council.
- The application Ref DC063120, dated 2 September 2016, was refused by notice dated 28 December 2016.
- The application sought planning permission to convert a single dwelling into three individual dwellings with ancillary parking and landscaping without complying with a condition attached to planning permission Ref DC057579, dated 10 August 2016.
- The condition in dispute is No (3) which states that: "No development shall take place (unless otherwise agreed in writing by the Local Planning Authority) until detail drawings outlining proposals to improve Lockside by carrying out the following works (as identified on drawing DC/05759/H1 Rev -) have been submitted to and approved in writing by the Local Planning Authority.
  1) Provision of a passing place to the northern (Stockport Road) end of the road
  2) Provision of bollards at various locations between Stockport Road and Lime Kiln Lane so as to prevent parking on the grass verge / footpath adjacent to the canal
  3) Provision of build-outs (with bollards) to improve visibility and amendments to the carriageway so as to provide a passing place at the junction of Lockside and Lime Kiln Lane
  The drawings shall include the following details:
  (i) A general arrangement / layout, based on a topographical survey and to a scale not less than 1:200, showing the existing and proposed carriageway, footpaths, kerb lines and verges, together with existing and proposed levels;
  (ii) Typical highway cross-sections, showing a specification for each type of carriageway, footway, footpath and verge;
  (iii) Full details of the surface water drainage proposals;
  (iv) Details signage, markings and bollards.
  No part of the development shall be occupied (unless otherwise agreed in writing by the Local Planning Authority) until the highway improvements have been carried out in accordance with the approved drawings."
- The reasons given for the condition is: "To ensure that the development has safe and good quality access arrangements and that traffic impact of the development on the local highway network is minimised in accordance with Policies SIE-1 'Quality Places', CS9 'Transport and Development', T-1 'Transport and Development' and T-3 'Safety and Capacity on the Highway Network' of the Stockport Core Strategy DPD, supported by Paragraphs 9.28-9.30 of the SMBC Sustainable Transport SPD.

Decision

1. The appeal is allowed and planning permission is granted to convert a single dwelling into three individual dwellings with ancillary parking and landscaping at 5 Lime Kiln Lane, Marple, Stockport SK6 6BX in accordance with the application Ref DC063120 dated 2 September 2016, without compliance with condition number (3) previously imposed on planning permission Ref DC057579 dated 10 August 2016 and subject to the conditions in the schedule to this decision below.

Background and Main Issue

2. This appeal follows the Council's refusal of an application to remove a condition requiring completion of a scheme of improvements to the highway known as Lockside adjacent to the appeal property. Consequently, I consider the main issue in this appeal to be the effect of the removal of the disputed condition on highway safety.

Reasons

3. Situated in the Peak Forest Canal Conservation Area, the appeal property is part of a Grade II listed building stone faced and of two storeys which historically housed managers and boat builders employed by the canal company. The planning permission to which this appeal relates would see the conversion of the appeal property into three separate dwellings. The disputed condition seeks to secure improvements to Lockside, one of the highways that the appeal property could be accessed from, including the installation of passing places, build outs and the provision of bollards.

4. I readily accept the shortcomings of Lockside highlighted by the Council, due to its narrowness, general lack of available passing places and the constrained emerging visibility at its junction with the B6101. However, I have been supplied with no substantive evidence demonstrating incidents of accidents along it or in the vicinity of the junction.

5. Moreover, the consented development is minimal in scale, and would result in a net increase of only two dwellings that could use Lockside as an access. Whilst I am aware the Council consider that, as a result of development, the amount of car parking spaces accessed by Lockside could increase by 15%, I consider that the appeal development would nevertheless only result in a modest amount of additional vehicular movements within its environs.

6. What is more, I saw that the B6101 could be accessed from the development along Lime Kiln Lane itself, and whilst this latter route appears to be unadopted and is narrow and winding it has not been established that some of the modest amount of additional vehicle movements caused as a result of the proposed development would not use this route.

7. I note the Council's comments regarding the popularity of the canal-side for pedestrians and cyclists. Indeed at my early evening site visit I saw a number of pedestrians and cyclists in the environs of Lockside. However, given my conclusions on the modesty of the increase in vehicular movements along Lockside occurring as a result of the appeal development, combined with the adequate footways and canal- side routes adjacent to a considerable stretch of the highway, I consider that removal of the disputed condition would not cause

undue inconvenience or harmful safety impacts to pedestrians or cyclists using this route.

8. Taking these matters together, I consider that the consented development would not lead to a material increase in the number of traffic movements along Lockside sufficient to justify the extent of the works required by the disputed condition. Whilst I am mindful of the financial figures submitted by the Council which seek to establish that the required highways works would be viable, these do not alter my conclusions regarding the reasonableness of, or necessity for, the condition in planning terms due to the modest scale of development, and the limited vehicle movements that would be a concomitant of it.

9. As a result, and mindful of the tests given in paragraph 206 of the National Planning Policy Framework (the Framework) in respect of conditions, I consider that the disputed condition is neither necessary nor reasonable in this case. Consequently, I conclude that its removal would not lead to any adverse impacts to highway safety, and would therefore not conflict with Policies CS9, T-1 or T-3 of the Stockport Core Strategy (adopted March 2011). These policies, taken together and amongst other things, seek to ensure that developments consider the needs of the most vulnerable road users, maintain the convenience of walking and cycling networks, and avoid adverse impacts to the safety and capacity of the highway network.

Other Matters

10. As the appeal property is a listed building located within a conservation area I am mindful of my duties arising from sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As the appeal relates to a previously consented development proposal, however, and the disputed condition touches on highway safety matters rather than issues that would affect more directly these heritage considerations I conclude that the proposed development would preserve the character and appearance of the Conservation Area, and would preserve the building, its setting and its features of special architectural and historic interest.

11. I note comments regarding the consented parking arrangements and land ownership to the rear of No 5, and the potential for cars to be parked on the access to the property. However, these are essentially private matters that have not been determinative in my assessment of the planning merits of the appeal.

Conditions

12. Advice in the Government's Planning Practice Guidance (PPG) establishes that decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) should also repeat the relevant conditions from the original permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original permission I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. I have made minor amendments to the conditions where necessary in the interests of precision and clarity. Where pre-commencement conditions are attached they are necessary to ensure that the proposed development is carried out in line with the relevant details.

13. As I have determined that the disputed condition is not necessary, I have amended the condition relating to the approved plans to exclude references to the proposed highway improvements drawing[1]. I have attached the standard implementation condition as required by section 91 of the Town and Country Planning Act (as amended).

Conclusion

14. Removal of the disputed condition would not cause adverse impacts to highway safety and thus would not conflict with the aforementioned policies of the development plan. Accordingly, for the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

[1] Drawing No. DC/057579/H1 Rev -

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 and documents:
Site Location Plan, Drawing No.0180-01/01;

Existing Basement & Ground Floor Plans, Drawing No.0180-01/02;

Existing First & Second Floor Plans, Drawing No.0180-01/03;

Existing Elevations, Drawing No.0180-01/04;

Proposed Basement & Ground Floor Plans, Drawing No.0180-01/05;

Proposed First & Second Floor Plans, Drawing No.0180-01/06;

Proposed Elevations, Drawing No.0180-01/07;

Site Access Plan, Drawing No.0180-01/08C;

Design and Access Statement;

Heritage Statement;

Planning Policy Statement.

3) No development shall take place until a completed Energy Statement has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until details of the access arrangements for the development hereby permitted have been submitted to and approved in writing by the local planning authority to include the following details:

-Improvement of the existing access drive that will serve the parking area to the south of the site (spaces 4-7, as indicated on drawing 0180-01/08C) by resurfacing the drive, providing bollard lighting along the drive and providing a sign at the fork to indicate the one-way system;

-Removal of a section of the hedge to the west of the access that serves the parking area to the north of the site (spaces 1-3, as indicated on drawing 0180-01/08C) so as to improve visibility at that access;

-Trimming / cutting back the remainder of the hedge to the west of the access that serves the parking area to the north of the site (spaces 1-3, as indicated on drawing 0180-01/08C) so as to maximise the carriageway width on the section of Lime Kiln Lane that abuts the site. The works shall be based on those indicated on drawing 0180-01/08C.

The visibility splay formed to the west of the access that serves the parking area to the north of the site shall thereafter be maintained as indicated on the approved drawing. The hedge abutting Lime Kiln Lane shall thereafter be maintained so it does not encroach on the carriageway. The bollard lighting shall be retained at all times and shall be illuminated at all times during the hours of darkness (unless operated on a motion detection system that ensures that the bollards are illuminated during the hours of darkness when the drive is in use).

The development shall not be occupied until the works have been carried out in accordance with the approved details.

5) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 0180-01/08C for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

6) No development shall take place until details of proposals to provide long-stay covered and secure bicycle parking facilities accommodating a minimum of one bicycle for each dwelling for the development hereby approved have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until bicycle parking has been provided in accordance with the approved details and that space shall thereafter be kept available for the parking of bicycles.

7) No installation of any externally mounted plant equipment (including utility meter boxes, flues, soil & vent pipes, ventilation extracts, roof vents, lighting, security cameras and alarm boxes) shall take place until details (including the location, design, method of support, materials and finishes) have been submitted to and approved in writing by the local planning authority. Such plant and other equipment shall not be installed other than in accordance with the approved details.

8) Notwithstanding condition (2) no installation of windows and external doors shall take place until details of all windows and external doors which shall be of timber with a painted finish have been submitted to and approved in writing by the local planning authority. Details shall include sample elevations drawn at a scale of 1:20, and vertical and horizontal sections drawn at a scale of 1:5. No face mounted trickle vents shall be fitted. Development shall be carried out in accordance with the approved details.