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# Appeal Decision

Site visit made on 1 August 2017

**by S J Lee BA(Hons) MA MRTPI**

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

**Decision date: 21<sup>st</sup> August 2017**

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**Appeal Ref: APP/Z4718/W/17/3173857**

**Land to the rear of 191 Huddersfield Road, Thongsbridge, Holmfirth  
HD9 3TT**

- 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 Martin Jebson against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/60/91954/W, dated 9 June 2016, was refused by notice dated 19 January 2017.
  - The development proposed is the erection of 2 no dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no dwellings at Land to the rear of 191 Huddersfield Road, Thongsbridge, Holmfirth HD9 3TT in accordance with the terms of the application, Ref 2016/60/91954/W, dated 9 June 2016, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application was made in outline with all matters reserved except for access. I have considered the appeal on this basis and have treated any drawings other than those identifying the means of access, and any works to the highway, as indicative only.

## Main Issue

3. The main issue in this case is the effect of the development on highway and pedestrian safety in the vicinity of the site.

## Reasons

4. The appeal relates to an open field which is identified as 'Provisional Open Land' (POL) in the UDP. In light of the five year supply situation, the Council raises no objection on the basis of this policy. The site would be accessed from a single track lane from Huddersfield Road which terminates at a large relatively modern dwelling further along from the site. The lane is located between two blocks of terraced dwellings fronting the main road and also serves No 191, which is a detached Grade II Listed Building located toward the top of the lane. A public right of way (PROW) runs down one side of the site and links into the lane.

5. The lane therefore already serves two dwellings. While I do not have the details of the development of the dwelling at the end of the lane, its presence suggests that a satisfactory form of access for residents and service vehicles is capable of being achieved. The lane is mainly single track, but there are points along it where two vehicles can pass by each other. Nonetheless, it is steep, narrow and has limited visibility at its junction with Huddersfield Road, particularly if cars are parked near to the access as they were at the time of my visit. There is also a sharp right hand turn at the top of the incline from Huddersfield Road where visibility is also limited. The two main areas of concern relate therefore to the nature of the access with Huddersfield Road and the risk to users of the lane.
6. There is no dispute between the main parties that the development would result in an additional 2 trips at morning and evening peaks and between 12 and 16 trips over the course of a day. There would therefore be some intensification of the use of the lane and the existing constrained access. To address this, the appellant has put forward a number of improvements to the access which include alterations to the boundary of 195 Huddersfield Road and modification of levels to allow widening of the access. This would allow two cars to pass each other at the junction safely. The alterations would also include the provision of a junction build out to provide formal parking bays which would in turn help to improve visibility, and other measures to ensure the access is clear from obstruction. The plans also indicate that the centre line of the road would be altered to allow greater levels of visibility in both directions.
7. While the alterations appear significant for a small development, they would be necessary to address the increase in risk that the intensified use of the junction would create. The highway authority raises no objection to the development subject to these improvements being implemented and there is nothing before me that would lead me to a different conclusion. The appellant invited me to allow the appeal without these improvements being made. However, while the junction is already in use it is here where there is likely to be most conflict between vehicles wishing to use the lane and faster moving passing traffic along Huddersfield Road. As such, it is here where the increase in risk to safety from the intensification of the lane's use would be at its highest. I therefore consider that the alterations would be necessary in this case. I have seen some criticism of the proposed scheme in terms of making the situation less safe for cyclists, would create a pinch point for existing road users and that parking at No 195 would not be safe. I see nothing in these proposals that suggests they would result in any additional harm or risk from these perspectives over and above what currently exists.
8. While I saw that not all dwellings on Huddersfield Road have opportunities for off-street parking, there was still a significant amount of space on the road to park. I recognise that my site visit can only represent a snapshot of normal highway conditions, and the demand for parking is likely increase in the evenings and at weekends. The proposed build-outs would reduce the available space to an extent, but there is nothing substantive before me to suggest the resulting number of spaces would be in any way insufficient or harmful either in terms of safety or the living conditions of existing residents. Again, no objections were raised by the highway authority in relation to parking provision and I consider this to be a significant material consideration.

9. The evidence also indicates that emergency and service vehicles would be able to access the site safely and no objections have been raised by the fire authority. The development would increase the risk of vehicles meeting at the sharp bend at the brow of the hill. Nonetheless, as a result of the number of trips likely to be generated, the chances of vehicles meeting at this point would still be relatively low. There is also space on the bend to allow two cars to pass by each other safely. The nature of the lane itself also means that vehicle speeds would be low at this point. The lane does not provide a through route to any other destination and thus any drivers here are likely to be fully aware of the potential for vehicles coming in the other direction and would drive accordingly.
10. There is no pavement along the lane but this is not an uncommon situation in locations such as this. There is sufficient space to allow vehicles to pass by pedestrians with no undue risk to safety. The same conditions would apply as described above, with both drivers and pedestrians being aware of the need for due care and attention when using the lane. This is no more than would be required already. While the number of vehicles using the lane would increase, the relative level of risk to pedestrians would not be substantially greater than it is at present. In coming to this conclusion, I have had regard to comments that the lane is used by school children and that there is no lighting. Nonetheless, such conditions already exist and though there is likely to be more vehicular movements along the lane, they are unlikely to be sufficient to lead to an unacceptable level of risk.
11. There would also be no practical change in the situation for residents already living on the lane in terms of access to their properties. The development would not lead to any physical restrictions and there is already the potential for vehicles to be passing by the dwellings. As above, a need for due care and attention when entering or leaving a property is already a requirement and the projected increase in vehicle numbers would not be sufficient to make access to existing properties inherently unsafe.
12. Taking all of the above factors into account, I find that subject to the necessary improvements to the access with Huddersfield Road being implemented, there is insufficient evidence before me to conclude that the development would lead to an unacceptable risk to highway or pedestrian safety. Accordingly, there would be no conflict with UDP policies D2 and T10 which seek to ensure development does not prejudice highway safety or materially add to existing problems. There would also be no undue conflict with paragraph 35 of the Framework which seeks to ensure development is located and designed to create safe layouts which minimise conflict with traffic, cyclists and pedestrians.

### **Other Matters**

13. Any development of an open and undeveloped site such as this would inevitably lead to some change to the character and appearance of the area. While the Framework advises that the intrinsic beauty of the countryside should be recognised, there is nothing before me to suggest that the site is of particular importance in terms of local landscape sensitivity or quality. The site holds an elevated position above the main road but is well screened by existing dwellings. There are also dwellings at this level above Huddersfield Road in sight of the site and thus dwellings in this location would not be completely

incongruous. The outlook from some residents, and users of the footpath, would change, but not to the extent that it would necessarily cause harm. The encroachment of the built form into the open countryside would not be significant and there would be opportunities to provide additional screening through appropriate landscaping at reserved matters stage. There is also no reason why dwellings of an appropriate scale and design could not be accommodated on this site, which again can be addressed through reserved matters.

14. The development would have the potential to affect the setting of the Grade II Listed building at No 191. The main area of risk would be the view of this building from the PROW when walking down the hill. The setting may change in this regard, but subject to an appropriate layout and design, need not result in any harm in principle. The building would still be able to be appreciated on the lane itself and from below the site. The layout of the dwellings would be subject to further consideration at reserved matters stage and the site is of a scale where it should be possible to accommodate two dwellings without resulting in any particular harm to the heritage asset. Clearly, the appearance and materials used would be of particular importance here, but again there is no reason why an appropriate form of development could not be achieved. I therefore find that at this stage, the impact of development on the heritage asset would be neutral.
15. The Council raises no objection in relation to drainage or biodiversity that could not be addressed by condition. From the written evidence before me, and my observations of the site, I have seen nothing that would lead me to a different conclusion.
16. Some comments have been received which suggest the increase in traffic using the lane would have an unacceptable effect on living conditions. However, this road already serves existing dwellings and will generate some noise. The frequency of movements would increase, but the resulting levels of noise or disturbance are unlikely to result in a situation where living conditions would be unduly harmed. There is nothing to suggest that damage to existing dwellings would be an inevitable consequence of the development taking place, either as a result of construction traffic or the occupation of the dwellings. The risk of this would not be sufficient to justify withholding permission.

### **Conditions**

17. I have considered the suggested conditions and comments from the Council and appellant, in accordance with the Planning Practice Guidance (PPG). In addition to the standard conditions requiring the submission of reserved matters, I have imposed a condition specifying the relevant drawings for the access and highway improvements as this provides certainty. For the same reason, I have also included a limitation to ensure a maximum of two dwellings are built.
18. Conditions 5, 6, 7 and 8 are necessary in the interests of highway safety and the living conditions of future and existing residents. I have used the appellant's suggested wording for conditions 5 and 8. Other amendments have been made in the interests of clarity and precision. These are by necessity pre-commencement conditions to ensure development is carried out in accordance with the approved details.

19. Condition 9 is necessary in the interests of the character and appearance of the area, highway safety and the operation of the PROW. As many of the matters highlighted in the suggested conditions addressing these issues are reserved matters, I have amended the wording to ensure they are adequately dealt with in any future application. Condition 10 is necessary to ensure the site can be adequately drained and that foul water can be disposed of appropriately. I have amended this to consider foul and surface water together to avoid any unnecessary repetition. In light of the appellant's comments, and having considered the drainage report, I have removed unnecessary wording stipulating the measures that will be taken as these would form part of any agreed scheme.
20. Condition 11 is necessary to ensure the protection of biodiversity features in and around the site and provide enhancement. While I recognise that neither the appellant's mining nor contamination reports identify significant risks, the latter does recommend further investigations are required in the form of trial pits and the sampling of soils. Notwithstanding the appellant's comments, in light of this I consider the Council's suggested conditions on site investigations are necessary and reasonable. Conditions 12 to 15 address this and by necessity the investigations must be completed prior to development starting.
21. Owing to the proximity of a Grade II listed building, I consider that a condition restricting permitted development rights is justifiable in this instance (condition 16). I have amended the suggested wording such that should future alterations be required, they would be subject to proper consultation through a planning application
22. I have not imposed the Council's suggested condition on the emergency access as this is addressed in my condition 5 and would form part of the details to be approved. I have not imposed the appellant's suggested condition on materials, as this is something that can be addressed at reserved matters stage as part of the consideration of appearance. I have not imposed the suggested condition requiring the provision of an electric vehicle recharging point. The Council has not referred to any policy in its development plan requiring such measures and insufficient justification has been provided to demonstrate this is necessary in this case.

## **Conclusion**

23. For the reasons given above I conclude that the appeal should be allowed.

*S J Lee*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted is for no more than 2 dwellings. The development shall be carried out in accordance with the following plans, unless otherwise varied by the conditions set out: Site Location Plan; 1402801D, 1402801E.
- 2) Details of the 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.
- 3) 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.
- 4) 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.
- 5) Development shall not commence until full details of the improvement works along Huddersfield Road and the access road serving the site as shown on drawing 1402801D, along with works to ensure safe accessibility of 195 Huddersfield Road and vehicle swept paths as shown on drawing 1402801E have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the works have been implemented in accordance with the local planning authority's approval and have been certified as complete by or on behalf of the local planning authority and such works shall be retained thereafter.
- 6) The development shall not be brought into use until the any approved vehicle parking areas and driveways shall have been surfaced and drained in accordance with the Communities and Local Government; and Environmental Agency's 'Guidance on permeable surfacing of front gardens (parking areas)' published 13 May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.
- 7) Development shall not commence until a scheme detailing provision for access and on-site parking for construction workers' vehicles for the duration of the construction period has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented throughout the construction period.
- 8) Development shall not commence until details of the storage and access for collection of waste from the premises shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been implemented in accordance with the approved details and shall be retained thereafter.
- 9) The Reserved Matters submission in relation to the appearance, layout or landscaping shall include details of:
  - Full design of any retaining structures to be installed on the site, including detailed drawings, sections and engineering calculations.
  - Details of any soft landscaping to be planted above the retaining structure.

- Details of the materials to be used to face the retaining structure.
- Details regarding the maintenance of the structure and soft landscaping.
- Details of how the structures will be created to prevent any detrimental impact on the adjacent public footpath and details of how the public footpath will be protected throughout construction.

The development shall thereafter only be carried in accordance with the approved details.

- 10) Development shall not commence until a scheme demonstrating an adequately designed means of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. No parts of the development shall be brought into use or occupied until the works comprising the approved scheme have been completed and retained thereafter.
- 11) The development shall not be brought into use until a scheme of ecological enhancements for the site outlined in red on the approved location plan as recommended in the Ecological Appraisal reference R192401 dated May 2014 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation of the dwellings and shall be retained thereafter.
- 12) Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.
- 13) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 12, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
- 14) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 13. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 15) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall

be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development included within Classes A-G inclusive of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining a specific planning permission from the local planning authority.