



Appeal Decision

Site visit made on 17 October 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 20 October 2017

Appeal Ref: APP/X4725/W/17/3180999

105 Sandy Lane, Middlestown, Wakefield WF4 4PR

- 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 Charles Day against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 17/00022/FUL, dated 11 December 2016, was refused by notice dated 28 February 2017.
 - The development proposed is the re-submission of 16/01243/FUL for erection of a 4 bedroom detached property to the rear of 105 Sandy Lane and associated infrastructure. Erection of a detached garage for the residents of 105 Sandy Lane.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 4 bedroom detached property to the rear of 105 Sandy Lane and associated infrastructure (amendments further to 16/01243/FUL) at 105 Sandy Lane, Middlestown, Wakefield WF4 4PR in accordance with the terms of the application, Ref 17/00022/FUL, dated 11 December 2016, subject to the conditions in the attached schedule.

Procedural Matter

2. During the course of the application considered by the Council, the appellant amended their scheme by removing the detached garage. However, the description of development was not updated. The parties have agreed, upon my request, that the description of development should be "*erection of a 4 bedroom detached property to the rear of 105 Sandy Lane and associated infrastructure (amendments further to 16/01243/FUL)*". I have considered the appeal on this basis.

Main Issues

3. The main issues are: (i) whether the proposal would be a suitable infill development in the settlement of Middlestown, having regard to the character and amenity of the area; and (ii) the effect of the proposed access arrangements on the safety of vehicular and pedestrian traffic in Sandy Lane, with regards to visibility.

Reasons

Infill development

4. The appeal site is within the village settlement boundary of Middlestown. The site forms part of the rear garden to 105 Sandy Lane and its vehicular access from the lane. Consequently, it is a greenfield site. To the front and rear of

the appeal site are fields which form part of the Green Belt. However, the appeal site is within a residential part of the settlement that lines the lane. So, while Policy CS1 of the Development Policies Local Development Framework (LDF) seeks to prioritise previously developed land and buildings first, this does not prevent the use of greenfield sites such as the appeal site for infill development in the settlement. This is to take advantage of existing services and high levels of accessibility.

5. The proposal would result in a small-scale development that would, in accordance with LDF Policies CS3 and CS6, contribute to the district's housing requirements, in terms of number and mix. However, paragraph 6.46, which supports LDF Policy CS3, states that the *"infilling of open spaces and large gardens with new development will be opposed if it would cause a significant detrimental impact on residential amenity or the character of the area."*
6. An outcome of the appeal scheme would be the sub-division of the site and the formation of a new dwelling behind the existing art deco style property. Even so, the new dwelling would be within the physical and visual edge formed by the rear boundaries of neighbouring dwellings on both sides of the site. Furthermore, the ribbon of development on the south-east side of the lane is characterised by properties of varying age, style, scale, massing and appearance. The proposal would only add to this variety. There is also no set building line and these properties are within plots of varying sizes.
7. The existing rear garden to No 105 is characterised by its openness. However, this is strictly limited to views obtained from the rear of the appeal site, due to the scale, massing and siting of the existing dwelling, and the leylandii along the north-east boundary that wrap around the front of 103b Sandy Lane.
8. To the north-east of the appeal site are properties within spacious landscaped plots. The site could be construed to form part of that characteristic of Sandy Lane. However, plot size alone does not define character; it is one aspect of it. Taking a more rounded view, the existing property, due to its siting and layout, signals the start of a different characteristic to Middlestown, one which is typical of an urban area. To the south-west of the site there is a less spacious form of development with properties close to, and set back from the lane. While each scheme requires their own consideration, the appeal site, in my view, has a greater physical and visual affinity with this form of development and hence its character. I note in this regard that the proposed dwelling would not be dissimilar to the siting of the large detached dwellings behind 115 Sandy Lane or the siting of 117 Sandy Lane, in particular.
9. Although the scheme's density would be below that set out in LDF Policy CS3, I consider that the site's individual circumstances, insofar as its character, call for a lower density development on this occasion. Hence, the proposal would not be an overdevelopment of the site. I am also mindful that each property would have rear gardens in excess of 75m², and I consider that the scheme would not significantly harm the living conditions of neighbouring occupiers. As a result, I consider that the proposal would make use of a suitable infill site. The appeal scheme would also not be out of character with the visual amenity of the area as the dwelling would be viewed in the context of the linear development on the south-east side of the lane, from both directions on Sandy Lane and from the public footpath to the south-east. The latter would be aided by the proposed rear garden and boundary treatment.
10. I acknowledge there are concerns that this scheme would set a precedent for

future development proposals. However, given the variety that I have identified in the settlement and in particular to the south of Sandy Lane, I am of the view that other schemes would stand or fall on their own merits having regard to the specific circumstances presented.

11. On this issue, I conclude that the proposal would accord with LDF Policies CS1, CS3, CS6 and D9; which collectively seek to direct small-scale housing development to suitable infill sites within settlements identified as villages, and ensure it respects and where appropriate enhance the character of the locality, in terms of design, scale, density and layout.

Highway safety

12. Sandy Lane extends in front of the appeal site which is located on a crest and on a slight bend in the lane as it rises up steadily from the east. The lane is a lit two-way carriageway that primarily serves residential properties in the village. The northern side of the lane has a narrow pedestrian footway, while the southern side has a pedestrian footway which starts at the appeal site's eastern boundary. The existing vehicular access would be used, in a widened format, to serve both dwellings and offer a two-way traffic flow at its junction with Sandy Lane.
13. I have had regard to the appellant's Access Statement which seeks to overcome the Council's concerns about visibility at the site's access set out in an earlier refused planning application¹. Based on the evidence and my own observations, adequate vehicular and pedestrian visibility could be achieved to the south-west of the proposed access. I also consider that the new dwelling would not give rise to significant changes to the level or flow of traffic using Sandy Lane.
14. Visibility to the north-east is limited by the leylandii which overhangs the shallow grass verge which forms part of the public highway² in front of No 103b. The Council suggest that a stopping sight distance (SSD) of 2.4 metres x 45.4 metres should be provided to account for the 30 mph speed limit, based on Manual for Streets (MfS). However, the appellant's speed survey³ of traffic speeds using the lane, evidences 85th percentile wet weather traffic speeds of 25 mph and 27 mph in each direction. As the Council have not provided their own speed survey, given my own observations, I have no reason to doubt the results of the appellant's assessment. Given the slower speeds recorded, subject to the leylandii in the public highway being cut back, a SSD of 2.4 metres x 39 metres can be achieved. Thus, the proposal would accord with the SSD in MfS for the north-east visibility splay.
15. Even so, the Council is concerned about maintaining this in perpetuity. Section 154 of the Highways Act 1980 gives powers to a competent authority to cut back vegetation overhanging the public highway, or serve notice on land owners to cut it back within 14 days. Although there is a right of appeal, subject to any findings, the Council can carry out the necessary works and recover any reasonably incurred costs of doing so. While the Council, as the local highway authority, cite resource issues as a reason why the visibility splay is unlikely to be maintained, there is no evidence to support this, even if discussions did take place. Thus, I am satisfied that there is a suitable mechanism available to secure the north-east visibility splay in perpetuity.

¹ Council Application Ref: 16/01243/FUL

² Appendix B, Access Statement

³ Appendix C, Access Statement

16. Notwithstanding suggestions by the Council, the appeal scheme would not result in the loss of the existing turning facility for the occupiers of No 105 as the hard standing at the side of the dwelling only extends as far as the rear elevation. Each dwelling would also be served by sufficient off-street car parking provision in accordance with the Council's Street Design Guide – Supplementary Planning Document (SPD).
17. On this issue, I conclude that the proposed access arrangements would be satisfactory and that they would not adversely affect highway safety in Sandy Lane. As such, the proposal would comply with LDF Policy D14 and the SPD which seek development to ensure the safe and free flow of traffic on the highway network and provide an appropriate level of car parking.

Conclusion and Conditions

18. I have had regard to the planning conditions that were suggested by the Council. In the interests of certainty, I have imposed an approved plans condition. To ensure the dwelling integrates into its environment, in the interests of character and appearance, I have imposed a condition to secure details of the external materials. In the interests of highway safety, a condition is necessary to secure surfacing details of the areas to be used by vehicles and pedestrians. I have not, however, imposed a contaminated land condition as there is no evidence to suggest that the site is contaminated.
19. For the reasons given above, I conclude that the appeal should be allowed.

Andrew McGlone

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: 15 1952 01 (Rev B); 15 1952 04 (Rev A); 15 1952 03 (Rev 0); 15 1952 06 (Rev 0); 15 1952 07 (Rev 0); Access Arrangements 1220 01 and JR 1025-001 Revision A, except in respect of the detached garage shown on the Access Arrangements 1220 01 and plan 15 1952 07 (Rev 0).
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The building shall not be occupied until the areas to be used by vehicles and/or pedestrians have been drained, sealed and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.