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## Appeal Decision

Site visit made on 2 October 2017

**by Caroline Mulloy BSc (Hons) DipTP MRTPI**

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

**Decision date: 8<sup>th</sup> November 2017**

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**Appeal Ref: APP/R4408/W/17/3180755**

**The Laurels, 24 Viewlands, Silkstone Common S75 4QP**

- 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 Greg McGrath against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref 2017/0027, dated 15 December 2016, was refused by notice dated 28 April 2017.
  - The development proposed is demolition of existing house-outline permission for 3 new houses.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and outline permission for 3 new houses at The Laurels, 24 Viewlands, Silkstone Common S75 4QP in accordance with the terms of the application, Ref 2017/0027, dated 15 December 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this Decision.

### Application for costs

2. An application for costs was made by Mr Greg McGrath against Barnsley Metropolitan Borough Council. This application is the subject of a separate Decision.

### Procedural Matter

3. The application was submitted for outline planning permission with all matters reserved. I have dealt with the appeal on that basis, treating the proposed site layout plan as illustrative.

### Main Issue

4. The main issue in this case is whether the proposal constitutes an inappropriate form of back land development, taking into account the effect of the proposal on the living conditions of existing occupiers including Nos 23, 25 and 26 Viewlands and Hall Royd Walk with specific reference to privacy and noise and disturbance.

### Reasons

5. The appeal site is situated off Viewlands, a residential cul-de-sac of detached, semi-detached and terraced two storey houses and bungalows. The site is occupied by a traditional two storey detached property set in a large plot. The house is accessed from a private driveway set between numbers 23 and 26

Viewlands (Nos 23 and 26). Number 25 Viewlands lies to the south east of the site and shares the same access.

6. It is proposed to demolish the existing property and erect three dwellings within the curtilage of the site. The indicative plans show the dwellings set out in a linear pattern accessed from a shared driveway which would link to the existing access. The proposal would, therefore, involve the comprehensive redevelopment of the site. In addition, the appeal property pre-dates the surrounding development and has its own access. The proposal would not in my view constitute a traditional form of back land or tandem development.
7. Nevertheless, the Council and adjoining occupiers raise concerns that the intensification of the existing access would have a detrimental effect on residents adjoining the access through increased loss of privacy and general disturbance, in particular to the occupiers of Nos 23 and 26.
8. The access to the site would utilise an existing private driveway which extends off an existing turning circle from an adopted highway known as Viewlands. The access is approximately 3.5m wide at its narrowest point opening up to around 4.2m.
9. It would appear from submissions that three properties currently have right of access over the private drive including the appellant's dwelling and Nos 25 and 26 Viewlands. The proposal would result in only two net additional dwellings using the drive compared to the current situation and five dwellings using the access drive in total. There is a wall with a fence on the boundary of the access road with No 23 Viewlands and a hedge on the boundary of the access road with No 26 and No 27 which would help to protect occupiers from visual intrusion.
10. Furthermore, the proposal would involve improvements to the surface of the existing drive which would help to minimise noise and disturbance. Although there would be a slight increase in the intensification of the use of the access road, I do not consider that it would have a materially significant effect on the living conditions of adjoining occupiers compared to the existing situation.
11. Given the size of the site and the presence of mature planting on the boundary, I consider that a scheme could be designed at reserved matters stage which would not have a harmful effect on the living conditions of the occupiers of No 25 Viewlands in terms of privacy and noise and disturbance.
12. The bungalows of Hall Royd Walk lie to the rear of the proposed development. I consider that the site is sufficiently large to accommodate three dwellings and easily meet the required separation distances. In addition, there is already significant mature planting on the boundary with Hall Royd Walk which would screen existing occupiers from the new dwellings and ensure that there is no loss of privacy. Residents of the bungalows currently look onto mature planting on the common boundary with the appeal site and this would not change as a result of the development. In winter the proposed development would be visible, but only in filtered views through the trees/vegetation. Consequently, I do not consider that the proposal would have an adverse effect on the outlook of the existing occupiers of Hall Royd Walk.
13. Given the size of the site there would be sufficient room to enable a layout which would not result in a loss of sunlight or daylight to the occupiers of Hall Royd Walk compared to the existing situation, taking into account the existing boundary treatment. Moreover, I consider that the net additional increase of two dwellings

would not have a materially greater effect in terms noise and disturbance than the existing situation particularly taking into account the size of the appeal site and the presence of mature planting on the boundary.

14. For the reasons stated, I conclude that the proposal would not represent inappropriate back land development and would not harm the living conditions of existing occupiers of Nos 23, 25 and 26 Viewlands and Hall Royd Walk in terms of outlook, privacy, noise or disturbance. The proposal would not, therefore, conflict with Policy CS29 of the Council's Core Strategy which seeks to secure high quality development. Neither would the proposal conflict with the Designing New Housing Development Supplementary Planning Document (SPD) 2012. Furthermore, no conflict would arise with paragraph 56 of the National Planning Policy Framework which states that good design is a key aspect of sustainable development.

#### *Other matters*

15. A number of concerns have been raised by existing occupiers with regards to highway safety. The Council's Highway section has raised no objections to the proposal which would result in a net increase of two dwellings on the site. Five dwellings in total would use the private drive which would be the maximum number allowable from a private drive. The access drive is 35m and has clear visibility along its length and there is no need for passing places. The Highways section considers that there would be adequate visibility splays exist at the entrance/exit and from everything which I have seen in submissions and on my site visit; I have no reason to disagree.
16. The Council's Highway section also considers that the access would be sufficiently wide and that there would be sufficient room for a fire appliance to manoeuvre within the site. The carriageway would meet the minimum carriageway width for the passage of a fire engine as set out in Manual for Streets. Refuse trucks would collect any waste from the turning circle at Newlands as they are not required to leave the adopted highway. I am, therefore, satisfied the geometry of the access is appropriate to serve the development.
17. The access to No 27 Viewlands lies adjacent to the private drive and I noticed that visibility is partially restricted by the presence of a substantial hedge along the boundary of the property; however, this could be easily remedied by a reduction in the height of the hedge or stepping the hedge back. In any event, there is no cogent evidence before me that the existing access arrangement results in harm to highway safety. Vehicles would be travelling slowly at this point and hence the risk of vehicular or pedestrian conflict would be very low. Even if it were not possible to trim the existing hedge, the proposal would only result in an increase of two additional dwellings using the existing access and would not, in my view, result in a materially different effect on highway safety compared to the existing situation.
18. No 25 Viewlands shares the same access road as the appeal property and the occupier currently reverses out of their driveway in close proximity to the access of the appeal property. I consider that there is sufficient room at the meeting point of the two accesses to achieve appropriate visibility splays for each access, particularly if alterations were made to the boundary treatment on the shared corner. I consider that details of appropriate access arrangements and visibility splays can be secured at the reserved matters stage.
19. Residents have raised concerns regarding the effect of the proposal on both surface water run-off and the capacity of the local drainage system. However, I

note that the Council's drainage officer had not raised objections regarding the proposal subject to conditions. I consider that the suggested conditions would address the concerns raised and ensure that appropriate drainage mechanisms are in place to serve the development.

20. Concerns are also raised by the Parish Council with regards to the effect of the proposal on the character and appearance of the development. It considers that the proposal would not reflect their Village Design Statement (VDS) which requires development to be in sympathy with their setting and retain the character of the individual areas in the Parish.
21. It considers that the proposal would triple the density of the existing site. However, whilst this may be the case, I noted that development in Viewlands and Hall Royd Walk is at a much higher density than the appeal site would be post development. Furthermore, the appeal property pre-dates the surrounding development and has its own access. The existing property would be demolished and the proposal would not, therefore, constitute traditional back land development. Consequently, I consider that the appeal site could be developed for three dwellings in such a way that would not be at odds with the character and appearance of the area, subject to the consideration of detailed design at the reserved matters stage and that no conflict would, therefore, arise with the VDS.

### **Conditions**

22. I have imposed the standard time limit conditions for outline permissions and the submission of reserved matters.
23. A condition requiring details of permanent foul and surface drainage to be submitted and approved is required in order to ensure proper site drainage.
24. The site is situated within a Coal Authority coal mining referral area and could be at risk from land instability. I have, therefore, imposed a condition requiring site investigations and suitable radiation measures undertaken before development takes place.
25. I have also attached a condition requiring the development to be undertaken in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction and recommendations submitted to the local planning authority in order to ensure the continued health of the trees and in the interests of character and appearance.
26. A further condition requiring controlling the hours of construction or other operations on site is necessary in order to protect the living conditions of surrounding occupiers.
27. Finally a condition requiring the submission of plans showing existing ground levels, finished floor levels of all dwellings and road levels is necessary to protect the living conditions of surrounding occupiers.

### **Conclusion**

28. For the reasons stated and taking all other considerations into account the appeal should succeed.

*Caroline Mulloy*

Inspector

## **Schedule**

### **Conditions**

- 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) No development shall take place until:
  - (a) Full foul and surface water drainage details, including a scheme to reduce surface water run off by at least 30% and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority;
  - (b) Porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;
  - (c) Calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways; Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.
- 5) No development shall take place until a site investigation of the nature and extent of any land instability and any potential mining legacy health and safety risks such as fugitive gas migration has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.
- 6) No development or other operations being undertaken on site shall take place until the following documents in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations have been submitted to and approved in writing by the Local Planning Authority: Tree survey; tree constraints plan; Arboricultural impact assessment; Arboricultural method statement; Tree protective barrier details; Tree protection Plan. The work shall be undertaken in accordance with the recommendations contained therein.
- 7) Demolition or construction works shall take place only between the hours of 0800 to 1800 on Monday to Friday, and 0900 to 1400 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) Detailed plans shall accompany the reserved matters submission indicating existing ground levels, finished floor levels of all dwellings and associated structures, road levels and any proposed alterations to ground levels. Thereafter the development shall proceed in accordance with the approved details.