



Appeal Decision

Site visit made on 7 October 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2019

Appeal Ref: APP/P4225/W/19/3222410

Former Balderstone School, Queen Victoria Street, Rochdale OL11 2HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Gleeson Regeneration Ltd against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 18/01302/DOC, dated 15 November 2018, sought approval of details pursuant to condition No 5 of a planning permission Ref 18/00895/AM, granted on 1 November 2018.
 - The application was refused by notice dated 14 December 2018.
 - The development proposed is a minor material amendment to planning permission 17/01137/AM to re-position the driveway of plots 141 - 143.
 - The details for which approval is sought are: siting, design and materials of the private roads / driveways / parking areas at the appeal site.
-

Decision

1. The appeal is allowed and the details of *siting, design and materials of the private roads / driveways / parking areas at the appeal site* submitted pursuant to condition No 5 attached to planning permission Ref 18/00895/AM, granted on 1 November 2018, in accordance with the application Ref 18/01302/DOC, dated 15 November 2018, are approved.

Preliminary Matters

2. The appellant's initial application incorrectly referenced the condition and application number which they were attempting to discharge. Some of the appellant's evidence was similarly mis-labelled. However, I note from the submitted correspondence between the appellant and the Council that a pragmatic solution to this issue was reached to their mutual satisfaction. Notwithstanding this mistake, it is clear to me what this appeal concerns, as set out in my formal decision.
3. However, in considering the appeal I was not satisfied that sufficient information had been provided in order for me to make a determination. I therefore put this matter to the parties and invited their comments.
4. The appellant has provided additional information offering further clarity regarding the proposal: typical shared drive siting details¹; and a layout plan showing the location of all drives / shared drives within the site². The Council

¹ NSD721

² 394/2U

stated that this additional information should not be accepted, but nevertheless has provided some comments upon it. The Council has also provided a number of photographs of the appeal site and another location nearby, and the appellant has been provided with copies of these.

5. In this case and with regard to Government guidance³ and the *Wheatcroft*⁴ principles, I am satisfied that the additional information provided can be accepted and that no one is disadvantaged as a result. Furthermore, there is now sufficient information before me in order to determine the appeal.

Background and Main Issue

6. The application that is the subject of this appeal seeks to discharge Condition 5 originally attached to the grant of planning permission 16/00224/FUL for the erection of 143 dwellings including access and related infrastructure. However, following amendments to the scheme the reference number for the approved development is now 18/00895/AM.
7. The application was refused by the Council because of the impact on the character and appearance of the area and on highway safety. Two previous applications to discharge the condition have been refused by the Council⁵ for very similar reasons.
8. Therefore, the main issue is whether the information provided by the appellant in seeking to discharge the condition is adequate, with particular regard to the effects on the character and appearance of the area and on highway safety.

Reasons

9. The proposed private and shared driveways would comprise 'rolled and compacted aggregate on a cement dusted sub base' contained by timber edge restraints; the aggregate area would be separated from the public highway by a bitumen apron some 1.5 metres deep.
10. The appellant states that such driveways have been used in approximately 6,000 new homes since 2010 in different local authority areas. There is no reason for me to doubt the veracity of this statement and that this is therefore a common and well-established approach.

Character and Appearance

11. The Council is concerned that 'loose stone' drives would be prone to weed growth and that loose stones would be displaced onto the highway over time, which would detract from the character and appearance of the area.
12. I note that unlike the two previous attempts to discharge the condition, the current proposal includes a weed membrane, beneath the cement dust layer, to prevent weed growth from occurring. The Council has not addressed this matter in its evidence. There is no compelling evidence before me that the membrane would not be effective in preventing weed growth.

³ Procedural Guide Planning Appeals – England (August 2019).

⁴ *Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]*.

⁵ LPA Refs. 17/00282/DOC and 17/00394/DOC.

13. A photograph of another location in Rochdale⁶ where weeds can be seen growing through a similar drive has been provided by the Council. However, no indication as to whether the weed membrane has been installed at this location is provided.
14. Only one photograph has been provided that is clearly of the appeal site⁷ and it does not indicate that the 'site is already suffering from weeds penetrating through the surface'.
15. With regard to loose stones being displaced onto the highway, the Council has provided limited evidence to support its concern. A photograph showing some loose stones on the public footway from a gravel driveway has been provided, although I note that in this case the property, which is not identified, does not have the 1.5 metre bitumen apron intended to prevent such displacement from happening. Furthermore, the very limited quantity of stones on the public footpath does not significantly affect the character and appearance of the area, even if it were to be replicated at other locations.
16. No compelling evidence has been provided that the displacement of loose stones from the driveways with bitumen aprons onto the highway would be likely to happen, or if it did, that a significant quantity of stones would be displaced, such as would harm the character and appearance of the area.
17. The Council's assertion that the shared driveways are particularly susceptible to the displacement of stones is also not adequately substantiated. Whilst such shared driveways would be likely to experience a greater number of vehicle movements than individual driveways, no evidence has been provided to demonstrate that this would be likely to cause or increase any displacement of stones either to the public highway or adjoining areas of grass.
18. The Council refers to the recently published National Design Guide (NDG) and refers to a number of aspects of it in relation to the appeal. These include 'that materials should be practical, durable, and attractive' and that the characteristics of well-designed places would include being 'made to last and be well-managed and maintained by their users'.
19. From the evidence the proposed design and materials for the driveways would not be inconsistent with the NDG. Furthermore, the maintenance of any development is important to uphold its appearance and there is no compelling evidence that the proposed driveways would be difficult to maintain. It is likely that occupiers of the dwellings would want to maintain the appearance of their homes including through tasks such as weeding or sweeping any loose stones back to the driveways (as necessary).
20. The Council makes reference to its 'statement of case' and 'other appeal decisions that have been submitted with this case' to support its position that such drives are likely to cause problems with regard to future maintenance⁸. No such documents have been provided by the Council and I therefore give the Council's comments in this regard very limited weight.

⁶ 113 Lowry Drive, Rochdale OL11 2RZ, which is also said to be part of a development by the appellant.

⁷ *Queen Vic st, Gleeson house that now has block paving drive.*

⁸ Email to the Planning Inspectorate of 22 October 2019.

21. For these reasons I am satisfied that the siting, design and materials of the private roads / driveways / parking areas at the appeal site would have an acceptable impact in terms of the character and appearance of the area.

Highway Safety

22. The Council is concerned that loose stones would 'effect the longevity of the surface of the highways and cause an unsafe environment for road users'. As addressed under *Character and Appearance* above, there is no substantive evidence that loose stones from driveways with bitumen aprons such as are proposed would be displaced onto the public highway.
23. The Council's Highways service has objected to the proposed driveways on the grounds that loose stones would be displaced onto the highway. This would thereby create a skid-hazard and would degrade the surface of the road through abrasion and subsequent weathering.
24. Even if I were to accept that loose stones would be displaced onto the public highway, no evidence has been provided that this would be likely to create a skid-hazard or result in an accident. I also note that the appellant states that since they began using aggregate driveways in 2010, there has not been a recorded safety incident⁹ linked to their use. I have no reason to doubt the appellant's statement in this regard, which I note is corroborated by their loss adjuster¹⁰.
25. No evidence has been provided that any loose stones would degrade the road surface in the manner referred to or that this would be significantly worse than normal wear and tear, which the Highway Authority's budget would be expected to address. Furthermore, the Council has provided no evidence that any such degradation of the road surface would be detrimental to Highway Safety.
26. For these reasons I am satisfied that the siting, design and materials of the private roads / driveways / parking areas at the appeal site would have an acceptable impact in terms of Highway Safety.

Other Matters

27. When I visited the site, I noted that a significant number of dwellings and their driveways had been constructed and appeared to be occupied. A number of driveways had been constructed to a different design and using different materials to those shown on the submitted drawings and the Council has provided photographic evidence of this.
28. Notwithstanding what has been constructed on site, I have determined this appeal on the basis of the submitted information, including the layout of the site and the specified design and materials. Any differences between the details submitted to discharge this condition and what has been constructed on site would be a matter for the Council and the appellant / affected third parties to resolve outwith this appeal process.
29. I note the Council's comments regarding the most recently submitted information from the appellant not providing all of the details required by the

⁹ Paragraph 8.16 of the Supporting Statement (November 2018).

¹⁰ Appendix 8 of the Grounds for Appeal (February 2019)

condition, such as the colour of gravel or materials to be used for the surfacing. The Council was satisfied that sufficient information had been provided prior to the submission of this information, when it refused planning permission. As set out above, I am satisfied that the submitted information is sufficient for me to determine the appeal.

Conclusion

30. For the reasons given above, and taking into account all issues raised, I conclude that the appeal is allowed and the condition is discharged.

Andrew Parkin

INSPECTOR