
Appeal Decision

Site visit made on 12 November 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2019

Appeal Ref: APP/N4720/W/19/3234741

**Land to the north-east of River Court, Stammergate Lane, Linton,
Wetherby LS22 4JB**

- 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 James Newett against the decision of Leeds City Council.
 - The application Ref: 18/04956/FU, dated 1 August 2018, was refused by notice dated 13 February 2019.
 - The development proposed is described as the “construction of a single dwelling and associated highways improvements.”
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council adopted an amended version of the Leeds Core Strategy under the Core Strategy Selective Review (2019) (CS) during the appeal. In the interests of fairness, the Council and the appellant were given the opportunity to comment on this matter.
3. The Human Rights Act 1998 incorporates the rights set out in the European Convention of Human Rights. During the course of the appeal, the appellant raised matters in relation to the choice of the appeal procedure under Article 6, which concerns the right to a fair trial. Such a right, though, applies to all appeals, regardless of the procedure, and the planning system also operates in a manner to ensure a fair hearing. The evidence of the main parties in relation to the highway safety matter of dispute is clear and properly dealt with under the written representations procedure, when the proposal and the site circumstances are also considered. Consequently, I am satisfied that the appeal has proceeded in accordance with the duties that are set out under Article 6.

Main Issue

4. The main issue is the effect of the proposal on highway safety and the free flow of traffic.

Reasons

5. The appeal site forms a large plot of land that is located on the southern side of Stammergate Lane, which operates as a private road. The lane is formed of

narrow, uneven and exposed ground in front of the site. Towards its junction with Main Street to the west, it widens and is of a tarmac finish. In the opposite direction, it remains of a narrow and less made up construction up to where it meets Main Street to the east and via Middle Lane. There are no footways, so pedestrians and vehicular traffic share the same space. Residential properties are found opposite and adjacent to the site. In total, Stammerge Lane serves around 15 dwellings. Main Street runs through the centre of the village. This road connects nearby Collingham and Wetherby, and is a fairly well trafficked route.

6. Where Stammerge Lane meets Main Street to the west, the junction is at a sharp angle due to the alignment of these 2 roads. Furthermore, there is a high boundary treatment around the north side of the junction. A steep downhill stretch of Main Street also extends towards the junction from this direction. In particular, visibility is of a limited nature to the north. To the south, visibility at the junction is also affected by a bend as the road approaches from a bridge.
7. When applying Manual for Streets (MfS) visibility standards, both parties agree that the visibility at the junction would be sub-standard, albeit to varying degrees. Whilst I am mindful of how the appellant considers that the splay should be calculated and which results in less of a deviation from MfS standards compared to the Council's position, given the awkward arrangement of the junction, this underplays what is restricted visibility. Nor am I persuaded that driver awareness would overcome this harm, as not all drivers will be as familiar with the surroundings.
8. Accordingly, I find the visibility at this junction to be significantly substandard. Therefore, whether or not MfS or the more exacting Design Manual for Roads and Bridges standards under the Council's Street Design Guide Supplementary Planning Document (2009) (SPD) should be applied does not appreciably further inform this position.
9. Even with the deficit of visibility at the junction, the appellant considers that it operates safely, pointing to the accident data and the various survey methods and information sources that have been used to inform what is a thorough highway assessment. However, this would not account for the potential safety issues arising at the junction from vehicle movements associated with the proposal itself, due to the lack of safe visibility, despite that the increase in such movements would be on a limited scale. It would represent a significant risk to highway safety.
10. For the purposes of the SPD, the proposal further would add to the exceedance of the 5 dwelling threshold whereby the road should be designed and offered for adoption. This applies regardless of the related traffic levels. Hence, private drive standards serving 5 dwellings or less have a limited bearing in this case. Whilst Stammerge Lane widens shortly past the proposed access, when cars are parked, it does not permit 2 way traffic. The increase in use by vehicles would also raise a potential risk to pedestrians who periodically use the lane for access, not least as Main Street does not have a continual footway. Safe manoeuvrability around the junction is also limited with how it is aligned with Main Street and the associated restricted visibility.

11. The alternative potential routes are also narrow and lacking in terms of visibility and suitable surfacing materials. They would not represent a suitable alternative in order to access the proposal from Main Street.
12. The appellant has put forward a number of highway measures that are said to be improvements, although considers these should not be seen as mitigation against the effects of the proposal. Even if I was to assess these measures as such, they would not adequately overcome the highway safety concerns. A mirror mounted on a roadside pole would not be a satisfactory substitute to achieving an appropriate visibility splay at the junction and a vehicle actuated speed sign would also not lessen the required visibility. In addition, the proposed footway would only be along the part of Stammergate Lane nearest the site and the resurfacing outside of the site would seem to be a prerequisite if the site was to be developed, with its current poor state.
13. The potential for the speed limit to be reduced to 20 miles per hour (mph) along Main Street and the associated effect this would have on the visibility splay requirements attracts limited weight in my decision because the speed limit, as it stands, is 30mph. Based on the evidence that I have, there is not a firm date that the speed limit would be lowered under a Traffic Regulation Order.
14. In relation to the appeal decision¹ at 'Byways' that I have been referred to, as there are distinctions by way of the proposed access arrangements and the detail of the highway evidence, it attracts limited weight in my decision, notwithstanding that I have come to a similar conclusion. The same applies as regards weight to the various other appeal and planning application decisions that I have been referred to. This is due to the differing site circumstances and proposals. I have based my views on highway safety on the totality of the evidence that is before me.
15. I conclude that the proposal would have an unacceptable effect on highway safety and the free flow of traffic. As such, it would not comply with Policy T2 of the CS and with 'Saved' Policy GP5 of the Leeds Unitary Development Plan (Review 2006) (UDPR) which provide for safe and secure access, that development will not create or materially add to problems of safety, should resolve detailed planning considerations including access and seek to maximise highway safety, amongst other considerations.
16. It would also not accord with the SPD for the reason that I have set out and with the National Planning Policy Framework (Framework) where it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Planning Balance

17. The proposal would contribute towards housing land supply, as a windfall development which, in turn, would support strong, vibrant and healthy communities. It would also have economic benefits during the construction phase, and resulting from the spend of its future occupants. In addition, the proposal would be in an accessible location to local services and by modes of transport other than the private car.

¹ APP/N4720/W/17/3175113

18. As regards the proposed highway measures, the Linton Neighbourhood Plan 2014 to 2019 refers to making sensitive improvements on Stammergate Lane and the need to address problems along Main Street. In my view, any such benefit would be tempered, though, by the potential for the proposal to contribute further towards these problems with the highway safety concerns that arise.
19. The site lies within the Linton Conservation Area. The development along Stammergate Lane is characterised by large dwellings with substantial gardens that are set on spacious plots. The narrow lanes also appreciably contribute towards the significance of the conservation area. The proposal would maintain the character of development as it would constitute a sizeable dwelling that would be sited unobtrusively and it would largely maintain the spaciousness of the plot. Thus, it would preserve or enhance the character or appearance of the conservation area.
20. The proposal would not be unacceptable with regard to flood risk and drainage, trees and landscape impact, amidst other technical considerations apart from highway safety. As with the effect on the conservation area, they attract neutral weight.
21. Matters have also been raised in relation to whether or not the proposal would be acceptable in principle. My appeal decision, though, turns on the issue that is set out in the reason for refusal. I have considered the letters of support, as well as in objection, and have based my decision on the planning merits of the case. With regard to the presumption in favour of sustainable development, I have been referred to the Framework's economic, social and environmental objectives. These are not criteria against which every decision can or should be judged, as the Framework also makes clear. I have referred to the relevant factors which they contain within my decision.
22. In relation to the adverse impacts, the harm that would arise to highway safety and the free flow of traffic attracts significant weight in my decision. In this respect, there would be conflict with Policy T2 of the CS and with 'Saved' Policy GP5 of the UDPR, as well as with the SPD and the Framework. Set against this would be the contribution of the proposal to the supply of housing, although as one additional unit would result the weight to be attached to this benefit would be limited. The same applies as regards the highway measures. All other benefits also carry limited weight. When taken together, the benefits would not outweigh the harm.

Conclusion

23. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal with regard to highway safety and the free flow of traffic. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. For these reasons, the appeal should be dismissed.

Darren Hendley

INSPECTOR