



Appeal Decision

Site visit made on 19 November 2019

by M Seaton DipTP MRTPI

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

Decision date: 21 January 2020

Appeal Ref: APP/N4720/W/19/3237195

18 Church Lane, Tingley, Wakefield, WF3 1BQ

- 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 Phillip Mellor against the decision of Leeds City Council.
 - The application Ref 18/03843/OUT, dated 16 June 2018, was refused by notice dated 22 March 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for a new dwelling at 18 Church Lane, Tingley, Wakefield, WF3 1BQ, in accordance with the terms of application Ref 18/03843/OUT, dated 16 June 2018, subject to the conditions attached in the Annex.

Procedural Matters

2. The application has been submitted in outline with some matters reserved for later approval. Whilst the submitted planning application form indicates that matters related to access, layout and scale were for consideration at the application stage, it is clear from both the appellant's submissions and the Council's evidence that the application was submitted to address the principle of access alone, and that matters of layout, landscaping, scale and appearance were reserved matters for future assessment and consideration. It is on this same basis that I have assessed and dealt with the appeal.

Main Issue

3. The main issue in this instance relates to whether the proposed development would result in highway conditions which would be to the detriment of road users and pedestrians, and would allow reasonable access to the appeal site.

Reasons

4. The appeal site comprises an irregularly-shaped parcel of land to the north of the rear of properties on West Lea Crescent and is positioned towards the western end of Church Lane. The land is bounded from Church Lane by a stone wall and was observed as being largely grassed but in a partially overgrown and unkempt condition. Two existing single-storey garages are located adjacent to the eastern boundary of the appeal site.
5. The proposed development is indicated as comprising a '1 ½ storey' dwelling, along with off-street parking for two cars with access taken from Church Lane,

- which is identified to be an un-adopted road of some 130m length servicing 20 existing properties, as well as providing access to the parking areas of 4 properties located on Syke Road.
6. In determining the planning application, the Council has expressed concern over the quality of the highway environment as presented by Church Lane as an un-adopted road, and its appropriateness to support further development. The limited width of Church Lane both close to the appeal site and near to the junction with Syke Road has been referred to as has been the absence of any formalised turning areas for cars or delivery vehicles along Church Lane. Furthermore, the suitability of visibility splays at the junction between Church Lane and Syke Road for additional traffic has been raised.
 7. I have carefully considered the characteristics of Church Lane and note that the Council's Delegated Report reflects upon paragraph 3.57 of the Leeds Street Design Guide Supplementary Planning Document 2009 (the SPD), in concluding that the road needs to be built to an adoptable standard and offered for adoption. However, it is also evident from the Council's Highways Appeal Statement that Church Lane does not meet adoptable standards by a long way, a point given further weight by the submissions of Interested Parties who have indicated that a request to adopt Church Lane was turned down by the Council in 2013. On this basis, it would therefore seem somewhat unreasonable to hold the proposed development to adoptable standards where there is no realistic prospect of it ever meeting these for the benefit of existing development using Church Lane.
 8. I agree with the Council that it is clearly the case the existing lane does not meet normal standards, particularly in respect of carriageway width in several places. Nevertheless, this is an existing situation for the substantial number of properties which already use Church Lane as an access and I have not been provided with any compelling evidence of existing conflicts between vehicles along Church Lane leading to adverse highway safety conditions, or evidence to suggest that the addition of a further dwelling would pass a threshold rendering the impact as being unacceptable or severe. Similarly, whilst I acknowledge the potential for an increase in delivery vehicles accessing Church Lane associated with the proposed dwelling, the increase in numbers would be unlikely to be significant in the existing context, or there be any noticeable difference from the current manoeuvres required by delivery vehicles accessing and exiting the lane.
 9. Turning to the visibility splays, I recognise that the submitted plan provides details of 2.4m x 25m visibility splays at the junction between Church Lane and Syke Road. However, I am mindful that these splays are at least in part obstructed to the north by the wall and railing defining the front garden boundary to No. 20 Syke Road, which would appear to be land beyond the control of the appellant. I have also had regard to the guidance set out within both the SPD and the Government's Document, Manual for Streets, with the actual visibility requirement having regard to the characteristics of the highway being comfortably in excess of the indicative provision, with the SPD highlighting the need for a visibility splay of 2.4m x 45m.
 10. Despite this, the access and junction historically accommodate a substantial volume of traffic on a daily basis with vehicular movements related to the existing properties reliant on Church Lane as their access. The additional

movements associated with the proposed dwelling would not result in any significant increase in traffic in the context of this existing situation. Furthermore, despite the concerns over safety at the junction, no substantive or technical evidence corroborating its safety deficiency, or records of accidents due to the historic use of the junction have been provided. I am therefore not persuaded that the development of a single additional property in this location would result in a material change to the level or intensity of use of the junction, resulting in an adverse effect on highway safety.

11. Interested parties have raised concerns over the existing poor condition of the road and potential impact of construction vehicles, but as the road is unadopted any impact on its construction would be a private matter. The impact of on-street parking from inconsiderate visiting vehicles has also been highlighted. However, the proposed development allows retention of parking for No. 18 Church Lane and provides sufficient parking on-site with adequate manoeuvring demonstrated through vehicle tracking. There is no reason therefore to conclude that this dwelling will result in an unacceptable change to the nature of existing on-street parking on Church Lane, and I am satisfied that concerns over the impact of the construction period and parking/large vehicles could be adequately addressed through a condition attached to any reserved matters consent once the full details of the development are certain.
12. For the above reasons, I consider the impact of the proposal would be acceptable on highway conditions and safety and would not be to the detriment of road users and pedestrians with reasonable access to the appeal site achievable. Whilst I have already identified there to be some conflict with the guidance set out within the SPD, the proposed development would not conflict with Policy T2 of the Leeds Core Strategy 2014. This policy sets out that new development should be adequately served by existing highways, and will not create or materially add to problems of safety, environment or efficiency of the highway network. Furthermore, I am mindful that the National Planning Policy Framework 2019 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe, which is not the case in this instance.

Other Matters

13. In addition to matters related to highway and parking issues, which I have already addressed, interested parties have raised a number of other concerns. I disagree with the claim that the proposal would represent an overdevelopment of the appeal site as I note there is a degree of variation of development and plot sizes both along Church Lane and elsewhere in the vicinity, and I consider that based on the indicative plan the proposed development would not represent a departure from that range.
14. With regards matters of design, ultimately these will be addressed in detail at the reserved matters stage but given the varied appearance and design approach of existing dwellings within the area, I have no reason to conclude that the appearance of the proposed dwelling would not fit in with the character and appearance of the vicinity. I note the contention that the indicative position of the proposed dwelling would not fit in with the aesthetic of the street due to the lack of a set-back. However, I am not persuaded that there is any consistency in set-back from the street frontage of existing development from which to glean a defining characteristic of Church Lane, and

I do not therefore consider that the development would have an adverse impact for this reason.

15. I recognise that the development would result in the loss of the existing area of open grassed land as well as the potential removal of some of the trees and planting on the site. However, whilst some trees on the appeal site may well have already been removed, there is no evidence before me that the trees on site would be subject to any form of protection to prevent this from occurring irrespective of the possibility of development of the site.
16. There are also concerns over the potential for a loss of privacy but based on the indicative layout shown on the submitted plans at this outline stage I do not share these. I am satisfied that the scale and design of the proposal would be capable of responding to the constraints of the appeal site and surrounding properties and can be adequately dealt with at reserved matters stage.

Conditions

17. In addition to conditions addressing the timing of development and ensuring accordance with approved plans and documents, a condition addressing the delivery of the parking layout on the site is necessary in the interests of the provision of parking and highway safety. Conditions addressing ground conditions in light of the potential for previous coal mining operations and ground contamination are reasonable and necessary to ensure the safety of future occupiers. Conditions securing the provision of a scheme of drainage of the appeal site would be required in order to allow the appropriate drainage of the proposed development. I also agree that a condition removing permitted development rights for windows in the northern and southern elevations of the proposed development, other than as approved by any planning permission, would be reasonable and necessary in the interests of safeguarding the living conditions of neighbouring occupiers.
18. The Council suggested a number of other conditions related to details and samples of external wall and roofing materials, the provision of and securing a hard and soft landscaping scheme, and the removal of an extensive range of permitted development rights. However, I consider that details of materials and landscaping will be addressed through the reserved matters and therefore the imposition of conditions at this stage is unnecessary, whilst the removal of a wide range of permitted development rights for extensions and ancillary buildings would seem somewhat premature in advance of clarity on the scale and layout of the proposed development. These conditions have been omitted.
19. I have omitted a condition referring to the need for documentation demonstrating the absence or total removal of asbestos from any building to be demolished, as there are no buildings on the appeal site or evidence provided of previous buildings in situ, thus such a condition would be unnecessary.

Conclusion

20. For the reasons given above, and subject to the conditions listed, the appeal is allowed.

M Seaton

INSPECTOR

Annex

Conditions

1. The application for approval of reserved matters must be made not later than three years beginning with the date of this permission, and the development must be begun before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Approval of the details of layout, landscaping, scale and appearance (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the development is commenced.
3. The development hereby permitted shall be carried out in accordance with the approved plans Drawing No. SLP – Site Location Plan & Drawing No. 302 Revision B – Site Plan – Proposed.
4. The development shall not be occupied or brought into use until that part of the site shown to be used by vehicles, on the approved plans, has been laid out, drained, surfaced and sealed, as approved, and that area shall not thereafter be used for any other purpose other than the vehicle related use approved.
5. Development shall not commence until a feasibility study into the use of infiltration drainage methods has been submitted to and approved by the council. The study shall contain the results of soakaway tests - carried out in accordance with BRE Digest 365 and an appraisal of various infiltration systems that could reasonably be employed on the site.
6. Development shall not commence until a drainage scheme (i.e. drainage drawings, summary calculations and investigations) detailing the surface water drainage works as well as arrangements for its future maintenance (e.g. adoption by the Water Company) have been submitted to and approved in writing by the Local Planning Authority. The maximum rate of discharge, off-site, shall not exceed 4.7 l/s/ha, unless otherwise agreed with the LPA. The works shall be implemented in accordance with the approved scheme before the development is brought into use, or as set out in the approved phasing details.
7. The following site investigation works are required prior to commencement of development.
 - (a) The undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity;
 - (b) The submission of a report of findings arising from the intrusive site investigations, the results of any gas monitoring and a scheme of proposed remedial works for approval to be submitted to, and approved in writing by, the Local Planning Authority; and
 - (c) Where remediation measures are shown to be necessary by the report of findings, development shall not commence until a Remediation Statement demonstrating suitable mitigation measures to address issues of land instability. The Remediation Statement shall include a programme for all works and for the provision of verification reports.

- (d) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where ground conditions vary significantly from that encountered in the investigation, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.
8. No development shall commence until a Phase I Desk Study has been submitted to, and approved in writing by, the Local Planning Authority and:
- (a) Where the approved Phase I Desk Study indicates that intrusive investigation is necessary, development shall not commence until a Phase II Site Investigation Report has been submitted to, and approved in writing by, the Local Planning Authority,
- (b) Where remediation measures are shown to be necessary in the Phase I/Phase II Reports and/or where soil or soil forming material is being imported to site, development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.
9. If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.
10. Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.
11. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, public open space or for filling and level raising shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto the site.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Orders revoking and re-enacting that Order with or without modification) planning permission

shall be obtained before any windows are inserted in the Northern or Southern side elevations of the proposed dwelling.