



Appeal Decision

Site visit made on 19 May 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2020

Appeal Ref: APP/N4720/W/20/3244315

P Garnett and Son Ltd, Wharfeside Paper Mills, Mill Lane, Otley LS21 1QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Andrew Croft (Barratt and David Wilson Homes Yorkshire West) against the decision of Leeds City Council.
 - The application Ref 19/01562/COND, dated 28 February 2019, sought approval of details pursuant to condition No 54 of a planning permission Ref 08/02079/OT, granted on 4 July 2008.
 - The application was refused by notice dated 9 December 2019.
 - The development proposed is described as amendments to conditions numbers 22, 24 and 31 of application number 29/267/05/OT relating to highways, footpath, cycleway and off-site improvements including flood storage.
 - The details for which approval is sought are: 'details of the proposed through route, including details of the means of restricting the use, for buses and for use by other vehicles in cases of emergency including times of flood'.
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Decision

1. The appeal is allowed, and the following details, submitted pursuant to condition No 54 attached to planning permission Ref 08/02079/OT granted on 4 July 2008 in accordance with the application Ref 19/01562/COND dated 27 February 2019, and the following plans submitted with it, are approved:
 - 1) Frontier Pitts – proposed bollard details; Frontier Pitts – dual bollard overall layout; Frontier Pitts – dual bollard - installation details; Extract of Site Plan – bollard location; Photograph – woodlands drive bollards; Applicant's covering letter dated 27 February 2019.

Application for costs

2. An application for costs has been made by Barratt and David Wilson Homes Yorkshire West against Leeds City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appellant confirms that the details submitted as part of the appeal relate only to the discharge of condition 54. It is indicated¹ that the requirements of condition 53 have been overcome by a subsequent grant of planning

¹ Paragraph 3.2.2 to 3.2.4 of Optima Statement Rev 1 (Final) – 6 January 2020

permission² which ensured the eastern development access from Pool Road was constructed above the 1:100 year plus climate change flood level. This access is therefore no longer susceptible to flood risk. Although the application form and decision notice indicate that discharge of conditions 53 and 54 is sought the appeal form refers only to condition 54.

4. The Council have not raised any concerns about the reference to condition 54 only or the conclusions in the appellant's appeal statements that condition 53 is effectively superseded by the later planning permission. None of the parties, including those third parties that have made comments, would be prejudiced by my considering condition 54 only. I have therefore referred only to condition 54 in the banner heading and determined the appeal accordingly.
5. I noted at my site visit that the bollards have been installed and the appellant has confirmed that the bollard system is fully operational.
6. The site is located within Otley Conservation Area (CA). Therefore, the statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 that special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA is engaged. Neither party referred to the CA in their statements. I saw the location of the bollards at my site visit. The position of the bollards is shaped by the design of the estate road and their immediate context is largely characterised by the new estate development. I am satisfied that the proposal would have a neutral effect on the character and appearance of the area and consequently the character of the CA would be preserved.

Main Issue

7. The main issue is whether the proposed measures to limit vehicle movements through the site would be sufficient to provide safe access to the development at all times in the interests of highway safety.

Background

8. The appeal site is located to the north east of Otley Town Centre. It is a former industrial site that has been redeveloped with housing and commercial uses. The residential development is accessed from Pool Road and the commercial development from Mill Lane via Bridge Street.
9. Condition 54 of the outline planning permission³ was imposed to ensure that the development does not provide a through route for traffic between Pool Road and Mill Lane/Bridge Street except for buses and emergency vehicles. In addition, the condition seeks to prevent traffic accessing Mill Lane from the site during times of flood. The reason for the condition was 'to ensure satisfactory and safe access to the site at all times'.
10. The parties agree that without measures in place to restrict traffic there is potential for a 'rat run' through the appeal site. Significant traffic flows are anticipated to use the route through the site if it is not protected because of congestion through Otley Town Centre. The Council consider that the

² 10/03695/FU dated 11 June 2012 referred to in paragraph 4.14 to 4.17 of Walker Morris Statement January 2020 and paragraph 3.2.3 of Optima Statement 6th January 2020

³ 08/02079/OT dated 4 July 2008

surrounding roads and junctions are of insufficient width and construction to accommodate through traffic.

11. It is proposed to discharge the condition by installing a rising bollard system comprised of two rising bollards, an Automatic Number Plate Recognition (ANPR) Camera and additional features to support emergency access. The appellant confirms that the long-term future operation and maintenance of the rising bollard system is secured by a legal contract between a Government approved company, Frontier Pitts, and the appellant/ Management Company which will last for the lifetime of the Garnett Wharfe development.

Reasons

12. I saw during my site visit that traffic is discouraged from entering the site from Pool Road by prominent signage that indicates that Mill Way is a no through route. I also noticed that the junction at Bridge Street and Mill Lane was congested with traffic parking close to it. However, there is a clear demarcation between the private and public sections of Mill Lane. The layout of the private section of the road prioritises pedestrian and cycle movements and car parking for the adjacent businesses.
13. The evidence before me indicates that the bollard system has been designed to recognise vehicles and to allow selective vehicle access through the development site in accordance with the planning condition. There are also measures in place to allow emergency vehicles to gain access from either side of the bollards and to manage a rapid response to maintenance in case of a fault in the system being identified. The bollards form a barrier to accessing Mill Lane in the event of flood.
14. The Garnett Wharf resident's management company would eventually control which vehicles are recognised by the ANPR camera. I note the resident's support for the proposed restriction of traffic through the site. I find it unlikely that residents would seek to undermine the operation of the bollard system which would, by limiting vehicle movements through the site, protect the quality of their residential environment.
15. The Council suggest an alternative approach to the restriction of traffic whereby a bus gate camera would be installed, and the Council would control and monitor the traffic. The Council say that to implement the use of a bus gate camera a Traffic Regulation Order, road alterations, a maintenance commuted sum and adoption of part of the road would be required. I have no details of such a scheme before me or any indication that it could be secured without the support of the appellant and the residents of the development. Further, it is not clear how the bus gate camera system would prevent access to Mill Lane in the event of flood or whether further barrier measures would be required at these times. Therefore, I do not consider, based on the information before me, that the Council's alternative proposals has a realistic prospect of being implemented.
16. I consider that the details submitted to discharge condition 54 serve to restrict vehicle movements through the appeal site in accordance with the requirements of the condition and the measures proposed would be adequate to provide for satisfactory and safe access to the site at all times in the interests of highway safety.

17. Consequently, the details submitted to discharge the requirements of condition 54 are considered to accord with saved Policy GP5 of the Leeds Unitary Development Plan July 2006 and Policies T2 and EN5 of the Leeds Local Plan Core Strategy adopted November 2014 (as amended by the Core Strategy Selective Review 2019) adopted September 2019 which among other things, require that safe and secure access is available for all highway users and flood risk is considered in all developments. The development would also accord with the Street Design Guide Supplementary Planning Document August 2009 which seeks to ensure layouts are designed for safe movement for all street users. The details would also accord with the National Planning Policy Framework which supports development that ensures safe and suitable access for all highway users.

Other Matters

18. The Council are concerned about the burden of enforcing the condition details. I am satisfied that the appellant has provided appropriate contingencies in the event of operational failure of the bollard system and has clarified that the vehicles permitted to access the site via the bollard system would accord with the requirements of the planning condition. There is no evidence before me that non-compliance with the condition is likely or inevitable.
19. Condition 54 requires that the details to discharge the condition should include a timetable for the implementation of the scheme. The appellant has confirmed that the measures have been fully implemented.

Conclusion

20. For the reasons given above, the appeal is allowed.

Diane Cragg

INSPECTOR