
Appeal Decision

Site visit made on 28 July 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2020

Appeal Ref: APP/A4710/W/20/3250700
24 Bridle Stile, Shelf, Halifax HX3 7NW

- 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 Mrs Philippa Kermotschuk against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00440/FUL, dated 10 April 2019, was refused by notice dated 28 February 2020.
 - The development proposed is two detached dwellings.
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Decision

1. The appeal is allowed. Planning permission is granted for two detached dwellings at 24 Bridle Stile, Shelf, Halifax HX3 7NW in accordance with the terms of the application Ref 19/00440/FUL, dated 10 April 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mrs Philippa Kermotschuk against Calderdale Metropolitan Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. The description of the proposal varies slightly from the application form to the Council decision notice. The latter more succinctly and fully describes the proposal and I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - i. the effect of the proposal on the character and appearance of the area with particular regard to its scale; and
 - ii. the effect of the proposal on the living conditions of the occupiers of the host property with particular regard to privacy and daylight.

Reasons

5. The proposals relate to the provision of two detached two storey dwellings within a large garden area associated with the host property, 24 Bridle Stile. Land levels at the site fall from north to south.

Character and appearance of area

6. Bridle Stile has a semi-rural character and properties on this road form a cluster of residential development which includes property fronting Halifax Road and property on Bridle Dene which is located to the south of the appeal site.
7. The scale of properties within the immediate area varies significantly, as does the density of residential development. Although 24 Bridle Stile is only a bungalow, the proposed dwellings would not be excessive in height in relation to this property as they would be set on land at a significantly lower level. Large two storey dwellings in detached form of differing designs and materials comprise part of the character of the area. Therefore, the provision of the dwellings proposed, which would not be of excessive footprint or height would be acceptable as they would relate appropriately to the mixed character and appearance of the area.
8. I therefore conclude on this issue that the proposal accords with Policy BE1 of the Replacement Calderdale Unitary Development Plan (2009) (RCUDP) which amongst other things requires that proposals should be of good design and should respect or enhance the established character and appearance of existing buildings and the surroundings in terms of scale.

Living conditions

9. The proposed dwellings would be positioned on garden land to the south of 24 Bridle Stile (No 24), which has a range of windows serving habitable rooms on its southern elevation. Plot 1, which would be the northernmost dwelling, would have the greatest scope to impact upon the living conditions of the occupiers of the host dwelling.
10. However, Plot 1 has been designed such that the habitable windows would face east and west away from No 24. The angle of viewing from the rear elevation of plot 1 towards the host property would be obscure and as a result any potential for overlooking would be significantly restricted.
11. Further, the northern side elevation of Plot 1 would only be provided with narrow obscure glazed windows which would serve the stairwell and a mezzanine area only. The obscure glazing and the nature of the rooms would therefore also significantly restrict any potential for overlooking. There would not therefore be any significant negative impact on the privacy of the occupiers of the host dwelling.
12. The south facing windows at 24 Bridle Stile would retain a good degree of outlook, although this would be across the top of the garden of Plot 1. Plot 1 would be partially set forward in relation to the positioning of the host property. There would be a small section on the interface where separation distances between the side elevation of plot 1 and the habitable room windows on the host dwelling would fall below the separation distance required by Annexe A to Policy BE2 of the RCUDP. However, I afford limited weight to this matter as the Annexe makes it clear that the separation distances are not hard and fast rules and that they will be applied with a measure of flexibility.
13. The proposal would not therefore significantly adversely affect the living conditions of the occupiers of the host dwelling with particular regard to privacy and daylight. It would subsequently accord with Policy BE2 of the RCUDP which

amongst other things states that development proposals should not significantly affect the privacy and daylighting of adjacent residents.

Other RCUDP policy

14. There would not be conflict with Policies BE3 and N12 which amongst other things require good quality design and landscaping. The proposal would not conflict with Policies BE5 and T18 relating to the design and layout of highways and accesses and parking provision and Policies EP14, EP20 and EP22 relating to groundwater, flood risk and drainage. There would be no conflict with Policies NE16, NE17 and NE21 which require the protection of protected species and trees. There is some conflict with Policies H2 and H9 of the RCUDP which relate, amongst other things to the location of housing, favouring its provision on brownfield/previously developed land.

Other Matters

15. While concern has been raised in relation to highway safety around the site, the Council's Highways Section have not identified any harm in this respect and I have no reason to disagree. There are suggestions that the drainage scheme proposed which includes the use of septic tanks and soakaways would be unsuitable for the site. However, there is no firm evidence that it would not be feasible to adequately drain the proposed development.
16. There is no evidence that any issues relating to the site boundaries could not be properly dealt with under legislation dealing with private legal rights regarding land ownership. The arboricultural report suggests that the highest quality trees on the site including the English Oak and Common Ash on the southern boundary, could be retained.
17. Due to the position of the dwellings on the site and their significant separation distances from other nearby property, I have not identified any significant adverse impact on the living conditions of occupiers of other property within the vicinity of the site. While there is concern that the plans have misrepresented the situation at and around the site, I have not been presented with any firm evidence that this is the case.

Planning Balance

18. The evidence indicates that the Council cannot demonstrate a 5-year supply of deliverable housing sites. As a result, 'The presumption in favour of sustainable development' at paragraph 11 d) of The National Planning Policy Framework (the Framework) is relevant to the determination of this appeal.
19. The proposal would accord with Policies BE1 and BE2 of the RCUDP. In relation to this appeal, these development plan policies have relevance as they have conformity with the Framework which is also concerned with similar matters and which advises at Paragraph 127, amongst other things, that planning decisions should be sympathetic to local character and create places which promote health and well-being, with a high standard of amenity for existing and future users.
20. There is some tension with Policies H2 and H9 of the RCUDP which relate, amongst other things to the location of housing, favouring its provision on brownfield/previously developed land. However, I afford limited weight to these

policies, as the Framework, while encouraging the use of such land, places less emphasis on its use.

21. The proposal relates to the provision of housing on the site that is acceptable in terms of its impact on the character and appearance of the area and in relation to the living conditions of the occupiers of the host property. I have not identified any adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
22. The proposal benefits from the presumption in favour of sustainable development. This forms a material consideration within the planning balance in support of the proposal which outweighs the limited conflict that I have identified with the RCUDP.

Conditions

23. No conditions have been suggested by the Council. However, in considering the evidence I find that some are necessary. In addition to the standard three-year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans and a condition requiring more details on site levels in the interests of certainty. I have imposed a condition requiring the approval of external materials in the interests of the character and appearance of the area. Conditions 6 and 7 are necessary to ensure that the site is properly drained of foul and surface water. While an arboricultural report has been submitted which provides a good indication of the impact of the development on trees on the site, a tree protection plan is still required and I have added condition 4 in this respect.

Conclusion

24. For the reasons given and taking all relevant matters into account, I conclude that the appeal should be allowed subject to the conditions set out in the schedule below.

T J Burnham

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2018_88_20, 2018_88_10_A_, 2018_88_11_A_, 2018_88_11_B_, 2018_88_13_A_.
- 3) No development shall take place until the following information shall have been submitted to and approved in writing by the local planning authority: a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings; full details of the proposed finished floor levels of all buildings and hard landscaped surfaces. The development shall be carried out in accordance with the approved details.
- 4) No development, site clearance or preparatory work shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 5) No development above ground works (slab level) shall commence until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 6) Neither dwelling hereby permitted shall be occupied until a scheme of surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a

timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 7) Neither dwelling hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.