



Appeal Decision

Site visit made on 23 February 2021 by Andreea Spataru BA (Hons) MA

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/Z4718/W/20/3257501

Penlee, Holme Lane, New Mill, Holmfirth HD9 7NQ

- 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 Sam Hough (Vogue Homes) against the decision of Kirklees Council.
 - The application Ref 2019/60/93826/W, dated 21 November 2019, was refused by notice dated 20 July 2020.
 - The development proposed was originally described as 'residential development'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three dwellings at Penlee, Holme Lane, New Mill, Holmfirth HD9 7NQ in accordance with the terms of application Ref 2019/60/93826/W, dated 21 November 2019, and subject to the conditions outlined at the end of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary matters

3. The description of development that I have used in the decision above is taken from the appeal form and reflects the changes made to the scheme during the application process.
4. The application was originally made in outline with all matters reserved for subsequent approval. However, during the Council's determination of the application, matters of access and layout were formally considered. I have therefore considered the appeal on this basis and give limited consideration to the scale and appearance of the houses as shown on the submitted plans.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons for the Recommendation

6. The appeal site relates to a parcel of land located to the south-east of Penlee, which is a detached bungalow, and adjacent to Holmfirth Road, within New Mill. The site is currently an open field, unallocated in the Local Plan, within a
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predominantly residential area. It is situated well below the road level, as the ground levels fall steeply towards the north-east.

7. There are residential properties in the valley to the north-east of the site, and woodland immediately to the south-east, which separates the site from a large, public, green open space. The density of residential properties on the opposite side of the road from the appeal site is greater than that of the dwellings located on the eastern side of Holmfirth Road. This contrast in density, coupled with the openness of the undeveloped areas of land lend a semi-rural characteristic to the locality.
8. The proposed three dwellings would have a similar siting as Penlee in relation to Holmfirth Road, as they would face the road and be at a lower level in relation to it. A new vehicular access directly from Holmfirth Road would serve the dwellings.
9. The limited number of proposed dwellings and their layout would ensure that a sufficient degree of openness is retained on site. Given the topography, the dwellings would not appear overly prominent when viewed from Holmfirth Road and views towards the valley from Holmfirth Road would be maintained. The presence of the wooded area to the south east of the site, and the open area further south-east, also ensures the open characteristic of the area is generally preserved. In addition, the contrast between the different densities of development on the two sides of the road would be retained.
10. Although the Council refer to the site as providing a gap between the settlements of New Mill and Wooldale, I find no visual evidence to suggest the houses would encroach beyond any particular settlement given pattern of development surrounding the site.
11. I concur with the Council that the site does not need to have a specific allocation within the local plan in order to contribute positively to the character and appearance of the area. Notwithstanding this, given my findings above, the proposal could be adequately accommodated within the landscape and retain the semi-rural character of the surrounding area.
12. Given the topography of the area, some engineering works would be required. However, given the details submitted at this stage, there would be sufficient space within the plots to accommodate these. Further details would be submitted as part of the reserved matters.
13. In light of the above, I conclude that the proposal would not adversely affect the character and appearance of the area. Consequently, the development would not conflict with Policy LP24(a) of the Kirklees Local Plan Strategy and Policies (LP), which states that proposals should promote good design by ensuring that, amongst other things, the layout of all developments respect and enhance the character of the townscape and landscape.

Other matters

14. I have taken into account objections regarding the effect of the proposal on the outlook and privacy of neighbours. However as matters of scale and appearance are reserved matters, the height of the houses and the position of windows are yet to be agreed. Also concerns regarding disturbance during construction can be addressed by suitable planning conditions.

15. I acknowledge the numerous concerns in respect of drainage. However Yorkshire Water have confirmed foul water can discharge to a nearby public combined sewer, and the Lead Local Flood Authority agree that, in principle, surface water can discharge to New Mill Dike if the flow is controlled to 3 litres per second, which the appellant states can be achieved with appropriate cellular attenuation. I have no reason to disagree with the findings of these bodies.
16. The proposed access would be close to the junction of Moorcroft Park Drive with Holmfirth Road. However the Council's Highways team raise no objection to this aspect nor to the proposal as a whole. Indeed, Holmfirth Road is a fairly straight road with good visibility and the required visibility splays can be achieved. A condition can be imposed to prevent access to the site being taken from Holme Lane.
17. The Council have confirmed that the site has little ecological value. Nonetheless, the proposal represents an opportunity for ecological enhancement, which can be secured by planning condition. In addition the existing trees on the site boundaries can be protected to preserve their ecological and landscape contribution.
18. I acknowledge the reference of the Holme Valley Parish Council to the Neighbourhood Development Plan (NDP), which I understand has not been adopted yet. Given the current stage of the NDP, I can give it limited weight and so I have considered the proposal against the same LP policy as the Council.

Conditions

19. I have had regard to the Council's suggested conditions, and have considered them against the six tests, as outlined within the National Planning Policy Framework (the Framework) and the advice in the Planning Practice Guidance (PPG), revising the Council's suggested wording where necessary to better reflect the requirements of the PPG. Conditions relating to the submission of reserved matters and the time limits associated with these are necessary. A condition specifying the relevant drawings is also necessary as this provides certainty.
20. In the interest of residential amenity, a condition is necessary to ensure that a shadow plan is submitted along with any reserved matter application for scale. Also, to protect future residents, a condition requiring a noise report to assess noise from Holmfirth Road and a condition to address any unexpected contamination are imposed. To protect the residential amenities of neighbours, a condition, suggested by the Council's Environmental Health team, controlling the hours of construction works is necessary.
21. In the interest of highway safety, conditions relating to the stability of the existing front boundary wall, visibility at the proposed access, details of construction traffic, and to ensure no vehicular access is formed onto Holme Lane are included.
22. To encourage sustainable travel, a condition requiring electric vehicle charging points to be installed within the dedicated parking area is necessary.

23. In the interest of a net biodiversity gain, a condition requiring an Ecological Design Strategy (EDS) addressing the ecological enhancement of the site is imposed.
24. In the interest of visual amenity and arboricultural value, a condition requiring the development to accord with the recommendations and mitigation methods outlined within the Arboricultural Method Statement is necessary.
25. In order to ensure appropriate surface water management, conditions requiring the surface water drainage features outlined in the Drainage Impact Statement and Surface Water Strategy document to be implemented are necessary, and for the same reason a condition relating to the drainage of the parking areas is imposed.
26. I have not imposed the suggested condition relating to the extent of the domestic curtilages, as these are clearly shown on the approved plans with which the development must accord.
27. I am satisfied that for some of the matters related to drainage, highways safety, living conditions and ecology, pre-commencement conditions are necessary to ensure the effects of the development are fully assessed in advance.

Recommendation

28. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to these conditions.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

29. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 2000-LOC-A, 2000-SK01-D, 2000-SK02-B, and Tree

Shade Plan except in so far as they relate to matters of scale, landscaping and appearance.

- 5) Any reserved matter application of 'scale' submitted pursuant to condition 1 shall include a shadow plan, to demonstrate year-round shadow generation from the proposed development.
- 6) Prior to development commencing, a scheme detailing the location and cross-sectional information, together with the proposed design and construction details, for all new retaining walls adjacent to the existing highway including any modifications to the existing highway retaining wall on A635 Holmfirth Road, shall be submitted to, and approved in writing, by the local planning authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.
- 7) Prior to development commencing, the sightlines of 2.4m x 45m as shown on plan ref. '2000-SK01-D' shall be cleared of all obstructions to visibility exceeding 1 m in height and these shall be retained free of any such obstruction thereafter.
- 8) Prior to development commencing an Ecological Design Strategy (EDS) addressing the ecological enhancement of the site shall be submitted to, and approved in writing, by the local planning authority. The EDS shall include, but not be limited to:
 - a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - d) Extent and location/area of proposed works on appropriate scale maps and plans.
 - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - g) Persons responsible for implementing the works.
 - h) Details of initial aftercare and long-term maintenance.
 - i) Details for monitoring and remedial measures.
 - j) Details for disposal of any wastes arising from works.The approved EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- 9) Prior to development commencing, a schedule of the means of access to the site for construction traffic shall be submitted to, and approved in writing by, the local planning authority. The schedule shall include:
 - a) Construction traffic means of access, including times of use of access.
 - b) Routing of construction traffic to and from the site.

- c) Temporary warning and direction signing on the adjacent highway.
- d) Construction workers parking facilities.
- e) Loading/unloading areas for materials, including internal turning facilities.
- f) Wheel cleaning facilities to prevent mud and debris being deposited on the adopted highway.
- g) Site compound.

All construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction for the development.

- 10) Prior to development commencing, a report specifying the measures to be taken to protect the development from noise from road traffic shall be submitted to and approved in writing by the local planning authority. The report shall:

- a) Determine the existing noise climate.
- b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development.
- c) Detail the proposed attenuation/design, if necessary, to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all necessary works specified in the approved report have been carried out in full and such works shall be thereafter retained.

- 11) Prior to the hereby approved dwellings being occupied, the surface water drainage features outlined in the Drainage Impact Statement and Surface Water Strategy document shall be completed in accordance with that document. The approved surface water drainage features shall thereafter be retained.
- 12) Pursuant to condition 11 and notwithstanding the submitted details, the surface water drainage features shall not include a drainage pumping station or similar device.
- 13) Prior to the development being occupied, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained as such throughout the lifetime of the development.
- 14) Prior to the hereby approved development being occupied, an electric vehicle recharging point shall be installed within the dedicated parking area of each of the approved dwellings. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points installed shall thereafter be retained.
- 15) The hereby approved development shall be undertaken and completed in accordance with the recommendations and mitigation methods outlined within the Arboricultural Method Statement ref. '200222a MS'. The recommendations

and mitigation shall be maintained throughout the construction period, unless otherwise stated in the approved document.

- 16) No vehicular access to the hereby approved dwellings shall be formed from any point of the access identified as Holme Lane, along the site's north boundary and hosting Public Right of Way HOL/44/40.
- 17) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required.

The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the local planning authority. No part of the site shall be occupied until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the local planning authority.

- 18) Construction works shall take place only between the hours of 07.30 to 18.30 Mondays to Fridays, 08.00 to 13.00, Saturdays and shall not take place at any time on Sundays or Public Holidays.

End of schedule