



Appeal Decision

Site Visit made on 12 October 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/A4710/W/21/3275206

Copley Wood, Copley Lane, Halifax HX3 0TJ

- 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 P Poole against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/01254/FUL, dated 11 April 2019, was refused by notice dated 17 November 2020.
 - The development proposed is the conversion and extension of two structures plus demolition of a lean-to extension and a detached garage, to form three dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of existing former coach house to form a residential unit, and the partial demolition, conversion and extension of existing swimming pool to form a residential unit at Copley Wood, Copley Lane, Halifax HX3 0TJ in accordance with the terms of the application, Ref 19/01254/FUL, dated 11 April 2019, subject to the conditions specified in a schedule attached to this decision.

Procedural matters

2. The description of development appearing in the banner heading above is taken from the planning application form. However, the scheme was subsequently amended prior to the Council's determination of the planning application. Accordingly, I have used the revised description in my decision. This was the description used by the Council in its decision notice and by the appellant for the purposes of the appeal. Consequently, I am satisfied that no party will be prejudiced by my use of it. I have proceeded on this basis.
3. Following the determination of the application by the Council, the appellant has submitted a further amendment to the scheme which shows an alternative arrangement at the site access on Copley Lane. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals. The guidance is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application.
4. Having regard therefore to the Wheatcroft Principles, the nature of the revision proposed, and in the interests of fairness, I have determined the appeal on the basis of the plans that were before the Council when it made its decision and on which all parties were consulted.
5. The site is within the Green Belt. There is no dispute between the main parties that the proposal would not constitute an inappropriate form of development in the Green Belt or lead to any other Green Belt harm. Having visited the site

and had regard to the evidence before me I concur with that view. Accordingly, it is my view that the proposal would protect the openness and permanence of the Green Belt and I shall make no further reference to this matter.

Main Issues

6. The main issues are the effect of the proposal on highway safety and protected trees.

Reasons

Highway safety

7. The site relies on a single-track access point flanked by splayed walls emerging on to Copley Lane directly opposite the junction with Springwood Drive, a residential cul-de-sac. A dwelling known as The Lodge lies immediately to the east of the access which serves that property and 3 other properties within or immediately adjacent to the site. In the vicinity of the site the inclined line of Copley Lane forms a shallow S-bend and is subject to a 20mph speed limit.
8. To the east the carriageway benefits from a footway on its northern side and a bus stop lies just beyond the junction with Springwood Drive. Higher up the lane is a vehicle actuated sign warning of the road speed limit for traffic travelling downhill towards the site. To the west, the road is narrowed by a pedestrian refuge marked by a solid white line within the main carriageway. This links existing pavements along Springwood Drive and Springwood Avenue.
9. The proposal seeks to widen the existing driveway to enable vehicles to pass at the entry point. A length of footway between the site entrance and the junction of Copley Lane with Riverwood Drive is proposed to link to an internal footpath meandering alongside the driveway.
10. The position of The Lodge and part of its boundary wall fronting on to the lane uphill of the site entrance limits intervisibility between traffic descending the hill to the east and vehicles exiting the site. According to the appellant, the achievable visibility is about 25m which is consistent with that required for a level road with a 20mph speed limit.
11. There is dispute between the main parties as to the actual speeds of vehicles using this stretch of the lane and the corresponding safe stopping distance for vehicles travelling downhill. From the comments of the Council's highway advisors, it is evident that the installation of the vehicle actuated warning sign resulted from concerns over highway safety in the locality. However, there is little before me to indicate the measured basis of those concerns or any subsequent effectiveness of the sign in reducing traffic speeds.
12. The existing sightline crosses the third party land associated with The Lodge over which the appellant and highway authority have no control. In this regard the appellant contends that the existing sightline is enforceable through a condition attached to planning permission ref. 84/01626/ful requiring the protection of a specified visibility splay at the access point. However, there is dispute between the parties as to the status of that permission. Although the Council served a Breach of Condition Notice to require removal of obstructing items within the splay in 2010 it is evident that there is potential conflict with its terms arising from railings presently above the splay walls. On the basis of the evidence before me, it is inconclusive as to whether the relevant condition

attached to that permission is enforceable. Furthermore, the status of an outline permission, ref 89/01106/OUT, also containing a splay protection, is also unclear and is insufficient to attribute weight in my assessment.

13. The easterly visibility splay could not be improved at the existing access due to the position of the neighbouring building and higher part of the wall beyond. However, it is noteworthy that the access is used by the occupiers of The Lodge. Whilst this does not guarantee vegetation or boundary treatments would be managed to prevent reduced visibility at the junction, there is a degree of comfort that, as a user of the access, to do so would not be within their own safety interests.
14. The proposed widening of the driveway would not alter the existing access geometry. Whilst it would reduce the likelihood of conflicting vehicles waiting within the highway any benefit therein would be largely offset by the increased frequency of the use of the access.
15. The formation of a new footway along part of Copley Lane would offer a better-defined refuge for pedestrians than the existing arrangement. Given the limited length and isolated position from other footways, it would be of limited benefit to pedestrians, but a benefit nonetheless.
16. The removal of the roadside wall and vegetation would provide significantly improved visibility to the west of the access. The existing wall limits the scope of view to vehicles travelling up the hill, particularly as they skirt the marked footway to use the central section of the carriageway. This can result in some loss of visibility to vehicles travelling towards the site due to road curvature.
17. Moreover, the formation of the footway would considerably improve the exit views to the east from Riverwood Drive. Existing visibility at that junction is extremely poor and vehicles must edge out into the Copley Lane carriageway before sufficient visibility can be obtained to enable full emergence from the junction. As an adjoining road serving about 10 residential properties, the benefit therein is substantial.
18. Taking all of the above together, I find that on the balance of benefits to road safety through the improvement of the existing access width and visibility, the provision of a kerbed pedestrian refuge and a significant improvement to visibility at Riverwood Drive, any harmful effects arising from the increased use of the access would be outweighed. Taken together, the proposals would therefore align with Policy BE5 of the Replacement Calderdale Unitary Development Plan (as amended) [2009] (UDP) as it seeks the safe use of accesses and the highway.

Protected trees

19. The majority of existing trees within the site are protected under Tree Preservation Order Ref. C794 1993P. The comments of the Council's arboricultural advisor, which have been provided in evidence, predated the scheme amendments that were before the Council when it made its decision. The amended plans showed the widening of the existing driveway and formation of a new path alongside it. In addition, the provision of a new footway on part of Copley Lane was proposed. The works lie within the vicinity of some of the protected trees.

20. Accordingly, I have sought the further comments of the main parties in respect of the potential effects on the trees. The Council is satisfied that, subject to appropriate protection and construction methods, there would be no significant adverse effects on tree health. From the evidence before me and observations at my site visit, I concur with that view and consider that subject to securing the relevant details by planning conditions, those works could be delivered without compromise to the health of the protected trees.
21. I note the concerns of some residents in respect of the potential loss of trees. As there is no proposal to remove trees within the terms of the appeal, any such requirement would be subject of a separate application for those works.
22. For the above reasons, I find the proposals would align with Policies NE20 and NE21 of the UDP as they seek to retain and protect trees with amenity value.

Conditions

23. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. I find the majority to be reasonable and necessary in the circumstances of this case. However, some have been edited for precision and clarity. A condition requiring fencing to prevent trespass on third-party land is not necessary or justified in the circumstances of the proposed residential units which would have no new common boundary with the relevant land.
24. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
25. Conditions requiring construction method statements relating to works in close proximity to trees and their protection are necessary in the interests of local amenity and biodiversity. These are of necessity pre-commencement conditions to ensure the health of protected trees. In the interests of sustaining populations of protected species, a requirement for bat boxes is reasonable.
26. A condition requiring boundary treatment details is necessary to protect the character and openness of the Green Belt. To ensure adequate and suitably drained parking spaces a requirement for their provision before occupation of the new dwellings is necessary to meet the development plan requirements. The provision of electric vehicle charging points is necessary to encourage reduced reliance on fossil fuels and more sustainable forms of travel.
27. A condition requiring the implementation of the improvements to the existing access and roadside frontage are necessary in the interests of securing the balance of highway safety benefits arising from the development.

Conclusion

28. For the above reasons, I conclude that the appeal should succeed.

R Hitchcock

INSPECTOR

Schedule of Conditions to planning permission Ref 19/01254/FUL

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10217/19/06 Rev J, 10217/19/07 Rev A, 10217/19/08 Rev B and 10217/19/09 Rev D.
- 3) In connection with any driveway or vehicle hardstanding within the boundary of the dwellings hereby approved, prior to the occupation of the dwellings, there shall be installed a facility to permit the recharge of an electrical battery-powered vehicle. Unless otherwise required by the location the installation(s) shall comply with IEE regulations, IEC 61851-1 Edition 2, and BSEN 62196-1. The facility shall be so retained thereafter.
- 4) The development shall not be occupied until details of the treatment of all boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The treatments so approved shall then be provided in full prior to the first occupation of the dwellings and shall thereafter be retained.
- 5) Before the development hereby permitted is first brought into use, the car parking areas for each dwelling shall be constructed, sealed and drained such that surface water does not drain onto the adjacent highway and shall be so retained thereafter.
- 6) Prior to the first occupation of either of the dwellings hereby approved a single permanent bat roosting feature shall be installed within the fabric of each dwelling as close to the west facing elevation as possible (but not directly above any windows or doors), details of which shall be first submitted to and approved in writing by the local planning authority. The bat roosting features shall be installed in accordance with the details so approved and shall be so retained thereafter.
- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the existing 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) has 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.
- 8) No development shall take place until a construction method statement for the works to increase the width of the private drive, the demolition of the roadside wall and formation of a footpath to adoptable standard, and a footpath within the root protection areas of protected trees as shown on approved plan 10217/19/06 Rev J has been submitted to and approved in writing with the local planning authority. Those elements of the development shall be implemented in accordance with the agreed method statement.
- 9) The widening of the driveway and provision of a footway at the site entrance splay and Copley Lane roadside, as shown on approved plan 10217/19/06 Rev J, shall be implemented prior to any site clearance, preparatory work or

development involved in the conversion or extension of the buildings hereby approved for residential purposes.

END.