



Appeal Decision

Site visit made on 18 January 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31ST January 2022.

Appeal Ref: APP/Z4718/W/21/3284361

Lancaster Lane, Brockholes, Holmfirth HD9 7BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by J Wood against Kirklees Metropolitan Council.
 - The application Ref 2021/91578 is dated 14 April 2021.
 - The development proposed is described as "residential development (nine detached dwellings)".
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Decision

1. The appeal is allowed and planning permission is granted for residential development of nine detached dwellings at Lancaster Lane, Brockholes, Holmfirth HD9 7BP, in accordance with the terms of the application, Ref 2021/91578, dated 14 April 2021, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application subject to this appeal was scheduled to be reported to the Council Planning Sub Committee but this appeal was submitted a few days before. The application was still taken to Committee for discussion and the Council has stated that they would have recommended the application for approval, subject to conditions, had determination remained within their remit. However, as the appeal had been submitted, on the basis of the Council's failure to determine the application within the prescribed period of time, the Council no longer had the jurisdiction to determine the application.
3. I have been provided with a copy of the planning officer report to Committee which sets out the policy basis and reasoning for the Council recommending the application for approval. I have considered objections raised by interested parties and these form the basis of the main issue for this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the safety of vehicular and pedestrian traffic on Lancaster Lane and surrounding roads.

Reasons

5. The appeal site is a triangular section of land which slopes steeply down from New Mill Road to Lancaster Lane. The surrounding area is predominantly in residential use. The site is accessed via River Holme View and then Lancaster Lane. Lancaster Lane is currently an unmade track and is a Public Right of Way

(PROW) that is part of the local core walking network. The proposal would create a carriageway along Lancaster Lane to serve the proposed development and this would join the existing turning head at the end of River Holme View.

6. The Council officer report to Committee concluded that the development was unlikely to have any significant detrimental impact on highway capacity and safety in the surrounding area. However, objections have been raised by neighbours regarding the suitability of Lancaster Lane for vehicle traffic and the impact the development would have on pedestrian safety and the functioning of the PROW. In addition, questions have been raised by neighbours and Highway Development Management regarding the possibility that roads would remain private and not be adopted. However, the Council have suggested conditions which would require the submission and approval of full details of highway, and footpath works, to ensure that roads would be adoptable and the PROW would be protected. The appellant has raised no objection to the suggested conditions. Such conditions are necessary to ensure the provision of roads and footpaths which would be safe for all users and effectively maintained, as well as to safeguard the PROW, which forms part of the local core walking network.
7. I have considered the information submitted with this appeal, alongside the observations made during my site visit. I have no substantive evidence which would lead me to conclude that the proposed development would cause harm to the safety of vehicular or pedestrian traffic on Lancaster Lane and surrounding roads, subject to suitable details being approved under planning conditions.
8. Consequently, the development would comply with Policies LP21 and LP23 of the Kirklees Local Plan 2019, and Policy 11 of the Holme Valley Neighbourhood Development Plan 2020-2031, which together, amongst other things, seek to ensure that developments are served by safe and suitable highways and access and that the core walking network is safeguarded.

Other Matters

9. Interested parties have also raised concerns regarding overlooking of neighbouring dwellings, harm to protected species and trees, surface water flooding and drainage, and the impact on local services. These matters have all been considered in the Council officer report to Committee and found to be acceptable. I have no substantive evidence before me which would lead me to conclude any differently.

Conditions

10. The Council have suggested a range of conditions, which the appellant has been made aware of and raised no objections to. I have considered the suggested conditions and amended and reordered them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
11. The site had permission for similar residential development granted under previous outline and reserve matters applications. A condition attached to the outline permission resulted in it expiring on 6 January 2022. Notwithstanding this, details relating to materials; construction management; site remediation; drainage; lighting; and bird and bat boxes, had already been approved by the

Council under discharge of condition applications. The Council consider these previously approved details to be suitable for the scheme subject to this appeal and I have no evidence which would lead me to disagree. Consequently, where appropriate, conditions tie the proposed development to details approved under previous discharge of condition applications.

12. In addition to conditions relating to highway details, the reasoning for which is set out above, a condition specifying the approved plans is necessary to provide certainty. In the interests of the character and appearance of the site and surrounding area, conditions are necessary to ensure the use of appropriate materials in the external surfaces of the development and to secure the implementation and maintenance of appropriate hard and soft landscaping.
13. A condition has been attached to ensure construction management arrangements are in place to safeguard the living conditions of neighbouring occupants. I have attached conditions to ensure that an adequate system for the drainage of the site is provided, the existing drainage infrastructure is protected, and future residents are safeguarded from any potential land contamination. I have also attached conditions to ensure the provision of suitable parking to serve the development, along with facilities for electric charging points in the interest of supporting low emission vehicles. Finally, I have attached conditions to ensure compliance with the submitted Ecological Appraisal and Badger Survey and secure suitable lighting and bird and bat boxes. These are necessary to ensure protection for habitats, biodiversity and protected species.

Conclusion

14. For the reasons given above and taking into account the development plan as a whole and all other matters raised, the appeal should be allowed.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the attached schedule of details and drawings.
- 3) No development shall take place until a scheme detailing the proposed internal adoptable estate roads, including works to the public footpath and measures to restrict vehicle access to New Mill Road via Lancaster Lane, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, details of how the Public Right of Way on Lancaster Lane will be protected, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. Before any building is brought into

use the scheme shall be completed in accordance with the scheme so approved and retained as such thereafter.

- 4) No development shall take place until the design and construction details of all temporary and permanent highway retaining structures within the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement; all necessary ground investigations on which design assumptions are based; method statements for temporary and permanent works and removal of any bulk excavations; a full slope stability analysis together with structural calculations; and all associated safety measures for the protection of the adjacent public highway, footpath and retaining wall. All highway retaining structures shall be designed and constructed in accordance with the approved details and shall be so retained thereafter.
- 5) No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority which details arrangements for the future management and maintenance of proposed carriageways, footways, areas of soft landscaping and footpaths. The submitted scheme shall include details of a management company, group or organisation that will ensure the continued maintenance of all carriageways, footways and footpaths within the site that are not put forward for adoption. Following occupation of the first dwelling on the site, all carriageways, footways areas of soft landscaping and footpaths not put forward for adoption shall be maintained in accordance with the approved management and maintenance details.
- 6) Prior to the first occupation of the dwellings hereby approved, the areas indicated to be private drives on drawings TWP21-NTF-D02-001 Rev A and TWP21-NTF-D02-002 Rev A shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended, or any successor guidance. These areas shall be so retained, free of obstructions and available for parking thereafter.
- 7) An electric vehicle charging point shall be installed within the dedicated parking area/garage of each of the approved dwellings in accordance with drawing TWP21-NTF-E02-002 before the dwelling to which the recharging point relates is first occupied. 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 so installed shall be retained thereafter.
- 8) The external walls of the dwellings hereby approved shall be constructed from 140mm Split Face Tumbled Stone, details of which were submitted pursuant to Discharge of Condition application 2020/92415, and thereafter retained as such.
- 9) The external roofs of the dwellings hereby approved shall be constructed from Forticrete Hardrow Duets roof slate in 'Barley' as specified in the application form and details which were submitted pursuant to Discharge of Condition application 2020/92415, and thereafter retained as such.
- 10) The retaining walls within the site hereby approved shall be faced in a 140mm Split Face Tumbled Stone, details of which were submitted pursuant to Discharge of Condition application 2020/92415, and thereafter retained as such.

- 11) The development hereby approved shall be carried out in accordance with the Drainage Strategy prepared by Holloway Jennings, ref. Bm/5017/Drainstrat, dated 13th August 2021, details of which were submitted pursuant to Discharge of Condition application 2020/92432. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works within the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.
- 12) No building or other obstruction including landscape features shall be located over or within:
 - a) 3.5 metres either side of the centre line of the public 450mm diameter public sewer i.e. a protected strip width of 7 metres; and
 - b) 3 metres either side of the centre line of the public 375mm diameter public sewer i.e. a protected strip width of 6 metres that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.
- 13) All construction arrangements, throughout the period of construction, shall be carried out in accordance with the Construction Management Statement, ref. Arcuss Ltd, August 2020, Rev2, details of which were submitted pursuant to Discharge of Condition application 2020/92415.
- 14) Remediation of the site shall be carried out in accordance with the Phase III Remediation Strategy by GEOL Consultants dated 4th August 2021, ref GEOL20-9775, and Phase III Remediation Strategy-Hot Spot Delineation by GEOL Consultants dated 05/04/20421, ref GEOL20-9775, details of which were submitted pursuant to Discharge of Condition application 2020/92432. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered, in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report, is identified or encountered on site, 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. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 15) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for that part of the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

- 16) The development hereby approved shall be implemented fully in accordance with the Preliminary Ecological Appraisal and Badger Survey undertaken by The Ecological Consultancy, ref. B5610 Version 1, dated 23/04/2021, incorporating all of the recommendations set out in Section 4, Potential Impacts and Recommendations, and thereafter retained as such.
- 17) Street lighting shall be provided in accordance with the Lighting Layout Plan drawing 1258-DFL-HLG-XX_XX-DR-EO-1301 Rev A and Outdoor Lighting Report by Designs for Lighting, ref 1258, dated 1/6/2020, as well as Lighting Reality drawing ref.1258, dated 1/6/2020, details of which were submitted pursuant to Discharge of Condition Application 2020/92432, and retained as such thereafter.
- 18) The hard and soft landscaping of the site shall be completed in accordance with Boundary Treatment Details drawing TWO20-NFT-E02-004, Detailed Planting Plan drawings PL62L01 Rev PR1, and Landscape Management and Maintenance Plan drawing PL62R01 Rev P02, dated 30/11/2020. The approved planting scheme shall be maintained for a period of five years from its completion. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species.
- 19) The external lighting for individual properties shall be provided in accordance with the Property Lighting Plan, drawing TWP20-NTF-E02-003 Rev A, details of which were submitted pursuant to Discharge of Condition Application 2020/92432, and provided before the dwelling to which the lighting relates is first occupied, and retained as such thereafter.
- 20) Bird and bat boxes shall be provided in accordance with Bird and Bat Mitigation Plan drawing TWP21-NTF-E02-001 Rev A, details of which were submitted pursuant to Discharge of Condition Application 2020/92432 before the dwelling to which they relate is first occupied and shall be retained thereafter.

Schedule of details and drawings

- Bird and Bat Boxes drawing TWP21-NTF-E02-001 Rev A
- Planting drawing PL62L01 Rev PR1
- Boundary Treatment Details drawing TWO20-NFT-E02-004
- Construction Management Statement, ref. Arcuss Ltd, August 2020, Rev 2
- Lighting 1258-DFL-HLG-XX_XX-DR-EO-1301 Rev A
- Outdoor Lighting Report by Designs for Lighting, ref. 1258, dated 1/6/2020
- Lighting Reality, ref. 1258, dated 1/6/2020
- Sections/Levels/Retaining Walls 500/501/502/503/504/505/510/511
- Preliminary Ecological Appraisal and Badger Survey undertaken by The Ecological Consultancy, ref. B5610 Version 1, dated 23/04/2021
- Gas Ground Risk Assessment by Geol Consultants, ref. GEOL20-9775, dated 16th November 2020
- Phase II Ground Investigation by GEOL Consultants, ref. GEOL20-9775, dated 16th April 2020
- Phase III Remediation Strategy by GEOL Consultants, ref. GEOL20-9775 dated 4th August 2021

- Phase III Remediate Strategy -Hot Spot Delineation by GEOL Consultants, ref. GEOL20-9775dated 05/04/20421
- Design and Access Statement dated April 2021
- Drainage Strategy prepared by Holloway Jennings, ref. Bm/5017/Drainstrat, dated 13 August 2021
- Landscape Management and Maintenance Plan drawing PL62R01 Rev P02, dated 30/11/2020
- Colour rendition
- Property Lighting Plan drawing TWP20-NTF-E02-003 Rev A
- Waste TWP21-NTF-D02-003
- Charging points drawing TWP21-NTF-E02-002
- Location Plan TWP21-NTF-D01-002 Rev A
- Existing Site Layout TWP-NTF-D01-001
- Proposed Block Plan TWP21-NTF-D02-001 Rev A
- Proposed Block Plan TWP21-NTF-D02-002 Rev A
- Plot 1 TWP21-NTF-D03-001
- Plot 2 TWP21-NTF-D03-002
- Plot 3 TWP21-NTF-D03-003
- Plot 4 TWP21-NTF-D03-004
- Plot 5 TWP21-NTF-D03-005
- Plots 6 & 8 TWP21-NTF-D03-006
- Plots 7 & 9 TWP21-NTF-D03-007
- Arboricultural Impact Assessment by Arbeco, ref. T5610 V1.0, dated 11/08/2021

*****End of Conditions*****