



Appeal Decision

Site visit made on 7 June 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 12 July 2022

Appeal Ref: APP/A4710/W/22/3292000

The Hollies, Holly Bank Drive, Hipperholme, Brighouse HX3 8PA

- 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 J Hodgkinson against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00927/FUL, dated 6 August 2020, was refused by notice dated 12 August 2021.
 - The development proposed is the demolition of existing garage and construction of new attached garage to The Hollies in order to facilitate access to new detached dwelling in garden and provision of new turning head.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and construction of new attached garage to The Hollies in order to facilitate access to new detached dwelling in garden and provision of new turning head at The Hollies, Holly Bank Drive, Hipperholme, Brighouse HX3 8PA in accordance with the terms of the application, Ref 20/00927/FUL, dated 6 August 2020, subject to the conditions in the attached schedule.

Procedural Matter

2. It is clear from the plans and accompanying details, which were amended during the course of the planning application, that the development proposed includes the demolition of the existing garage and the construction of a new garage. I have therefore used the Council's description of the development proposed in the banner heading above, and in my decision as it more accurately describes the proposal.

Main Issue

3. The main issue is the effect of the proposed development on highway safety.

Reasons

4. The appeal relates to a semi-detached property known as 'The Hollies' and its associated detached garage and rear garden area. It sits at the end of a short row of semi-detached properties that are accessed via Holly Bank Drive (HDB) which is a narrow private road. The surrounding area is predominantly residential in character.
5. I recognise that the proposal would increase the amount of traffic along HDB, and that the restricted width of this access road does not allow for vehicles to pass each other at the bell mouth of the junction. Visibility at this access is also limited due to the presence of high walls and vegetation to both sides of it.

6. However, the principle of a vehicular access at this location and to the majority of other residential properties along the A58 Leeds Road is well established. Pedestrians would therefore expect and be aware of the presence of vehicles, as would drivers of pedestrians. I am also mindful that advice in the Government's Manual for Streets 2 sets out that a reduction in visibility below the recommended levels is not necessarily a problem, unless there is local evidence to the contrary.
7. The appellant has submitted details of the likely traffic generation (using the TRICS data model) and records of local accidents. These show that no accidents were recorded in the 5 year period up to 2019. The TRICS data also indicates that the proposal would only generate 4-6 daily traffic movements. Although the Council and local residents have raised concerns regarding the increased use of the access road and the increased risk of accidents, they have not provided any definitive evidence of their own. Nor do I have any substantive reason to conclude that the appellant's evidence is inaccurate or significantly flawed.
8. There is also a pedestrian traffic island on the A58, to the east of HDB and a wide diagonal hatched area for right turning vehicles opposite to its junction. At the time of my mid-morning site visit I observed a delivery van accessing HDB from this direction. My site observations confirmed that these road markings ensure that a vehicle can take up a position to turn right and avoid following traffic having to needlessly slow down and queue. I am also satisfied that this arrangement, and the intervisibility along the southern end of HDB allows for vehicles to wait safely on the A58 while another vehicle exits this private road. These factors reduce the potential for conflict with highway users and ensures that the free flow of traffic from the eastern direction is not interrupted.
9. Furthermore, on my site visit I noted that HDB has 1 informal passing place and that it is lightly trafficked. Given the narrow width of this highway vehicle speeds are low. The proposal also includes the provision of a turning head at the northern end of the HDB adjacent to the appeal site. The submitted details demonstrate that it would be practical for the turning of a car or an emergency vehicle such as an ambulance within the provided space and allow for vehicles to enter and egress HDB in a forward gear. I also noted that there was a streetlamp in proximity to the appeal site which would provide sufficient lighting for the proposed turning head during the hours of darkness.
10. There is also no persuasive evidence before me to suggest that there would be an unacceptable risk to the health and safety of the future occupiers of the proposed dwelling or existing residents of properties on HBD, or that emergency and other services would be unacceptably strained as a result of the access for larger vehicles. The narrowness of HBD and the location of the proposed turning head to the northern end of this road would also be such that it would not be clearly visible from the A58. It would therefore be unlikely to encourage drivers on the A58 to use it to turn around in heavy periods of traffic.
11. I am also mindful that the Council's Highway Section raised no formal objections in its formal consultation response to the amended planning application when balancing the benefit of the proposed turning head against the proportionate increase in traffic movements from 1 additional dwelling.

12. A completed Unilateral Undertaking (UU) has been submitted by the appellant to secure the provision of the turning head in accordance with the submitted plans prior to the occupation of the proposed dwelling. The Council has confirmed that the UU fulfils its purpose and I am satisfied that it is compliant with regulation 122 of the CIL Regulations and paragraph 57 of the National Planning Policy Framework (the Framework). As this factor would improve highway safety and be of benefit to other users of HDB it would weigh in favour of the proposed scheme and I have taken account of it in my decision.
13. Issues regarding land ownership, covenants, the right of access and potential damage to HDB have been raised by local residents. Nonetheless, these are private legal matters between the relevant parties and have not had any material bearing on my assessment of the planning issues in this appeal.
14. In light of all of the factors above, I find that the minor increase in traffic movements associated with 1 additional proposed dwelling, along with the provision of the proposed turning facility, would result in the proposal not having a materially harmful effect on highway safety. As such, it would not conflict with Policy BE5 of the Replacement Calderdale Unitary Development Plan (RUDP) 2006. Amongst other matters, this seeks to ensure the safe and free flow of traffic in the interests of highway safety.

Other Matters

15. Local residents have raised a number of other concerns, including the effect on the character and appearance of the area, living conditions, loss of trees and wildlife, and drainage and flooding.
16. The Council has not raised any objections to the principle of development in this location and I have no substantive reason to disagree. It would not fill the width of the plot to such an extent as to appear cramped, overdeveloped, or at odds with the prevailing character of the immediate surroundings. I also consider that satisfactory intervening distances would be achieved between the proposal and adjacent properties to ensure that neighbouring residents would not experience any significant loss of outlook, light or privacy.
17. Given the separation distances referred to above I do not consider a planning condition for the planting of tall shrubs and trees along the shared boundary with The Hollies and Holly Mount would be reasonable or necessary in the interests of protecting the living conditions of the residents of these neighbouring properties.
18. In the absence of any substantive evidence to the contrary, I also have no reason to suppose that the proposal would cause material harm to wildlife. Nor is there any firm evidence to suggest that the development would lead to a significantly harmful level of noise or air pollution. Moreover, any disturbance during construction would be for a temporary period only and the hours of construction works are matters which are subject to control under separate legislation. A condition which duplicates the effect of other controls will normally be unnecessary.
19. Furthermore, there is no substantive evidence before me to demonstrate that the proposal would exacerbate existing drainage or flooding problems. I am also mindful that the Council has suggested a condition for details of drainage to be submitted for its approval prior to its installation, and there is little before

me to suggest that this would not provide effective mitigation. Although some trees are to be removed, these are mainly within the central part of the site and are not of high visual amenity value. Other more prominent trees and hedges along the boundary of the site could be protected during construction via a suitably worded planning condition.

20. I have been referred to other developments for 1, 2 and 3 houses that are accessed off the A58, within 200 metres of the appeal site, which I am informed were required to move boundary walls to create visibility spaces and passing places. However, on the evidence presented I cannot be certain that they represent a direct parallel to the appeal proposal.
21. I also note that local residents consider the appellant's evidence to be incorrect and misleading in parts. However, nothing that I have been referred to would lead me to reach a different decision. Frustrations regarding the appeal notification process have also not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Planning Balance

22. RUDP Policy H9 states that proposals for residential development on unallocated greenfield land will not be permitted. The proposal would therefore conflict with the terms of that policy. However, the Framework does not explicitly rule out the development of land which is not previously developed. Accordingly, I consider RUDP Policy H9 to be inconsistent with the Framework. Furthermore, it is not in dispute that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and to my mind it follows, with reference to paragraph 11d of the Framework, that this RUDP Policy can be regarded as out-of-date.
23. The Government is seeking to significantly boost the supply of housing. The appeal proposal would clearly provide some economic and social benefits and would deliver a small, but nevertheless valuable, contribution towards the Council's housing supply. I have also found that it would not have a materially harmful effect on highway safety, which would be a neutral factor in the planning balance. Nor, for the reasons set out above, would the development conflict with other relevant RUDP policies, or with the Framework in those respects. Overall, the adverse impacts of granting permission, including any conflict with the development plan, would therefore not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conditions

24. I have considered the conditions suggested by the Council against the tests of paragraph 56 of the Framework and advice in the Planning Practice Guidance: *Use of planning conditions*. In addition to the statutory time limit condition, I agree that a condition specifying the relevant plans is necessary to provide certainty. I also agree that conditions relating to the materials of the dwelling and garage are necessary in the interests of character and appearance. Similarly, for reasons of appearance, I agree that landscaping, tree protection and boundary treatment conditions are also necessary. However, to provide certainty of the working methods, I have re-worded the tree protection condition to require that a scheme is submitted to the local planning authority for its approval prior to any clearance, preparatory work or commencement of

development. The main parties have confirmed that they have no objections to this pre-commencement condition.

25. I have imposed a condition to secure an electric vehicle charging point to reduce transport emissions in the interests of promoting sustainable transport. It is also necessary in the interests of highway safety to ensure that the parking areas are laid out, and kept available for existing and future resident's parking, as would be achieved via condition 5. To ensure adequate drainage, a condition relating to the provision of foul and surface water drainage has also been imposed.
26. I do not consider there to be any justification for restricting wholesale permitted development rights in respect of windows and openings. However, it is appropriate to do so in a more limited way and restrict any further openings within the northern elevation of the dwelling. Given its proximity to 87a Bramley Lane this is necessary to safeguard the living conditions of its residents. I have therefore reworded this condition accordingly.

Conclusion

27. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, including the provisions of the Framework, the appeal should therefore be allowed.

Mark Caine

INSPECTOR

SCHEDULE OF CONDITIONS

- 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: Site Location Plan Drawing No JHTH-01A, Existing & Proposed Site Plan Drawing No JHTH-03A, Existing Plans & Elevations Drawing No JHTH-04, Proposed Plans & Elevations Drawing No JHTH-05A, Proposed Plans & Elevations Drawing No JHTH-06A, Turning Head & Tracking Drawing No 1821-101C, Topographical Survey Drawing No 8224/1, Site Distances Plan Drawing No JHTH-02B.
- 3) Notwithstanding condition 2, no development hereby permitted above slab level, shall take place until details of the proposed facing and roofing materials 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.
- 4) The materials to be used in the construction of the external surfaces of the garage hereby permitted shall match those used in the existing dwelling.
- 5) The development hereby permitted shall not be occupied until the off-street parking provision shown on the approved plan Drawing No JHTH-03A for both dwellings has been constructed and surfaced using permeable materials, with surface water being directed to sustainable

- drainage outlets or porous surfaces within the site. The spaces shall thereafter be kept available at all times for the parking of vehicles.
- 6) No site clearance, preparatory work or development 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.
 - 7) The development hereby permitted shall not be occupied until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained.
 - 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 9) The development hereby permitted 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 approved details shall be completed before the development hereby permitted is occupied and shall be retained thereafter.
 - 10) Prior to the first occupation of the development, there shall be installed in an appropriate location on the site a suitable facility to permit the recharge of an electrical battery-powered vehicle that may be used in connection with the dwelling hereby permitted. Unless otherwise required by the location, the installation(s) shall comply with IEE regulations and BSEN 62196-1 for a mode 3 system. The facility shall be so retained thereafter.
 - 11) The installation of the drainage shall not begin until full details of the sustainable foul surface water drainage and external works for the development (taking into account flood risk on and off site and including details of any balancing works, off-site works, existing systems to be reused, works on or near watercourses and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first occupation of the development and retained thereafter.
 - 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending or re-enacting that order with or without modification), no additional windows or other openings shall be installed in the north elevation of the dwelling hereby approved.

END OF SCHEDULE