



Appeal Decision

Site visit made on 24 May 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2022

Appeal Ref: APP/X4725/W/22/3293183

Land off Westfield Grove, Low Ackworth, Pontefract WF7 7HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr D Pickles (Fairfax Investments Ltd) against the decision of Wakefield Council.
- The application Ref 17/00518/S7302, dated 24 June 2021, was refused by notice dated 12 October 2021.
- The application sought planning permission for the 'variation to condition no.10 (surfacing / completion of surfacing) of permission 17/00518/OUT (residential development for the erection of 4 detached dwellings) (outline application for access and scale) (resubmission of application 15/01694/OUT) dated 15th December 2017' without complying with a condition attached to planning permission Ref 17/00518/S7301 dated 19 March 2020.
- The condition in dispute is No 7 which states that:
The land shaded orange upon submitted drawing 99/RCP/REVA shall be surfaced with Marshalls Tegular Brindle paving in accordance with the surfacing details submitted to, and approved by the Local Planning Authority for the discharge of condition no.10, discharged by virtue of application 18/02823/SUB01 dated 23rd April 2019. Within three months of the date of this permission the land shaded in pink upon submitted drawing 99/RCP/REVA shall be surfaced with a base course comprising Type 1 rolled stone and the retention of the existing tarmac base access road which shall be patched where necessary. Prior to the occupation of plots 3 and 4 or by 20th March 2021, whichever is the soonest, the land highlighted in pink upon submitted drawing 99/RCP/REVA shall be surfaced with Marshalls Tegular Brindle paving in accordance with the surfacing details submitted to, and approved by, the Local Planning Authority for the discharge of condition no.10, discharged by virtue of application 18/02823/SUB01 dated 23rd April 2019. The surfacing approved by this condition shall be thereafter retained and maintained for the lifetime of the development.
- The reason given for the condition is:
To ensure acceptable surfacing is in place to access the dwelling to accord with policy D14 of the Council's adopted Local Development Framework Development Policies Document and the NPPF.

Decision

1. The appeal is allowed and planning permission is granted for the 'variation of condition 7 (surfacing/completion of surfacing) from permission 17/00518/S7301 (Variation to condition no.10 (surfacing / completion of surfacing) of permission 17/00518/OUT (residential development for the erection of 4 detached dwellings) (outline application for access and scale) (resubmission of application 15/01694/OUT) dated 15th December 2017' at Land off Westfield Grove, Ackworth, in accordance with the terms of the

application, Ref 17/00518/S7302, dated 24 June 2021, subject to the conditions in the attached schedule.

Background and Main Issue

2. The appeal site comprises of a small residential development of four houses which was granted on appeal¹ ('the November 2017 permission'). A subsequent planning permission granted in March 2020 (LPA Ref: 17/00518/S7301) varied condition 10 on the November 2017 permission for a length of the access to be finished in block paving. This current appeal proposal seeks to vary condition 7 of this subsequent permission to allow for a tarmac finish on part of the access road.
3. The Council has raised concerns that the alternative material would be harmful to the character of the development and the locality. As such, the main issue is the effect of the alternative material on the character and appearance of the development and the area.

Reasons

4. The appeal site comprises of four recently constructed detached dwellings situated along an access road that also provides access to a number of other properties. The surrounding area is predominantly residential but comprises of a wide range of buildings, including terraced, semi-detached and dormer bungalows. There is similar variety in the design of properties and variation in the material finishes. Although there is open land to the north of the site, the area around the appeal site has a pleasant, mixed urban character.
5. The surfacing material of the access road is an important part of delivering a high-quality development. I am mindful, as set out at Paragraph 135 of the National Planning Policy Framework (Framework), that the quality of an approved development is not materially diminished as a result of changes made to a permitted scheme.
6. Tarmacadam is a commonly used road surface material and can be seen extensively in the area, along Station Road and within some private driveways. It has a different appearance to block paving, with its smoother, largely unbroken surface compared to individual block pavers, but I don't consider that this necessarily means it is of a lesser quality.
7. Although the use of block paving would denote a change from the main road, like the adjacent 'The Orchards' cul-de-sac which is mainly block paved, many of the other roads off Station Road are finished in tarmacadam. If anything, the proposal would better integrate with the surface finish of the main road, but still provide block paving as the finished surfacing material over the majority of its length, part of which would be visible from Station Road. Given that the local area, including the houses forming part of the appeal site are characterised by a mix palette of materials, the use of tarmacadam would not be visually harmful.
8. I therefore conclude that the alternative material would not be harmful to the character and appearance of the development or the area. As such, I find no conflict with Policy D9 of the Development Policies Local Development Framework (Development Policies LDF), which seek, amongst other matters,

¹ Appeal Ref: APP/X4725/W/17/3181346

proposals to respect and where appropriate enhance the character of the locality. It would also not conflict with Paragraph 135 of the Framework. Policy D14 referenced in the reason for the condition is relevant to highway safety matters rather than character and appearance.

Other Matters

9. The rationale set out for the proposal is to address drainage issues, although the Council do not consider it necessary in this regard. Whatever the position on this, it does not change my conclusion in respect of the main issue. I note the concerns in relation to flooding, but the drainage letter² submitted by the appellant sets out that the tarmac finish will encourage water to drain towards gullies in the road. This has been reviewed by the Council's Drainage Team, who confirm they have no objection. Although block paving may be more permeable than tarmac and I note methods of drainage other than connection to a public surface water sewer are encouraged, I have no reason to disagree with the Council's assessment.
10. Reference has been made to planning breaches, but this would be a matter for the Council to investigate. I have also taken into account reference to land ownership matters and the proposal being economically driven, but I have determined this appeal on its planning own merits and these matters would not alter my conclusion on the main issue.

Conditions and Conclusion

11. For the reasons set out, the appeal is allowed by omitting condition 7 and replacing with another condition that specifies the alternative surfacing material sought. I have amended the suggested wording of this condition for clarity, conciseness and enforceability. This includes removing reference to phasing as the houses were externally complete and omitting reference to dates that have passed.
12. The National Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I have no information before me about the status of the other condition imposed on the original planning permission, but I shall impose those undisputed conditions which are still subsisting and capable of taking effect. I have had regard to the reasons for the imposition these conditions and consider them to be relevant to the appeal development, in terms of defining the approved plans, addressing matters relating to the construction phase and on drainage.

F Rafiq

INSPECTOR

² Topping Engineers, 23.06.21

Schedule of Conditions

1. The development hereby approved shall be carried out strictly in accordance with the plans and documents submitted as part of applications 17/00518/OUT and 18/02823/REM listed as follows:

Plans submitted as part of application 17/00518/OUT:- 2337 (PL)01 Rev A - Location Plan, 2337 (PL)06 Rev D - Proposed Site Plan, 3312 SK001 01 Rev A - Proposed Site Access

Plans submitted as part of application 18/02823/REM:- 99/01; 99/02; 99/02revA; 99/04revA; 99/06revB; 99/07; 99/08; 99/09; 99/10; 99/12; 99/13; 99/14 & 99/05revA

Documents submitted as part of application 18/02823/REM - Application Form; Planning Statement (ref:- 770/18) & Cil Additional Questions form

2. The development hereby approved shall be undertaken in accordance with the Construction Method Statement submitted and approved under application reference 17/00518/SUB01 dated 19th January 2019 (to satisfy/discharge condition 5 imposed upon approved application 17/00518/OUT dated 15th December 2017). The Construction Method Statement approved by this condition shall be retained and maintained for the entirety of the construction phase of the development hereby approved.
3. The development hereby approved shall be undertaken in accordance with the scheme for the accommodation of additional flows impacting upon the watercourse network submitted and approved under application reference 17/00518/SUB01 dated 19th January 2019 (to satisfy/discharge condition 6 imposed upon approved application 17/00518/OUT dated 15th December 2017). The scheme for the accommodation of additional flows impacting upon the watercourse network approved by this condition shall be retained and maintained for the lifetime of the development.
4. The development hereby approved shall be undertaken in accordance with the scheme detailing temporary surface water drainage generated during the construction of the site submitted and approved under application reference 17/00518/SUB01 dated 19th January 2019 (to satisfy/discharge condition 7 imposed upon approved application 17/00518/OUT dated 15th December 2017). The scheme detailing temporary surface water drainage generated during the construction of the site approved by this condition shall be retained and maintained for the entirety of the construction phase of the development hereby approved.
5. The development hereby approved shall be undertaken in accordance with the scheme detailing foul and surface water drainage submitted and approved under application reference 17/00518/SUB01 dated 19th January 2019 (to satisfy/discharge condition 8 imposed upon approved application 17/00518/OUT dated 15th December 2017). The scheme detailing foul and surface water drainage approved by this condition shall be retained and maintained for the entirety of the construction phase of the development hereby approved.
6. The development hereby approved shall be undertaken in accordance with the scheme restricting the rate of development flow runoff from the site

submitted and approved under application reference 17/00518/SUB01 dated 19th January 2019 (to satisfy/discharge condition 9 imposed upon approved application 17/00518/OUT dated 15th December 2017). The scheme restricting the rate of development flow runoff from the site approved by this condition shall be retained and maintained for the lifetime of the development.

7. Prior to the first occupation of the first dwelling on the development hereby permitted the access road shown on drawing reference 99/RCPP/REV B/24.06.21 shall be completed and surfaced in Marshalls Tegular block paving between points A and B and in type 1 rolled stone and tarmac between points B and C. This surfacing shall be retained and maintained thereafter.