



Appeal Decision

Site visit made on 27 September 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal Ref: APP/A4710/W/22/3297592

24 Daleson Close, Northowram, Halifax HX3 7JF

- 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 Terry Dickinson against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 21/01018/FUL, dated 22 July 2021, was refused by notice dated 24 February 2022.
 - The development proposed is a detached dwelling with garage.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling with garage at 24 Daleson Close, Northowram, Halifax HX3 7JF in accordance with the terms of the application, Ref 21/01018/FUL, dated 22 July 2021, subject to the conditions in the attached schedule:

Main Issue

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

Reasons

3. The appeal relates to an irregular shaped piece of land that was previously used as garden space to the rear of 24 Daleson Close. At the time of my site visit this land had been cleared, with the majority of it fenced off.
4. The immediate surroundings are predominantly residential; however, the Tannery Business Centre (the Tannery) and some other commercial units are located to the south of the site. The submitted plans show that vehicular access for the dwelling is proposed to be provided via the existing adopted highway off Bradford Road to the east, which is currently used by vehicles associated with the Tannery and 2 other residential properties, at 19a and 19b.
5. The Council has raised concerns about visibility at the junction with Bradford Road, the increased amount of traffic that would use the existing access road, and the lack of a separate pedestrian footway.
6. My site observations confirmed that visibility at this access is limited due to the presence of an approximate 1.8 metre high fence and hedgerow above it to the northern side. Nonetheless, I am mindful that advice in the Government's 'Manual for Streets 2' (2010) 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. No substantive evidence regarding traffic flows and accidents at the junction with Bradford Road or in the locality has been provided by the Council to substantiate its case. At the time of my mid-morning site visit the access road was very lightly trafficked, with slow speeds due to its short length. Furthermore, the submitted plans illustrate proposed alterations to the alignment of the existing wall to the south and the introduction of an approximate 0.9 metre high wall and white lining to the northern side of this highway. This would thereby move the access away from the fence and vegetation, marginally improving visibility to this side.
8. I appreciate that this arrangement would reduce the width of the access road, however 'Manual for Streets' (2007) advises that carriageway widths should be appropriate for the particular context and uses of the street. This illustrates that carriageway widths below 6 metres, can accommodate and allow 2 cars to pass each other. Whilst the Council Highway Engineer questions the accuracy of the submitted plans and states that he has ascertained the available width using a measuring wheel, he has not provided any measurements of his own.
9. On the basis of the evidence before me, including my site observations, I am unable to find that the proposed access road's width would be so restrictive as to not allow 2 cars to pass. Furthermore, the shared surface arrangement is already well established on this access road, which is currently used for pedestrian access to Daleson Close, and for vehicles associated with the Tannery and other residential properties. Pedestrians would therefore expect and be aware of the presence of vehicles, as would drivers of pedestrians, and this is something that I saw to be the case on my site visit.
10. I have also had regard to the layout plan that the Council has provided for the approved works under the Section 278 Agreement for the access to the Tannery. However, on the basis of the evidence before me, I am unable to conclude, with any degree of certainty, that both accesses could not be constructed.
11. In light of the above, I am satisfied that the level of vehicle movements associated with the proposed dwelling on the access road would not result in undue levels of traffic either in isolation, or cumulatively with the occupiers of nearby businesses and residential properties to result in an unacceptable level of highway safety risk. As such, I find that the proposed development would not have an unacceptably harmful effect on highway safety. It would therefore not conflict with Policy BE5 of the Replacement Calderdale Unitary Development Plan (RUDP) 2006, which amongst other matters, seeks to ensure the safe and free flow of traffic in the interests of highway safety.

Other Matters

12. It is uncontested between the main parties that the current use of the appeal site for the parking of cars does not benefit from planning permission. Accordingly, it cannot be used in comparison to justify the proposal and I have not afforded this matter any weight in my consideration of this appeal.
13. The Council has not raised any objections to the effect of the proposed development on the character or appearance of the Northowram Conservation Area. In reaching my decision I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. In this respect, and in the

absence of any substantive evidence to the contrary, I am satisfied that it would preserve those interests.

14. Concerns have also been raised about the restricted space for refuse vehicle manoeuvres leading to them reversing out of the access road onto Bradford Road, if and when the Tannery's rear car park is developed. However, I do not have the full details of the planning permission for the redevelopment of the Tannery before me and I am unable to establish whether the use of the car parking area to its rear, despite the creation of a new car park to the front, would cease. Moreover, it is likely that refuse vehicles would still have to service the existing dwellings at 19a and 19b via this highway, regardless of the outcome of this appeal and the Tannery's redevelopment plans. As such I do not consider that the proposal would cause any material harm in this respect.
15. Furthermore, ownership issues are private legal matters between the relevant parties and not within my jurisdiction. These have therefore not had any material bearing on my assessment of the planning issues in this appeal.

Conditions

16. I have considered the conditions suggested by the Council against the tests of paragraph 56 of the National Planning Policy 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, ground levels and landscaping are necessary in the interests of character and appearance.
17. It is 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 7. I have also imposed a condition to secure an electric vehicle charging point to reduce transport emissions in the interests of promoting sustainable transport. To ensure adequate drainage, a condition relating to the provision of foul and surface water drainage has been imposed. In addition, I have imposed a condition relating to land contamination, which is necessary in order to ensure that any contamination is detected, and appropriate remedial action is taken, in the interests of public safety. However, I have reworded a number of these conditions in the interests of precision.
18. Given the position and number of windows within the elevations of the proposed building and the angled orientation of it in relation to neighbouring properties and their garden spaces, I do not consider there to be any justification for restricting wholesale permitted development rights in respect of windows and openings. I have therefore not imposed this condition.

Conclusion

19. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, 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: 2007/1 Location Plan, 20007/10 Site Plan, 20007/11 Floor Layout Plans, 20007/12 Elevations, 21007/14 Garage Plan, 20007/14 Rev B Access Road Details.
- 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 and garage 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) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, boundary walls, paths, driveways and parking areas, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) 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.
- 6) 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.
- 7) The development hereby permitted shall not be occupied until the off-street parking provision shown on the approved plan Ref: 20007/10 Site Plan for the dwelling 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.
- 8) 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.
- 9) 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.

- 10) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority for approval prior to the first use or occupation of any part of the development hereby approved.

END OF SCHEDULE