



Appeal Decision

Site visit made on 19 July 2023

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2023

Appeal Ref: APP/A4710/W/23/3316189

Land south of 7 to 17 Spark House Lane, Sowerby Bridge HX6 3QU

- 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 approval to details required by a condition of an outline planning permission.
 - The appeal is made by Mr and Mrs Allison against Calderdale Metropolitan Borough Council.
 - The application Ref 22/00712/RES, dated 20 June 2022, sought approval of details pursuant to condition No. 1 of an outline planning permission Ref 20/01339/OUT granted on 16 June 2021.
 - The development proposed is demolition of existing stable to facilitate a residential dwelling (Reserved Matters application pursuant to 20/01339/OUT).
 - The details for which approval is sought are: Access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely access, appearance, landscaping, layout and scale details submitted in pursuance of condition No. 1 attached to planning permission Ref 22/00712/RES dated 20 June 2022 subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing no. L00 Rev 2; PL100 Rev 2; PL201; PL200 and EW01.
 - 2) Prior to the first use of the development the sight lines of 2.4m x 43m as shown on the approved plans; PL100 Rev 2 and EW01 shall be provided and these shall be kept free of any obstruction to visibility exceeding 0.9m in height thereafter.

Applications for costs

2. An application for costs was made by Mr and Mrs Stuart Allison against Calderdale Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council failed to determine the application to which this appeal relates. The Council have since provided an appeal statement detailing the grounds on which they would have refused approval of reserved matters, had they retained jurisdiction to do so, which relates to highway safety. The appellant has had the opportunity to respond to this in their submissions, therefore they would not be prejudiced by my taking this into account.

4. Additional plans have been submitted with this appeal which did not form part of the original application, relating to highway safety, and include an alteration to the red line. The appellant has stated in their evidence that this was submitted as an amended plan whilst the application was being considered by the Council, following highway officer comments and has provided evidence to this effect. The Council and third parties have had the opportunity to comment on the plan through the appeal process, therefore I am satisfied that the Council nor third parties would be prejudiced by my taking it into account.
5. I have taken the site address from the appeal form as it provides a clear location for the proposed development. I have also used the description of development used in the appeal form, appellant statement and Council statement as this provides a clear description of development.
6. Following the submission of this appeal, the Calderdale Local Plan adopted March 2023 (LP) has been adopted, this replaces the Replacement Calderdale Unitary Development Plan. Both parties have had the opportunity to comment on the relevant policies referred to in the Council appeal statement, therefore neither party is prejudiced by my taking these policies into account.

Background and Main Issue

7. The site is located within the Green Belt and the appellant and Council agree that the principle of development has been established as outline planning permission was granted through the appeal decision APP/A4710/W/21/3270078. The Inspector in that case concluded that the development would not be inappropriate development within the Green Belt, and would not harm the openness or permanence of the Green Belt. Based on the information before me and my observations, I see no reason to disagree with their conclusions in this regard.
8. The main issue is the effect of the proposed access on highway safety.

Reasons

9. The appeal site is a modest stable block with dedicated access and parking/turning area off Spark House Lane, a narrow lane, in a rural location with small pockets of development dispersed along its length. The site is set at a higher level than the highway with the topography sweeping down towards the north, with neighbouring properties immediately on the opposite side of Spark House Lane, the access to the site is very short and steep. The land to the rear of the stable block and either side is pasture land and climbs steeply uphill to the south. The land is bounded by a traditional stone retaining wall along the highway frontage with a timber post and rail fence situated on the raised ground behind the wall.

Highway Safety

10. The proposed development would utilise the existing access off Spark House Lane which currently provides access for the stable block which was in use at the time of my site visit. The Council has raised concerns regarding the length of the visibility splays as shown on the original plans submitted with the application. The plans showed a visibility of 25m in both directions. The road, although narrow, has a speed limit of 30mph therefore requires visibility splays of 43m in both directions measured 2.4m from the kerb.

11. Additional plans, submitted as part of the appeal, show visibility splays of 43m x 2.4m. The Council's highway officer comment suggests that some of the land shown on these plans is outside of the red line on the location plan, therefore it could not be assumed that the visibility splay could be achieved. However, in the evidence provided by the appellant it is stated that the required visibility splays are within the red line areas provided on the revised location plan submitted as part of this appeal. In addition, a more detailed plan showing the visibility splay has been provided which includes the dimensions of the revised splay.
12. The Council's highway officer confirms in their comments that had they been made aware of the additional plan it would be a simple request to extend the red line. In this case based on the evidence, I am satisfied that the revised location plan and detailed visibility splay plan correlate and demonstrate that the appropriate distances can be achieved. In addition, the plan confirms that the existing wall would be realigned and height reduced in order to achieve the required distances.
13. The proposal would therefore achieve the required visibility splay to access and egress the development and accordingly the proposal would not have a detrimental effect on highway safety.
14. For the reasons mentioned I conclude that the proposed development would be acceptable with regard to highway safety by providing adequate visibility for the access to the development. Therefore, the proposal is in accordance with Policy BT4 of the LP which requires developments to ensure the safe and free flow of traffic in the interest of highway safety.
15. The proposal also accords with the Manual for Streets paragraph 7.7 Visibility splays at junctions which requires 43m stopping sight distance and visibility.

Other Matters

16. The Council's highway officer has commented on the suitability of the location in relation to public transport options, stating that it is not suitable given the walking distance to the nearest bus stop and lack of a footpath. Whilst these are important factors, they do not alter the principle of development which has been established through the grant of outline planning permission, further these matters have not been raised by the Council in their concluding statement of their evidence nor in their evidence relating to the principle of development. Therefore, this matter does not weigh significantly against the proposal for the approval of reserved matters.
17. I note that the Council considered that the proposal would not affect the living conditions of neighbouring occupiers nor that the proposal would affect biodiversity. In addition to this the Council raised no objections to the materials, layout, design, landscaping or flooding and drainage matters, and I have no reason to disagree with these conclusions based on the information provided and my observations. Therefore, I am satisfied that in accordance with this decision relating to access, the proposal would be acceptable regarding all reserved matters.

Conditions

18. I have considered the conditions suggested by the Council. In my judgement, a condition is necessary in respect of ensuring the development is carried out in accordance with the approved plans.
19. I have amended the condition suggested by the Council relating to a scheme for sightlines of 2.4m x 43m in both directions to be provided, as a scheme has been submitted as part of this appeal. Accordingly, it would not be reasonable to require a scheme to be submitted to the Local Planning Authority for approval also, but the development to be carried out in accordance with the approved plan. The trigger for implementation of the scheme has been amended for clarity.
20. The Council has suggested conditions in relation to drainage and an electric vehicle charging point. However, conditions covering these matters are included in the outline planning permission so would not pass the test of necessity to be repeated.
21. The Council has suggested the removal of permitted development rights, the Planning Practice Guidance (PPG) states that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. This matter was considered at outline stage and the Inspector concluded that there was not clear justification for restricting national permitted development rights. I agree with the previous Inspector's findings in relation to this matter, and no clear justification has been provided in this case.

Conclusion

22. For the reasons set out having regard to the development plan as a whole and all other matters raised, the appeal is allowed.

N Duff

INSPECTOR

