



Appeal Decision

Site visit made on 14 January 2025

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2025

Appeal Ref: APP/U2750/D/24/3357609

19 Westminster Drive, Burn Bridge, Harrogate HG3 1NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs J Workman against the decision of North Yorkshire Council.
 - The application Ref is ZC24/02708/FUL.
 - The development proposed is described as the 'reconfiguration of existing driveway and associated landscaping.'
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Decision

1. The appeal is allowed and planning permission is granted for the reconfiguration of existing driveway and associated landscaping at 19 Westminster Drive, Burn Bridge, Harrogate HG3 1NW, in accordance with the terms of the application, Ref ZC24/02708/FUL and the plans submitted with it, subject to the conditions below.
 - 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;

Location plan
Proposed reconfigured drive drawing number 010 Rev A
 - 3) Before any materials are brought onto the site or any development is commenced, the developer shall submit a scheme for root protection area (RPA) fencing and ground protection measures to the local planning authority for written approval. The scheme shall comply with the requirements of British Standard BS 5837: 2012 Trees in Relation to Construction–Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan and for the entire area as specified.
 - 4) No operations shall commence on site in connection with the development hereby approved (including any demolition work or soil moving involving the use of motorised vehicles or construction machinery) until the root protection area (RPA) and ground protection works required by the approved tree protection scheme (above) are in place. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection area scheme. The level of the land within the fenced areas shall not be altered. The approved protection measures shall be maintained until all development the subject of this permission is complete.

Procedural Matters

2. The Council's officer report and decision notice did not reference any development plan policies. During the appeal process the Council referred me to Policies HP3, HP4 and NE7 of the Harrogate District Local Plan (LP) 2020. However, these relate to local distinctiveness, amenity and trees and woodland considerations, none of which relate to the matter in dispute. The Council has not referred me to any LP policy related to car parking or highway safety.
3. I have therefore determined the appeal in accordance with the guidance contained within the National Planning Policy Framework (the Framework), which the Government revised in December 2024. Although some sections and paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issue in this appeal. The parties would not therefore be prejudiced by reference to the revised Framework.
4. The appellants have provided a swept path drawing within their appeal statement which amounts to new evidence. As the appeal is following the householder procedure, the Council has not had the opportunity to comment on this new information. It has not been taken into account in the determination of the appeal.

Main Issue

5. The main issue in relation to this appeal is the effect of the proposal on highway safety.

Reasons

6. The appeal site comprises a detached dwelling occupying a corner plot at the junction of Westminster Drive and Burn Bridge Oval. An existing driveway leads to the dwelling from Westminster Drive.
7. Amended plans were received during the determination of the planning application. The proposal now amounts to the laying of additional hardstanding and the resurfacing of the existing driveway. This would facilitate access to the dwelling and enable cars to park next to each other, rather than in tandem. No changes are proposed to the lower section of the drive where it adjoins Westminster Drive.
8. Paragraph 116 of the Framework is clear that development should only be refused on highway safety grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Given the small scale of the proposed development, the implications for the road network would not be severe.
9. Although a snapshot in time I observed that both Westminster Drive and Burn Bridge Oval were typically quiet residential roads. Vehicle speeds were reasonably low. That was particularly the case of drivers approaching from Burn Bridge Oval given the sloping topography, sinuous and narrow nature of the road and need to slow for the junction with Westminster Drive. The appellants advise that there have been no incidents from the existing use of their driveway and I have not been presented with any evidence to the contrary. The low wall to the front boundary ensures that there is visibility into and out of the appeal site.
10. The Highway Authority suggests that the proposed works would increase the number of vehicles using the driveway. However, the number of bedrooms and therefore the number of occupants of the host dwelling would not increase. The

appellants are clear that the proposal is to allow vehicles to exit the drive without another having to be moved. It seems to me that the use of the driveway access would be little different than the existing situation.

11. If I could accept that the use of the driveway was to increase as a result of the proposal, the additional hardstanding is only likely to accommodate one additional car. Swept path analysis would seem to be unduly onerous, given that manoeuvres into and out of the drive would be no different to those that already occur. Drivers using Westminster Road and Burn Bridge Oval would typically be those that live nearby, such that they would be aware of the need for caution due to the presence of numerous emerging accesses.
12. Even if I could accept that the proposal would lead to an intensification of use, the Highway Authority has not provided any substantive evidence that it would result in a significant increase in conflict between vehicles or pedestrians over and above the existing situation. Nor has it been evidenced that the proposal would jeopardise the free flow of traffic along either of the adjacent roads. If drivers did have to wait while a car manoeuvred in or out of the driveway, it would be for a matter of seconds and would be no different to having to wait during similar circumstances at other dwellings nearby. Parking within the driveway would be preferable to on-street car parking close to the junction, which is more likely to hinder visibility and reduce the free flow of traffic.
13. The Highway Authority states that the current driveway has a steep gradient of 1:9 and that they require a standard gradient of 1:40. However, there is no evidence of where this 'standard' comes from and whether it is adopted policy. Neither is it clear whether it should be applied to the reconfiguration of existing driveways which is the case here, in addition to the creation of new ones. In any event, the Highway Authority advises that the gradient requirement may be reduced on a case-by-case basis.
14. The appellants have advised that it is not possible to lower the ground level to achieve a lesser gradient due to the root protection area of the adjacent tree which is subject to a Tree Preservation Order (TPO)¹. I have no evidence to contradict this view. In light of the specific context of the appeal site and that the proposed works relate to an existing driveway that is already in use and has no recorded accidents, it has not been demonstrated that the proposed gradient of the driveway extension would render the existing access inherently unsafe.
15. For the above reasons, I find that an unacceptable impact on highway safety has not been demonstrated. The proposal would not therefore be harmful to highway safety. The proposal complies with paragraphs 115(b) and 117(c) of the Framework which seek to ensure a safe and suitable access and minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Conditions

16. The Council's suggested conditions have been considered and the wording varied where necessary to ensure precision and compliance with the Planning Practice Guidance² and paragraph 57 of the Framework. Along with the standard time limit, conditions are imposed to list the plans in the interests of certainty.

¹ TPO 47/2019.

² Paragraph: 003 Reference ID: 21a-003-20190723.

17. Although the Arboricultural Section of the Council requested conditions to secure tree protection measures,³ they were not included in the Council's appeal questionnaire. The appellant was given opportunity to comment on these conditions during the appeal process but no comments were forthcoming. I agree with the Council that these conditions would be necessary and relevant to the development to be permitted, given the TPO status of the tree. Conditions 3 and 4 are therefore attached in the interests of the character and appearance of the area.

Conclusion

18. For the reasons given above, the proposal would comply with the provisions of Framework and the appeal should be allowed.

M Clowes

INSPECTOR

³ Arboricultural Section consultation response dated 15 October 2024.