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## Appeal Decision

Site visit made on 8 August 2025

**by N Duff BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24<sup>th</sup> September 2025**

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**Appeal Ref: APP/W4223/W/25/3363968**

**Land off Haven Lane, Moorside, Oldham OL4 2QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Andy Roberts of Cube Homes against the decision of Oldham Metropolitan Borough Council.
  - The application Ref is VAR/353273/24.
  - The application sought planning permission for residential development of up to 23 dwellings (C3 use class) without complying with a condition attached to planning permission Ref PA/338917/16, dated 4 December 2017.
  - The condition in dispute is No 17 which states that: Prior to the first occupation of any dwelling, the access and traffic calming arrangements shown on drawing 2044-001C shall be implemented in full.
  - The reason given for the condition as summarised from the appeal decision, is to reduce the speed of traffic, reducing the potential for vehicular conflict.
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### Decision

1. The appeal is dismissed.

### Background and Main Issue

2. Outline planning permission was granted for residential development of up to 23 dwellings in 2017<sup>1</sup>. The site has since had subsequent reserved matters applications approved, and the development was under construction at the time of my site visit. The appellant seeks to remove condition 17 which secured a scheme for access and traffic calming arrangements, as the appellant no longer deems it to be relevant to the development, and considers that it prohibits occupation of the dwellings, which is having significant financial implications, and causing uncertainty around delivery.
3. The original reason for the condition was to reduce the speed of traffic, reducing the potential for vehicular conflict in the interests of the safety of highway users. The Council refused the Section 73 application, citing concerns that the removal of the condition for the implementation of traffic calming would result in vehicular access to the development being affected by nearby road junctions and highway speeds in excess of 20mph. Furthermore, that it would lead to the manoeuvring of vehicles generated by the development within the adjacent highways to the detriment of safety of other highway users.
4. The main issue of this appeal is the effect that removing condition 17 would have upon the safety of highway users.

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<sup>1</sup> Appeal ref: APP/W4223/W/17/3175644 allowed with conditions 4<sup>th</sup> December 2017

## Reasons

5. The appeal site is a site for residential development located off Haven Lane. Haven Lane is a suburban road with residential properties along both sides of varying ages and styles and has accesses to other housing developments along its length. The appeal site is located particularly close to the accesses to two other housing estates. Longden Avenue is located roughly opposite the junction to the appeal site and the nearby Havenside Close is located on the same side of the road to the south. I noted that on my site visit, many vehicles parked along both sides of Haven Lane at various points.
6. The main reason for the removal of Condition 17 is to allow the development to be occupied without the implementation in full of an access and traffic calming scheme<sup>2</sup>. The evidence indicates that a Unilateral Undertaking accompanying the original planning permission required a payment towards the traffic calming works, which the appellant states has been paid to the Council for the Council to use towards a traffic calming scheme. Notwithstanding this payment, the condition requires implementation in full of the traffic calming scheme prior to the occupation of the development.
7. The evidence provided by the appellant includes a Technical Note: Summary of Traffic Data from 2024 (TN) which states that there has been an increase in traffic flow along Haven Lane at peak times since 2016 which was when the initial traffic survey took place. This showed an increase of 29 vehicles per hour at AM peak and 43 vehicles per hour at PM peak. The evidence states that this increase can be attributed to additional housing developments nearby, workers from the appeal site together with economic growth factors over time. The TN demonstrates that the proposed development would be anticipated to add around 12 vehicles per hour to Haven Lane at the site access. The data from the 2016 and 2024 survey show consistency in the speed that vehicles travel along Haven Lane which is in excess of 20mph but within the 30mph speed limit existing in the vicinity of the appeal site access.
8. The information provided includes Crashmap data which demonstrates that no reported incidents involving personal injury have occurred over the past 5 years up to 2022 within 200m of the site access. Nevertheless, having regard to the data provided, it is clear that the volume of traffic using Haven Lane has increased since the initial survey in 2016 which informed the original planning permission. Other traffic calming measures have been installed along Haven Lane, and the Council has stated that due to these being in place, if this area of Haven Lane is left without traffic calming, drivers may speed up along the final length of Haven Lane which will lead to a risk of accidents. I agree that this is plausible given that the road slopes downhill northbound from the existing traffic calming measures, together with an increase in speed limit towards and past the site.
9. It is my understanding that the existing traffic calming plan as set out in Condition 17 was reviewed by the Council's Highways Officer who concluded that it could no longer be delivered due to physical site constraints. Nevertheless, this view did not negate the need for a traffic calming scheme of some sort, due to the concerns previously raised. An alternative scheme was then submitted to the

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<sup>2</sup> drawing 2044-001C

Council as part of a different section 73 application, however was refused following a recommendation of approval, due to loss of on-street car parking.

10. Notwithstanding this, I observed high levels of on-street parking with some vehicles obstructing visibility, therefore, I consider that the intensified use of the site access upon occupation, could be unsafe due to the proximity of nearby junctions. In my view, the increase in traffic using Haven Lane for several reasons in recent years, together with the junction arrangement and abundance of on street parking, could result in an unsafe access without any measures in place, which would lead to parked vehicles obstructing visibility for those using the access and other road users thereby increasing the risk to highway safety.
11. Due to these risks, I consider it necessary to introduce measures to calm traffic along this section of Haven Lane, to mitigate the harm to highway safety. Notwithstanding the other traffic calming measures elsewhere along Haven Lane.
12. As the evidence indicates that vehicle speed and number of vehicles is not excessive along Haven Lane, it is the appellant's view that traffic calming is no longer required. However, there would be an increase in traffic, together with an abundance of junctions within close proximity of each other and high levels of on-street parking. As a consequence, there is insufficient evidence before me to demonstrate that the occupation of the development site without any access or traffic calming measures in place would be safe for road users, including due to vehicles manoeuvring in adjacent highways. Therefore, I cannot conclude that the removal of Condition 17 without any alternative access and traffic calming scheme in place would not cause harm to highway safety.
13. The appellant has stated that the condition is not necessary or enforceable. For the above reasons Condition 17 remains necessary and I consider that the implementation of a scheme prior to occupation of a development is enforceable, as the Council would be able to establish whether the development is occupied and whether an approved traffic calming scheme is in place. Therefore, I am satisfied that the condition meets the tests as set out in the Planning Practice Guidance and the National Planning Policy Framework.
14. Therefore, for the reasons set out above, I conclude that the removal of Condition 17 would have a harmful effect on the safety of highway users. Consequently, the proposal would not accord with Policy 9 of the Oldham Council Joint Core Strategy and Development Management Policies Development Plan Document (JCS) and Policy JP-C8 of the Places for Everyone Joint Development Plan (JDP) insofar as they relate to highway safety, which collectively seek to ensure that the council will protect and improve local environmental quality and amenity by ensuring development does not harm the safety of road users, and that new developments prioritise safe and convenient access to the site.
15. In addition, the appellant has referred to Policy 5 of the JCS in their evidence. However, the proposed removal of Condition 17 would not accord with the policy which seeks to ensure that developments implement appropriate highway safety measures and schemes as part of development proposals.

## **Other Matters**

16. The appellant has stated that the disputed condition is causing delays to the occupation of the development, resulting in significant financial implications and

hindering the delivery of high-quality housing in an area with an identified housing need. The housing development has been approved, and construction is well underway and it is, therefore, delivering housing. The disputed condition is both necessary and reasonable to ensure the development is acceptable in planning terms. Given that the need for traffic calming has been clearly established, the appellant's concerns, although noted, carry limited weight in this case.

17. The appellant has expressed its dissatisfaction with the level of engagement from the highways team at the Council. However, this is a matter between those parties, and it cannot have any bearing on my determination of this appeal.
18. An interested party has commented that the traffic calming measures are not necessary which has been addressed in the main issue above. However, the interested party has also commented that traffic calming damage car suspension. I have no substantive evidence before me to demonstrate this, nevertheless the detailed engineering of traffic calming measures and the effect these have on vehicles sits outside of the scope of this appeal.
19. An interested party has commented on the lack of consultation on the future plans for traffic calming measures, this is a matter for the main parties and sits outside of the scope of this appeal.
20. Having regard to the matters raised concerning the construction process and conduct of site workers, these matters sit outside of the scope of the appeal as this relates to the removal of Condition 17 only.

### **Conclusion**

21. The proposal conflicts with the development plan as a whole and there are no material considerations which indicate that my decision should be made other than in accordance with the development plan in this instance. For the reasons given above the appeal should be dismissed.

*N Duff*

INSPECTOR