



Appeal Decision

Site visit made on 26 November 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2020

Appeal Ref: APP/Z4718/W/19/3228110

Land off Lancaster Lane, Brockholes, Huddersfield

- 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 consent, agreement or approval to details required by condition of a planning permission.
- The appeal is made by Mr J Wood of Petrian Construction Ltd against Kirklees Metropolitan Borough Council.
- The application Ref 2018/92589, is dated 6 August 2018.
- The development proposed is described as: 'Reserved matters application for residential development'.

Decision

1. The appeal is allowed and planning permission is granted for the reserved matters (appearance, landscaping, layout & scale) pursuant to outline planning permission ref: 2016/60/90138/W for the erection of residential development at Land off Lancaster Lane, Brockholes, Huddersfield in accordance with the terms of the application, Ref 2018/92589, dated 6 August 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. For clarity and precision, I have inserted the appellant's name, and in the address 'Brockholes, Huddersfield', both within the banner heading, as they are listed on the appeal form.
3. The appeal is against the failure to give notice within the prescribed period of a decision on Reserved Matters application 2018/92589 (the application). Following the lodging of the appeal, the Council have not suggested any reasons for refusal with regards to the matters under consideration on the application (appearance, landscaping, layout & scale). Although, I note the comments in relation to layout. I have dealt with the appeal on this basis.
4. The Council have raised issues regarding the access arrangements that were approved under the original outline application 2016/60/90138/W (the original application), which are disputed by the appellant. However, regardless of any possible misgivings surrounding the original application, the Council has approved the principle of residential development and its access, and such issues are not a matter for my consideration in this appeal. Any future issues regarding compliance with the approved plans would be a separate matter between the main parties and not within my jurisdiction.
5. The Council have provided copies of Policies LP7, LP21, LP22, LP24, LP28 and LP30 of the Kirklees Local Plan 2019 (LP) with its Questionnaire, I will therefore

not prejudice either party in taking these policies into account in the determination of this appeal.

6. A draft Statement of Common Ground has been supplied by the appellant, but it is not signed by the main parties and therefore it cannot be taken into account.

Main Issue

7. The main issue of this appeal is whether the details provided for appearance, landscaping, layout & scale are appropriate in respect of local and national planning policies.

Reasons

8. The target date for the application was originally 6 November 2018. However, an extension of time was agreed with the appellant until 30 November 2018. The application was heard by the Council's Strategic Planning Committee on 22 November 2018 where it was decided to delegate approval of the application and to issue the decision notice to the Head of Strategic Investment, subject to numerous conditions.
9. The proposed development is for the erection of 9no. detached houses on a parcel of land between Lancaster Lane and New Mill Road. The topography of the site rises steeply towards New Mill Road and currently comprises an overgrown greenfield site. I note in the Council's submission that concerns have been raised in respect of the layout, given the disputed issues surrounding the original application. However, on the limited evidence before me I am not satisfied that the layout proposed on the application before me could not be implemented. Additionally, there is little to substantiate the concerns regarding the ability to erect the number of proposed houses, appropriately within the site.
10. A copy of an appeal Decision¹ has been provided to support the appellant's submission for site close to the site subject of this appeal. However, relatively little detail has been provided regarding the particular planning background to this scheme, and I do not know what evidence was before the Inspector at the time of his Decision. Consequently, I cannot be sure that this Decision is entirely representative of the circumstances in the appeal before me, especially as it is for an outline application with access as the only matter for consideration. In any event all appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.
11. I find that the layout of the proposed development is acceptable and consider that it would positively relate to the existing residential development present on River Holme View and to the houses on New Mill Road. I note the comments in the Officer Report and the absence of any objections from Statutory Consultees, which resulted in Council Members accepting the recommendation of its Officers. I consider this to be a material consideration in the determination of this appeal that I give significant weight, especially in the absence of substantive evidence to the contrary.
12. Due to the site specific circumstances and the character and appearance of the surrounding area, I find little reason to disagree with the conclusion of the

¹ APP/Z4718/W/16/3158591

Council on these matters. The appearance of the houses would be of a high standard, and similar in scale to neighbouring properties, thus complimenting existing residential development in the immediate vicinity of the site.

13. The submitted drawings indicate a suggested approach to landscaping the proposed development, which given the space between the properties and the proposed layout, I find that there are areas of opportunity to enhance the appearance of the proposed development on the site with additional planting through a specific and detailed landscaping scheme. In this instance, I am satisfied that otherwise unacceptable development could be made acceptable through the use of conditions² to secure a specific and more robust landscaping scheme.
14. For the above reasons, the proposed details provided for appearance, landscaping, layout & scale are acceptable in respect of local and national planning policies. The proposal would comply with the design, drainage and ecological aims of LP Policies LP7, LP21, LP22, LP24, LP28, LP30 and the Framework.

Other Matters

15. Local residents, a Ward Councillor and Parish Council have also expressed a wide range of concerns on the application and in some instances again at the appeal stage, including, but not limited to the following; over development, highway safety; living conditions; land ownership; flood risk; drainage; ecology; land stability, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage, including at the Committee meeting. Whilst I can understand the concerns of local residents, Ward Councillor and Parish Council, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on the Reserved Matters subject of this appeal.
16. Additionally, various references have been made towards the access to the proposed development, but for the reasons given at the outset of my Decision, I am unable to take these into consideration in the determination of this appeal. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conditions

17. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 55 of the Framework and the Planning Practice Guidance.
18. For reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. A pre-commencement condition relating to the external materials of the proposed houses is necessary for the character and appearance of the site and its surroundings.
19. Additionally, a condition securing the material for the retaining wall, and a condition for the submission of a hard and soft landscaping scheme are necessary for the character and appearance of the site and its surroundings.

² Paragraph 54 of the National Planning Policy Framework (the Framework).

20. A condition is necessary for the development to be undertaken in accordance with the recommendations in the submitted an updated preliminary ecology report³ (the updated report). I note that the Council has suggested a pre-commencement condition in relation to a badger survey and a condition regarding breeding birds.
21. However, given the recent date of the updated report and its overall content / findings, I am satisfied with its recommendations, especially as it was prepared by a suitably qualified individual. Therefore, I consider that the suggested conditions for badgers and breeding birds would be encapsulated through the development being undertaken in accordance with the updated report. Additionally, other legislation exists that provides further protection to such animals.
22. A pre-commencement condition concerning the submission of a Construction Method Statement would be necessary to protect the health and safety of construction workers, the living conditions of existing nearby occupiers and in the interests of highway safety.

Conclusion

23. Taking all matters into consideration, I conclude that the appeal should succeed.

W Johnson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in complete accordance with the following plans and specifications: Drawing number 2510-03D (Proposed Site Plan); Drawing number 2510-04B (Proposed Site Sections); Drawing number 2510-10B (Proposed Extended Sections); Drawing number 2510-31A (Plot 1 Plans & Elevations); Drawing number 2510-32 (Plot 2 Plans & Elevations); Drawing number 2510-33 (Plot 3 Plans & Elevations); Drawing number 2510-34 (Plot 4 Plans & Elevations); Drawing number 2510-35 (Plot 5 Plans & Elevations); Drawing number 2510-36 (Plots 6 & 8 Plans & Elevations); Drawing number 2510-37 (Plots 7 & 9 Plans & Elevations); Drawing number 2510-LOC (Location Plan); Drawing number 2510-01 (Existing Site Plan) and Drawing number 2510-02 (Existing Site Sections).
- 2) Samples of the external walling and roofing materials for the new houses shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of any of the dwellings commence. The dwellings shall be constructed in accordance with the approved materials and thereafter retained as such.
- 3) The retaining walls within the site shall be faced in the same walling material that is approved for the houses pursuant to condition no.2.

³ Preliminary Ecological Appraisal and Badger Survey undertaken by The Ecology Consultancy dated 12 July 2019

- 4) Notwithstanding the submitted details, a scheme detailing the hard and soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority before any of the dwellings are first occupied. The scheme shall include a planting schedule and phasing of the landscaping and planting. The works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved planting scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species.
- 5) The proposed development hereby approved shall be implemented fully in accordance with the Preliminary Ecological Appraisal and Badger Survey undertaken by The Ecology Consultancy dated 12 July 2019, incorporating all of the recommendations set out in Section 4 - Potential Impacts and Recommendations (4.1 to 4.39).
- 6) A construction management plan for the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority before development commences. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and a scheme to demonstrate how the highway will be kept clear of mud/debris. All construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.

End of Schedule.