



Appeal Decision

Site visit made on 13 June 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Appeal Ref: APP/P1045/D/22/3307072

Cobscroft, Trough Lane, Hulland Village, Derbyshire DE6 3EP

- 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 planning permission.
 - The appeal is made by Mr Peter Sewell against Derbyshire Dales District Council.
 - The application Ref 22/00590/FUL, is dated 19 May 2022.
 - The development proposed is single storey rear and porch extensions, application of insulated render to exterior walls and new access and roadway to field.
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Decision

1. The appeal is allowed, and planning permission is granted for single storey rear and porch extensions, application of insulated render to exterior walls and new access and roadway to field at Cobscroft, Hulland Village, Derbyshire DE6 3EP in accordance with the terms of the application, Ref 22/00590/FUL, dated 19 May 2022, subject to the following 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: 2108-04E; 2108-02H; 2108-1A.
 - 3) Details of the proposed insulated render shall be submitted to and approved in writing by the local planning authority before being applied to the external surfaces of the development hereby approved. The relevant works shall be carried out in accordance with the approved details and retained thereafter.
 - 4) Details of the construction, engineering work, gradient, and landscaping of the approved access shall be submitted to and approved in writing by the local planning authority before work to construct the access is commenced. The submitted details shall include cross-section drawings of the approved access from the point of egressing from the public highway to a point at least 15m into the site or where the gradient is level, whichever is sooner. The relevant works shall be carried out in accordance with the approved details and retained thereafter.

Application for Costs

2. An application for costs was made by Mr Peter Sewell against Derbyshire Dales District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The address of the proposal in the banner heading is taken from the planning application form. I note some confusion regarding the address of the proposal whereby the property name is referenced as Holly Croft in a report to the Council's planning committee, and in comments by various parties. However, the public notice advertising the planning application and the Council's acknowledgement letter clearly reference Cobscroft; representations were submitted to the Council; and interested parties attended the planning committee. At my visit, a name plate clearly identified the property as Cobscroft. I am therefore satisfied that no parties have been prejudiced in this regard.
4. After submission of the planning application, the location plan was amended to include land within the highway verge. The Council advises that this was to ensure that the site included all land necessary to carry out the proposed development; that no further public consultation was carried out on the basis that the additional land was within the highway and that there was no change to the nature, extent or impacts of development proposed. The Council considers that no other parties were prejudiced by the amendment, and I find no reason to disagree.

Background and Main Issues

5. A report regarding the planning application was made to the Council's planning committee 16 August 2022 (the report), at which a decision was made to defer a decision in order to gather further information. This report has informed the main issues in this appeal.
6. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area, including the settings of the Hulland Conservation Area and the grade II listed buildings of Hulland Hall and Glovers Cottage;
 - the living conditions of neighbouring occupiers at Dumbles, with particular regard to privacy; overlooking; and noise and disturbance; and
 - highway safety.

Reasons

Character and appearance

7. The appeal site comprises a bungalow in a large plot within a rural area, where properties generally form ribbon development. The bungalow is well set back from the road, and due to the topography of the area, it occupies an elevated position in relation to the neighbouring detached property of Dumbles.
8. The appeal site is adjacent to the boundary of the Hulland Conservation Area (CA). From the limited information before me, the significance of the CA derives from Hulland Hall as a main house, constructed in the 17th century with later additions, and its ancillary buildings are also listed (grade II) for their group value. Hulland Hall is within the CA on the opposite side of the road to the appeal site, further to the west. Glovers Cottage is adjacent to the appeal site and within the CA, and the listed building entry details a late 18th century house.

9. The setting of a heritage asset is not a fixed concept; it is concerned with the way the heritage asset is experienced. Due to their siting and scale, together with the surrounding topography, the proposed extensions, access and roadway would not appear in any public views from or towards the CA, nor would they adversely impact upon the setting of the listed buildings. The Council's Conservation Officer raises no objection to the proposed development, and I find no reason to disagree. Consequently, I conclude that all of the elements of the proposal would preserve the setting of the CA and the nearby listed buildings.
10. The plot is large enough to accommodate the proposed extensions. Due to their scale, height, width, depth and design, the proposed extensions would not be out of keeping with the existing bungalow. A rendered finish would not be unique to the village, the colour of which could be controlled by a suitable condition.
11. The proposed access and roadway would require a gap to be made within an existing hedgerow, and due to the local topography, some degree of engineering works would be required to provide a safe gradient for the proposed access and roadway. A similar design to the existing access serving the bungalow, which includes a ramp to a length of some 15m, would not harm the rural character of the road. A significant part of the hedgerow to the frontage of the appeal site has been removed following works by Severn Trent Water (STW). The loss of a relatively small part of hedgerow of some 3.6m width would not give rise to significant visual harm.
12. Furthermore, I saw other properties within the village with significantly wider and steeper accesses than that proposed, some with retaining walls to a considerable height. While the details that led to these frontages are not before me, they demonstrate that works to achieve access at gradient can be designed without necessarily resulting in harm to the character and appearance of the area. This matter could be controlled by a suitable condition.
13. I therefore conclude that the proposal would not harm the character and appearance of the area; and it would preserve the setting of the Hlland Conservation Area and the settings of the grade II listed buildings of Hlland Hall and Glovers Cottage. The proposal would accord with Policies S1, S4, PD1, PD2, HC10 of the Derbyshire Dales Local Plan 2017 (LP). Among other things, these policies seek to achieve sustainable development by ensuring that development is of a high-quality design that respects and positively contributes to local character, including that of rural roads; that heritage assets are conserved in a manner appropriate to their significance; that their settings are not adversely impacted; and that extensions are suitable to the plot.

Living conditions of neighbouring occupiers

14. Due to its height, width and depth, the proposed single storey rear extension would project some 3.5m to the side of its host and it would include a window within its easterly elevation. While this window would provide an oblique view towards the rear elevation of Dumbles, the separation distance would be some 37m. Consequently, the proposed rear extension would not result in an unacceptable impact upon the living conditions of neighbouring occupiers, with particular regard to privacy and overlooking; and it would not be necessary nor reasonable to impose a condition for obscure glazing.

15. The proposed access and track would facilitate the use of vehicles to serve the appellant's pastoral field, which is located outside the boundary of the planning application. While the use of such vehicles would result in some degree of noise and disturbance, this would not be out of keeping with the rural character of the area. Any noise and disturbance arising from the construction period of the proposal would be temporary.
16. I therefore conclude that the proposed development would not result in unacceptable harm to the living conditions of neighbouring occupiers at Dumbles, with particular regard to privacy; overlooking; and noise and disturbance. The proposal accords with Policies S1 and PD1 of the LP, which seek to ensure that development is of high quality and does not cause unacceptable effects upon neighbouring amenity.

Highway safety

17. From the evidence before me, the proposed access and roadway would enable the servicing of the appellant's pastoral field; with a width to allow access by agricultural vehicles; and to prevent such vehicles traversing an area of land under which STW mains apparatus lies. There is a further gate to the appellants field which leads into a further field with access to Trough Lane. The appellant advises that this gate is only for the purposes of hedge cutting. In this regard, the report details no objection to the justification for the proposed access and roadway, and I find no reason to disagree.
18. The proposed access and track would facilitate the use of agricultural vehicles, which would not be an uncommon activity within the rural area. There is little substantive evidence before me to demonstrate that the proposed access and roadway could not be safely designed, nor that the agricultural vehicles could not be safely accommodated on the highway network. The local highway authority (LHA) raised no objection to the proposed development, subject to the repositioning of a proposed gully, which is clearly shown on the submitted plans, and I find no reason to disagree.
19. Given the existence of the current access to serve the bungalow, and other works to facilitate access to other properties in the village, it is highly likely that a safe design is feasible. This view takes account of the concerns of interested parties, including but not limited to changes in land levels to neighbouring properties, the potential presence of underground apparatus/services, repositioning of inspection covers, visibility spays and the control of surface water discharge to the highway. Such matters can be controlled by a suitable condition. Thus, it follows that if a safe design was not feasible, these elements of the proposal would ultimately fail.
20. I note the concerns of interested parties that the position of the LHA is founded upon a desk-based assessment. From the evidence before me, the formal response of the LHA as a consultee to the planning application makes no such reference, although I note that their pre-application comments do so.
21. Consequently, I conclude that the proposed development would not result in any harm to highway safety. It would accord with Policies S1, S4, PD1, and HC19 of the LP. Taken together, these policies seek (among other things) to ensure that development is of high-quality design, accessed in a safe and sustainable manner; and located where the highway network can satisfactorily accommodate traffic generated by the development.

Other Matters

22. I note concerns that visibility splays serving the proposed access could encroach onto neighbouring land. However, matters relating to land ownership and rights of access are private matters and thus do not have any bearing of my consideration of the planning merits of the scheme. Interested parties raise concerns about the fear of future development that could be served by the proposed access and roadway. However, any proposal for further development would be a separate planning matter. There is no compelling evidence before me that the hedgerow is ancient, nor that wildlife would be significantly affected by the proposed development.

Conditions

23. I have considered the conditions suggested by the Council and I have made amendments in the interests of clarity, precision and to ensure compliance with Planning Practice Guidance. Conditions specifying the time limit and the approved plans are necessary to provide certainty. I have imposed a condition specifying external materials are to be agreed, in the interests of the character and appearance of the area. A condition to address details of the proposed access and roadway is necessary to ensure highway safety, and in the interest of the character and appearance of the area.

Conclusion

24. The proposed development is in accordance with the development plan, read as a whole. There are no other material considerations of sufficient weight to warrant a decision otherwise in accordance with it. For the reasons given I conclude that the appeal should succeed.

J Moore

INSPECTOR



Costs Decision

Site visit made on 13 June 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Costs application in relation to Appeal Ref: APP/P1045/D/22/3307072 Cobscroft, Trough Lane, Hulland Village, Derbyshire DE6 3EP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Peter Sewell for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for single storey rear and porch extensions, application of insulated render to exterior walls and new access and roadway to field.
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Decision

1. The application for an award of costs is refused in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In essence, the applicant is aggrieved following the deferral of the application by the Council's planning committee (the committee), in light of a recommendation to approve the application and the position of the local highway authority (LHA). Furthermore, following an email notifying the applicant of the decision to defer with reasons on 17 August 2022, the applicant claims that no further communications were received from the Council, to the extent that the applicant chose to lodge an appeal 15 September 2022.
4. From the evidence before me, the planning application was validated 19 May 2022. The LHA made pre-application comments 20 May 2002, in light of which the applicant made an amendment to the planning application, after it had been submitted and validated. Formal comments were made by the LHA 26 May 2022. The LHA made no objection in both its informal and formal comments. The time period for determination was extended twice with the applicant's agreement to 11 August 2022 and latterly 19 August 2022. The committee considered the planning application 16 August 2022.
5. The applicant advises that an email 17 August 2022 detailed the reason for the deferral in that the Council required additional information regarding the construction of the proposed access in the interests of highway safety and in accordance with policies S4 and HC19 of the Derbyshire Dales Local Plan. The

- applicant suggests that Policy HC19 is not referenced in the report to the planning committee (the report), and its relevance is not clear.
6. While I have not been provided with copies of all of the relevant communications before me, including the email of 17 August 2022, the facts above are not in dispute.
 7. While the minutes of the committee confirm a deferral in order to gather further details of the planned construction and to allow for further investigation of the planned access to be undertaken by the LHA, they do not elaborate as to the concerns which led to this deferral. However, it is clear that members of the committee took this decision after they had visited the site, listened to speakers (including the applicant), and debated the merits of the case.
 8. The report clearly sets out the formal comments of the LHA. Section 3.0 clearly references Policies S4 and HC19 in terms of the relevant policies for decision making. While Policy HC19 is not explicitly referenced in the officer appraisal section of the report, the matter of safe access is a common consideration in each of the policies, and this is clearly addressed in the report. Members of a planning committee and officers are generally familiar with the content of policy, and it is therefore not necessary to make detailed comments in relation to all relevant policies within reports.
 9. The fact that the LHA raised no objection does not suggest that there were no other concerns about the proposed access and roadway. In this regard, the report recommends a condition to control the design of the proposed access and roadway in the interests of wider matters pertaining to highway safety.
 10. Members of a committee are not bound by an officer recommendation, and they are entitled to take a different view from their officers. In this case, the appeal site is in proximity to a conservation area and listed buildings. In light of the statutory duty for decision makers to consider heritage assets and concerns about the proposed access and roadway, members of the committee were not unreasonable in their decision to defer and request further information. It would also have been open to the committee to refuse the planning application, but they did not do so.
 11. Consequently, I find that the Council's behaviour is not unreasonable insofar as it relates to substantive matters.
 12. My attention is drawn to the lack of communication from the council after 17 August 2022. The Council's response to the application for costs is silent on this particular matter.
 13. Paragraph 033 of the PPG states that "*all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.*"
 14. If the Council had requested a further period of time in which to determine the planning application, or indeed advised when the matter would be further considered by the committee, the applicant may have chosen not to lodge the appeal. If the planning application was subsequently approved, it is likely that the applicant would not have chosen to appeal. However, if the planning

application was subsequently refused, the applicant may have considered an appeal against the refusal of planning permission, in which case such an appeal would not have resulted in unnecessary or wasted expense.

15. However, there is no evidence before me that the applicant sought to contact the Council after 17 August 2022. Had the applicant done so, the appeal may not have been lodged.
16. I do not therefore consider in this instance that the Council's actions have resulted in unnecessary or wasted expense on the part of the applicant.
17. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Moore

INSPECTOR