High Peak Borough Council

working for our community

HPK/2013/0390

17/07/2013

LAND EAST OF 41 WHITLE ROAD NEW MILLS

PROPOSED VARIATION OF CONDITION 5 - ACCESS ROUTE, TO ALLOW TEMPORARY ACCESS ROUTE TO BE ADJACENT TO PERMANENT ACCESS (FULL - MINOR)

MR SIMON HOWARTH

HPBC INTEREST: The application was called in by Councillor R Atkins on the basis that the issue of flooding needs to be considered.

SITE LAYOUT / DESCRIPTION:
The site was a vacant Greenfield plot within the built up area boundary of New Mills and is now occupied by the applicant for the proposed construction of the dwelling approved under HPK/2013/0068. Whitle Road is a non-classified highway and an opening has already been formed in the existing stone boundary wall fronting the highway to allow access into the site. This area is secured and currently fenced off as a development site. The site had previously been cleared of vegetation and trees following the original consent in 2012. To the rear of the site is a culvert which runs directly through to the adjacent properties.

THE APPLICATION:
This application is for a variation of condition 5, a highway condition following the grant of permission under planning application HPK/2013/0068 in relation to the construction of a new access prior to any operations being carried out. Condition 5 on HPK/2013/0390 states the following,

"Before any operations are commenced (excluding the Condition 4 above), a new access shall be created in accordance with the application drawings, laid out and constructed and provided with visibility sightlines of 2.4m x 33m, the area in advance of the sightlines being kept clear, in perpetuity, of any planting above 600mm or structure excess of 1m, measured above the adjacent carriageway channel. Pedestrian intervisibility splays of 2m x 2m x 45° shall also be provided with the area in advance being maintained free of all obstructions."

The applicant has advised that the original condition can not be physically implemented due to the positioning of the lower ground section of the house and the distance in fronting Whitle Road. The application follows detailed discussions with the applicant and Highway Authority to overcome this issue and allow development to proceed without a breach of condition on the original planning permission. It was agreed that a variation of condition was the best way to proceed in order to ensure there was no long term damage to the highway and in the interests of highway safety.

P O Box 136 Buxton Derbyshire SK17 1AQ
Phone 0845 129 77 77 or 01298 28400 Fax 01298 27639 Minicom 0845 129 48 76
E-mail customer-services@highpeak.gov.uk Website www.highpeak.gov.uk
Mobile Text No. 078 0000 2262

recycled

The variation of the condition will also allow a temporary access to be sited adjoining the development site within land owned and controlled by the application. The temporary access will have visibility splays of 2.4m x 30m and 2.4m x 60m. The original access for the proposed dwelling will then be constructed and brought into use prior to its occupation.

PLANNING HISTORY:

- HPK/2011/0211 – Outline permission for a detached house. The application was withdrawn.
- HPK/2011/0656 – Resubmission of HPK/2011/0211 for a detached house and garage. A full application was approved 13/01/2012.
- HPK/2013/0068 – Proposed detached house and garage was approved 10/04/2013.

PUBLICITY EXPIRY DATES:

Site Notice – 22/08/2013

Neighbours – 15/08/2013

Newspaper – N/A

REPRESENTATIONS / NEIGHBOURS:
Four neighbour objections have been received and particular reference is made to the original approved application for the dwelling and activities on the site. Other issues relate specifically to the access and include,

- Highway safety
- Road damage
- Loss of Parking
- Noise / disturbance

CONSULTATIONS:

Derbyshire County Council Highways

The Highway Authority has no objections in principle subject to the temporary access being closed prior to occupation. Any damage to the public highway is made right and the illustrated emerging visibility being achieved. Recommend the conditions for the consent and appended notes for the applicants in the interests of highway safety.

RELEVANT POLICIES:

High Peak Local Plan Saved Policies

GD5 - Amenity
TR5 - Access, parking and design

Paragraph 17: Core planning principles;
Section 4: Promoting sustainable transport;
Section 7: Requiring good design;
Decision-taking;

MAIN ISSUES AND COMMENT:

Principal of Variation

1. This application seeks a variation of the condition 5 and is allowed under Section 73 of the Town and Country Planning Act 1990. The procedure allows an application to be made to modify, relax or remove conditions and makes it clear that in considering an application it should only relate to the question of the conditions and not the principle of the development which has already been approved.

2. The applicant has advised that the original condition can not be implemented prior to any other operations. Officers agree that it would be difficult to construct the dwelling if this was the only construction access point at the site.

3. The construction of a new access does not normally require planning permission where it is sited on a non classified highway. This is allowed under Town and Country (General Permitted Development) Order 1995 (as amended) Schedule 2, Part 2, Class B allows the following,

"The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule"

4. On this basis the temporary access does not necessarily require consent but given the condition, the applicant is seeking to formally regularise matters. No new conditions can be imposed that are not relevant to the variation and the determination of this application does not effect the original planning permission for the residential development. Other conditions imposed on that permission will still apply.

Highway Safety

5. The Highway Authority have advised that there are no objections to creating a temporary access and recommend suitable replacement conditions in connection with the new and temporary access. Therefore there are no highway safety concerns and the conditions will allow the temporary access to be closed and any damage to the public highway being put right prior to the occupation of the dwelling.

6. There are also no existing parking restrictions on Whitle Road and parking does not appear to be at a premium along here given there is off street parking along Whitle Road. It is unlikely that there would be any other congestion of construction vehicles on the highway through the modification of the condition and temporary access. As part of approval HPK/2013/0068 a plan has been submitted for the discharge of conditions

P O Box 136 Buxton Derbyshire SK17 1AQ
Phone 0845 129 77 77 or 01298 28400 Fax 01298 27639 Minicom 0845 129 48 76
E-mail customer-services@highpeak.gov.uk Website www.highpeak.gov.uk
Mobile Text No. 078 0000 2262

recycled

indicating the site compound areas and vehicle turning / parking areas are within the site areas.

Flooding

7. An objection has been received in relation to the access causing potential flooding to the adjacent property. This would be unlikely given the distance to the property of where the access is sited. The road itself will be supported by temporary gabions which are currently being addressed by the Technical Engineer at the Highway Authority as part of the original consent and as they maintain the highways.

8. All matters of flooding and works to watercourses at the site were dealt with as part of application HPK/2013/0068 following consultations with Derbyshire County Council who are the lead flood Authority (LLFA) for High Peak and are responsible for flooding and granting consent for alterations to watercourses including culverts. This process is separate to the planning process and any consents / enforcements or indications of flooding have to be dealt with by them. A Land Drainage Consent has been granted by Derbyshire County Council on 22/07/13.

RECOMMENDATION: planning permission be granted for the variation of the condition and subject to the following conditions:

CONDITIONS

1) Before any other operations are commenced (excluding demolition/ site clearance) a temporary vehicular access for construction purposes shall be formed to Whitle Road in accordance with the submitted drawings, laid out with the fronting footway receiving suitable protection (e.g. steel plate) and provided with emerging visibility splays of 2.4m x 60m and 2.4m x 30m in the eastern and western directions respectively, the area in advance of the sightlines being cleared of all obstructions greater than 1m in height (0.6m in the case of vegetation), maintained in accordance with the approved scheme throughout the contract period free from any impediment to its designated use.

2) The premises, the subject of the application site, shall not be occupied until the permanent vehicular access to the site has been constructed and the temporary construction access has been permanently closed with a physical barrier with any damage caused to the public highway being put right in a manner to be submitted and agreed in writing with the Local Planning Authority.

3) This permission relates to the variation of condition 5 attached to permission HPK/2013/0068 approved 10/04/2013. Other than the variation(s) approved here, the development shall be carried out in total accordance with the approved plans and conditions attached to the original permission.

SITE PLAN

High Peak Borough Council

working for our community



P O Box 136 Buxton Derbyshire SK17 1AQ
Phone 0845 129 77 77 or 01298 28400 Fax 01298 27639 Minicom 0845 129 48 76
E-mail customer-services@highpeak.gov.uk Website www.highpeak.gov.uk
Mobile Text No. 078 0000 2262

recycled