The Planning Inspectorate

Appeal Decision

Site visit made on 11 August 2014

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2014

Appeal Ref: APP/H1033/A/14/2215445
Land to the rear of Hallsteads, Dove Holes, Derbyshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous outline planning permission was granted.
- The appeal is by Jonathan Critchlow (Jalo Enterprises Co Ltd) against the decision of High Peak Borough Council.
- The application ref. HPK/2013/0625, dated 6 November 2013, was refused by notice dated 17 February 2014.
- The application sought outline planning permission for residential development without complying with a condition attached to planning permission ref. HPK/2013/0319, dated 10 September 2013.
- The condition in dispute is no. 18 which states that:
  'The maximum number of units accommodated on the site shall not exceed 58'.
- The reason given for the condition is:
  'For the avoidance of doubt and in order to define the position'.

'This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 15 September 2014'.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development on Land to the rear of Hallsteads, Dove Holes, Derbyshire in accordance with application ref. HPK/2013/0625, dated 6 November 2013 and the site plan no. L558/10rA submitted therewith, without compliance with condition number 18 previously imposed on planning permission ref. HPK/2013/0319, dated 10 September 2013, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:

   i. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this decision, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

   ii. The maximum number of dwelling units accommodated on the site shall not exceed 120.

   iii. As part of the reserved matters submission a Transport Assessment is to be submitted to the Local Planning Authority, making use of up-to-date actual traffic counts.

Preliminary matters

2. Planning permission ref. HPK/2013/0319 was an outline permission for residential development with all matters reserved for future determination. The application was accompanied by an indicative layout for 58 dwellings, and Condition 18 limited the permission to no more than that number. The application before me originally included an indicative layout showing how 120 dwellings might be built on the appeal site, but this was withdrawn before the Council made their determination. I have therefore not considered the indicative layout for the purposes of this decision.

3. The Council have not defended their decision in respect of their first reason for refusal, which concerns harm to residential amenity of adjoining occupiers, and harm to the character and distinctiveness of the immediate area and surrounding countryside. I have not considered these matters further.

Main Issue

4. From my inspection of the appeal site and its surroundings, and from the written representations made I consider the main issue in this appeal to be the effect of the proposal on highway safety for users of roads in the vicinity of the appeal site.

Reasons

5. The appeal site is a piece of rough grassland of about 3.22 hectares lying to the rear of a ribbon of housing development on the eastern side of Hallsteads – part of the A6 trunk road connecting Buxton and Glossop. The access to the site is through The Meadows - a relatively recent housing development – and Walker Brow, a short cul-de-sac forming part of that development. The site slopes down towards the north, and beyond the eastern boundary the level drops dramatically to a former quarry and tramway cutting.

6. The Meadows is a development of 66 dwellings built principally around a loop of road with a single vehicular access from Hallsteads. The Council carried out an automated traffic count in April 2014. The total number of trips in both directions for a 12-hour day, averaged over 5 days was 382. This compares with the figure of 279 estimated in the appellant's Transport Assessment.

7. On the basis of the Council's data, extrapolating for the additional maximum of 120 new dwellings proposed, the total trip generation for a 12-hour day would be 1,077. This compares with the figure of 760 put forward for the appellant.

8. Paragraph 32 of the National Planning Policy Framework (NPPF) includes the advice that improvements can be undertaken within the transport network that cost effectively limit the significant impacts of development, and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

9. The Summary and Conclusions to the appellant's Transport Assessment submitted with the original application states that the proposal would comprise construction of approximately 58 dwellings, but that in order to ensure a comprehensive assessment, a development of up to 120 dwellings has been used for the assessment work. However, there is a degree of ambiguity as to whether the appellant has worked on the basis of the existing Meadows development plus 58 new dwellings – a total of 124 – or on the basis of the

Meadows development plus 120 new dwellings – a total of 186 dwellings. This could well account for the discrepancies between the appellant's predicted traffic movements and the Council's.

10. There may be some element of underestimation in the appellant's assessment. However, it appears to me that it also demonstrates a significant degree of additional capacity for vehicle movements at the junction, and that the limitation to 58 dwellings is probably over-restrictive. I note that the Highway Authority consider the traffic generated by 120 new dwellings would be unlikely to result in severe harm to operation of the highway. In that regard the Government's Planning Practice Guidance includes the advice that Transport Assessments can be used to establish whether residual transport impacts of a proposed development are likely to be 'severe', which may be a reason for refusal in accordance with the National Planning Policy Framework[1]. Given that context, and considering the relatively good accident record for this part of Hallsteads, I do not consider outline permission should be refused on transport grounds.

11. It is possible that the appeal site may not be able to accommodate as many as 120 dwellings, but this is a question that would come to be considered in terms of such matters as dwelling sizes and separation, open space provision, pedestrian and vehicle circulation, parking, and compatibility with the character of the surrounding area, rather than solely in transport terms. Furthermore, given the ambiguity concerning the number of dwellings used as the basis for the original Transport Assessment, and that account should be taken of the houses on the Hallsteads frontage using the same access, I consider it would be necessary to carry out a further Traffic Assessment at the detailed approval stage. I consider this matter could be ensured by imposition of suitable condition.

12. The Council have put forward swept path analyses showing that there could be conflicts between vehicles turning into The Meadows from Hallsteads and vehicles waiting on The Meadows to turn out. The appellant accepts that this junction is slightly restricted, but argues that the question of any requirement for improvements at this junction have never been raised by the Highway Authority. Nevertheless, I have already come to the view that it would be necessary for a new Transport Assessment to be submitted as part of any detailed scheme put forward, and consider that matters of possible junction improvement should be addressed at that stage.

13. I conclude on the main issue that subject to conditions the proposal would not cause significant harm in terms of highway safety for users of roads in the vicinity of the appeal site. The proposal would accord with the aims of the High Peak Saved Local Plan Policies GD5 and TR5, insofar as they relate to traffic safety and generation, and safe and appropriate provision of access to the site.

14. The appellant has put forward a completed Section 106 Unilateral Undertaking dated 5 September 2014 that would ensure the provision of affordable housing, and financial contributions towards open space provision and play facilities in the Dove Holes area. I am satisfied that this Undertaking satisfies the statutory tests of being necessary to make the development acceptable in planning terms; being directly related to the development; and fairly and reasonably related in scale and kind to the development.

[1] At Planning Policy Guidance ref. ID 42-005-20140306, and National Planning Policy Framework paragraph 32.

15. Since this will be a new planning permission I shall impose a new condition that will relate the time limits for commencement of development to the date of this decision.

Conclusions

16. For the reasons given above and having regard to all other matters raised, I consider the appeal should succeed, and outline planning permission granted subject to conditions.

Stephen Brown

INSPECTOR