The Planning Inspectorate

Appeal Decision

Site visit made on 22 November 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/P4225/W/21/3275327
Land adjacent 19 Centre Vale, Todmorden Road, Littleborough OL15 9EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Tom Ramsden against the decision of Rochdale Metropolitan Borough Council.
- The application Ref 20/01476/FUL, dated 1 December 2020, was refused by notice dated 1 April 2021.
- The development proposed was described as: resubmission of retrospective ground works, removal of earth and minor shrubs, installation of site entrance gate, new timber fencing and minor raising of ground level on site. Proposed creation of dropped kerb off Todmorden Road.

Decision

1. The appeal is allowed and planning permission is granted for the proposed vehicular access and entrance gates, timber fencing and engineering operation comprising raising of ground levels at land adjacent 19 Centre Vale, Todmorden Road, Littleborough OL15 9EL in accordance with the terms of the application Ref 20/01476/FUL, dated 1 December 2020, subject to the attached schedule of conditions.

Preliminary Matters

2. The site address in the heading above, and in the formal decision, has been taken from the Council's decision notice and the appeal form as it is more precise than that given on the application form.

3. The development for which planning permission is sought was described on the application form as "resubmission of retrospective ground works, removal of earth and minor shrubs, installation of site entrance gate, new timber fencing and minor raising of ground level on site. Proposed creation of dropped kerb off Todmorden Road". The Council's decision notice and the appeal form described the development as "proposed vehicular access and entrance gates, timber fencing and engineering operation comprising raising of ground levels (Part Retrospective) - Resubmission 19/01046/FUL". In the formal decision I have used this description, with the omission of "(Part Retrospective) - Resubmission 19/01046/FUL", as it is a more precise and accurate reflection of the scheme for which permission is sought and the word "retrospective" does not amount to an act of development.

4. I noted on my site visit that work had commenced but had not been completed. For the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me.

Main Issue

5. The main issue is the effect of the development upon the character and appearance of the surrounding area and the Greenspace Corridor.

Reasons

6. The appeal site relates to a recently created vehicular access onto Todmorden Road and an adjacent strip of land that adjoins an open area. The site is within a Greenspace Corridor. I have been provided images of the site prior to work commencing. The site has been cleared of trees and vegetation and the vegetated part of the site was located towards the road where the access has been created.

7. The appellant sets out that the access needs to be of a certain size, to facilitate the maintenance and personal leisure use of the site, due to the turning requirements for a large tractor and trailer to safely access the site. There is no substantive evidence to demonstrate that this is not the case.

8. Prior to the works commencing, the site provided visual relief from urban development and was verdant in character. The immediate area is characterised by primarily residential dwellings which vary in design and scale. The wider surrounding area contains a number of large access points primarily associated with commercial buildings.

9. The proposed scheme, including the access, boundary treatment and change in levels, undoubtedly would alter the character and appearance of the site. Nonetheless, the site is not conspicuous from the surrounding area due to the adjacent group of trees and 25 Centre Vale which screen the site from wider distance views. Furthermore, the gates are set back from the pavement and the raised ground levels would be well screened.

10. The verdant character of the area would be maintained, when viewed from Todmorden Road, as there are views of the adjacent open area, mature trees and hills beyond the site. In addition, the scheme includes landscaping adjacent to the site entrance and a landscaping scheme could be conditioned. The scale and appearance of the proposed development would not be out of character, overly intrusive or overly engineered taking into account the context of the area including large access points and restricted views of the site.

11. The scheme, including the boundary treatment, would to a degree restrict views in and out of the Greenspace Corridor. Nonetheless, the site would still provide visual relief from urban development, given that the proposed development does not include any buildings, and opens views to the wider landscape. Thus, the development would not have an unacceptable impact on the amenity value of the Greenspace Corridor.

12. For these reasons, the proposed development would not have an unacceptable effect on the character and appearance of the surrounding area and the Greenspace Corridor. Consequently, it would comply with Policies P1, P2, P3 and DM1 of the Rochdale Adopted Core Strategy (2016) and saved Policy G/8 (A) of the Rochdale Unitary Development Plan (2006). These policies seek,

amongst other matters, to ensure developments adhere to high standards of design through taking the opportunity to enhance the quality of the area and to protect Greenspace Corridors. It would also not conflict with the National Planning Policy Framework which seeks to ensure new development is visually attractive and sympathetic to local character.

Other Matters

13. It has been drawn to my attention that works have been carried out on land which is outside of the appellant's ownership and does not form part of the application. As set out by the Council, development which does not form part of the application should be passed on to the Council's enforcement team and any works carried out on land not owned by the appellant would be a matter for the Council.

14. Matters relating to highway safety and flooding can be controlled by planning conditions and I see no reason to reach a different view to the Council in those respects.

15. The Greater Manchester Ecology Unit's (GMEU) previous consultation response, which remains relevant to this scheme, stated that there is no evidence that the works have unduly affected any features of ecological value within the site, including protected species and the site would no longer effectively function as part of the Greenspace Corridor in providing wildlife habitat. Subject to a landscaping scheme planning condition, the scheme is acceptable in this respect.

16. An objection comment associated with the previous application related to Japanese Knotweed. The GMEU did not raise any concerns relating to this matter and there is no substantive evidence to demonstrate that the site contains or did contain Japanese Knotweed. Comments also refer to a right of way. Based on the information before me, the scheme would not negatively impact a right of way.

17. There are also concerns that the works are to facilitate later development. However, each development proposal must be determined on its own merits. Whilst I have found this scheme to be acceptable it does not follow that further schemes would be permitted.

Conditions

18. I have assessed the Council's suggested conditions in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity and precision.

19. It is necessary to attach a condition specifying the approved plans as this provides certainty. In the interest of highway safety, a condition relating to the highway access is necessary.

20. To ensure that the development does not result in increased flood risk, a condition requiring a compensatory flood storage, as outlined in the Flood Risk Assessment, is necessary.

21. In the interest of visual amenity and biodiversity, a condition relating to a landscaping scheme is necessary.

22. I have amended suggested conditions 2, 3 and 4 to ensure that the development can be enforced against if the requirements are not met. The appellant and the Council were given the opportunity to comment on the altered wording of these conditions. The appellant confirmed that they accepted these conditions, and the Council had no comments. There is a strict timetable for compliance because permission is being granted partially retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the highway access, compensatory flood storage and landscaping scheme before the development takes place.

Conclusion

23. For the reasons given above the appeal is allowed subject to the attached conditions.

L M Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 19.1973.4F (Proposed Site Plan) and 19.1973.5D (Proposed Road Details).

2) Unless the approved highway access as shown on plan 19.1973.5D (Proposed Road Details) is implemented (including surfacing, visibility splays and boundary treatments) within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

   Upon implementation of the approved highway access specified in this condition, that access shall thereafter be retained.

   In the event of a legal challenge to this decision, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

3) Unless the compensatory flood storage outlined in the conclusion and recommendations of the Flood Risk Assessment produced by Waterco (file ref: 13292-FRA-01, dated October 2020) is implemented within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

   Upon implementation of the compensatory flood storage specified in this condition, it shall thereafter be retained.

   In the event of a legal challenge to this decision, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

4) Unless within 6 months of the date of this decision a landscaping scheme, that provides replacement tree planting at a minimum ratio of 2 for 1 to replace those trees lost as a result of the development and native woody vegetation, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the next planting season following the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

   For the avoidance of doubt, the landscaping scheme shall include the size, species and numbers/ densities of the replacement shrubs/ trees and elements to compensate for the loss of trees, shrubs and to provide biodiversity enhancement.

   If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be

removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be retained.

Any trees and shrubs planted or retained in accordance with this condition which die, are removed or become seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.