

GLEESON HOMES AND REGENERATION

**REPORT ON CRUSHED
AGGREGATE DRIVEWAYS**

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CONTENTS

1.0	INTRODUCTION AND BACKGROUND INFORMATION	1
2.0	SPECIFICATION OF CRUSHED AGGREGATE DRIVEWAYS	2
3.0	ISSUES COMMONLY RAISED BY AUTHORITIES IN OBJECTING TO THE USE OF CRUSHED AGGREGATE	4
4.0	SUMMARY AND CONCLUSIONS.....	11

LIST OF APPENDICES

Appendix 1	Decision Letters
Appendix 2	Drive Specification
Appendix 3	Letter from Dr Alan Woodhead – Pilkington Technology
Appendix 4	Advice to Residents

1.0 INTRODUCTION AND BACKGROUND INFORMATION

- 1.1 This report has been prepared on behalf of Gleeson Homes and Regeneration and considers the use of crushed aggregate as a surfacing material for private driveways and parking areas in residential development.
- 1.2 All Gleeson Homes and Regeneration developments focus solely on building low cost homes for people on low incomes in areas of industrial decline and social and economic deprivation. The company builds a range of affordable homes for sale to people who would otherwise be unable to afford a new home, thereby helping them onto the property ladder. Gleeson funds all of its own projects, allowing regeneration to take place without reliance on Government investment.
- 1.3 Part of the low unit cost is achieved by using crushed aggregate to surface private driveways, parking spaces and shared surfaces within housing developments, however, the use of such materials has resulted in objections by some Local Planning and Highway Authorities. Indeed the objections have formed the basis of at least twelve planning Appeals and copies of the relevant Inspectors decision letters are at **Appendix 1**.
- 1.4 This report considers these concerns and concludes that crushed aggregate is an appropriate form of surfacing in residential development.
- 1.4 Following this introduction, the remainder of this report will be in sections as follows:
- Section 2 of the report provides details of the specification of crushed aggregate driveways used by Gleeson Homes and Regeneration.
- Section 3 considers and responds to the issues commonly raised by authorities in opposing the use of crushed aggregate.
- Section 4 provides details of completed sites that include crushed aggregate as a driveway surfacing.
- Section 5 summarises the report and concludes that the use of crushed aggregate as a driveway surfacing is appropriate in residential development.

2.0 SPECIFICATION OF CRUSHED AGGREGATE DRIVEWAYS

2.1 Gleeson Homes and Regeneration typically builds some 750 houses per annum and in all but a handful of cases, where drives have been exceptionally steep, crushed aggregate or gravel has been used to surface private driveways, parking spaces and shared surfaces. The Company has therefore gained a vast wealth of experience in the use of such materials and has developed a well tried and tested construction specification, the details of which are contained in **Appendix 2**. Gleeson Homes and Regeneration have a common sense approach to the use of crushed aggregate and where they consider that drives fall steeply towards the Highway, the apron length is increased to 2.5m with a cut off drain installed behind the back edge of footpath. Furthermore if Gleeson consider the drive to be too steep for this material to be used successfully they have occasionally used tarmac or paving slabs for the drive surface.

2.2 As noted in the specification, the surfacing material comprises 15/20mm aggregate to BS EN 13242 which is rolled and well compacted to a maximum thickness of 38mm. This is laid, on a 250mm thick Type 1 sub-base that has been lightly dusted with cement. This specification ensures that the driveways generally comprise no more than two layers of stone, that the cement dust binds the lower layer into the sub-base and that the top layer is locked into the bottom layer. The specification therefore ensures that, when properly installed, the aggregate surfacing provides a durable surface.

2.3 It is accepted that on occasion small amounts of crushed aggregate can be dislodged from the surfacing through general wear and tear and this can be transported onto adjacent areas, including the publicly adopted footway. To overcome this, the driveway specification also includes a 1.5m wide dense bitumen apron that is laid to the back of public highway.

2.4 NHBC Standards

Section 9.2 of NHBC Standards lays down guidance on meeting the Technical Requirements and recommendations for private drives. This section is divided into requirements for design, materials and site works. Gleeson Homes and

Regeneration comply with these requirements.

- 2.5 Local Highway Authority Highways Inspectors will be invited to observe construction of the driveways to confirm that they have been constructed to Gleesons specification.

3.0 ISSUES COMMONLY RAISED BY AUTHORITIES IN OBJECTING TO THE USE OF CRUSHED AGGREGATE

3.1 The following issues were all raised and discussed at the various Planning Appeals noted at **Appendix 1**.

3.2 Highway Safety

3.2.1 Chippings being discharged onto the public highway resulting in potential safety problems on the public highway

3.2.1.1 This concern applies to drivers and pedestrians (with particular emphasis on the elderly, infirm or young – i.e. those who are mobility impaired by way of disability or age). This group includes elderly pedestrians, those using wheelchairs or crutches, children, mothers with prams/pushchairs and young children either on foot or on cycle.

3.2.1.2 Consistent with advice contained in Manual for Streets, the layouts of modern estate roads are designed to ensure that vehicle speeds are universally less than 20mph. This is certainly true of all Gleeson Homes and Regeneration sites, irrespective of overall size. It is accepted that on occasion, small amounts of crushed aggregate may be deposited onto a drive apron, and very occasionally, onto the adjacent publicly maintained footway or shared surface roadway. However, the only vehicles that are likely to drive over these small areas of deposited crushed aggregate are those entering and leaving private driveways where vehicle speeds will be in the order of 5mph. It is therefore inconceivable that the small amounts of crushed aggregate that may on very rare occasions be deposited onto the public highway, will result in drivers of vehicles losing control.

3.2.1.3 Similarly, it is also inconceivable that small amounts of gravel on a footway will result in safety problems for pedestrians, cyclists and those using wheelchairs or crutches.

3.2.1.4 At the majority of the Appeals, the Inspectors concluded that the use of crushed aggregate would not cause a risk to vehicles or injury to pedestrians even if gravel did find its way onto the public highway.

3.2.1.5 The same conclusion must be equally true for all Gleeson sites where, unlike all of the Appeal sites, the current Gleeson specification includes a dense bitumen apron laid to the back of public highway, which as noted above, will significantly reduce the likelihood of gravel being deposited onto the public highway.

3.2.2 Vehicles being driven over the loose chippings could result in some of the material hitting the windscreens of following vehicles.

3.3.2.1 **Appendix 3** is a copy of a letter from Dr Alan Woodhead – Pilkington Technology, concerning the likelihood of damage to car windshields from stones. Their letter encloses a chart showing how car windshields behave with respect to the impact of granite chippings which are used to dress road surfaces. As noted in the letter, a high proportion of damage to windshields occur on the edge of urban areas where cars are travelling at 30-40mph and the kerb sides are not edged with kerb stones or the road has been newly dressed.

3.3.2.2 Typically local councils impose a 20mph speed limit when road surfaces are being dressed, which means that the chippings will not be projected high or fast enough to impact on other cars windshields. As noted above, speeds within new residential estates are universally below 15mph and therefore on the advice of Pilkington Technology, and having regard to the Local Highway Authority practice of imposing temporary 20mph speed limits following surface dressing works, it must be concluded that windscreen damage will not occur as a result of gravel being deposited from the private driveways onto the public highway.

3.3.2.3 This particular issue was raised at the appeal at Pontefract and Station Road, Bolsover Inquiries where in both cases the Inspectors concluded that the risk of damage to car windscreens

or bodywork would be minimal.

3.2.3 At steep drives and in inclement weather i.e. snow, vehicles may not have sufficient grip to gain access, therefore, the driver would park on street and cause a hazard to pedestrians, particularly on a roadway that is shared by both vehicles and pedestrians

3.2.3.1 The surface texture of a crushed aggregate drive is coarser than that of a black-top, flagged, block-paved or concrete driveway from which it can be concluded that its skid resistance will be the same if not greater. There is therefore no reason why drivers would be more likely to park their vehicles on the carriageway in icy weather just because the driveways have crushed aggregate surfacing.

3.2.3.2 At a shared surface roadway, which is designed for dual use, a pedestrian would be aware of the potential presence of both moving and stationary vehicles. It is therefore difficult to see how a vehicle parked on a shared surface carriageway could cause a hazard to pedestrians.

3.3 Visual Amenity

3.3.1 This issue was discussed at six of the Appeal Hearings and although most were upheld, the visual amenity of each development should be considered on a site by site basis.

3.4 Accessibility for disabled users including wheelchair users and people using crutches, the infirm, the elderly, cyclists and people with pushchairs

3.4.1 This issue concerns the ability of people to access their properties from the public highway across a privately maintained aggregate surfaced driveway. By definition, the driveway does not form part of the adopted highway.

3.4.2 This matter is covered by Section 6 of Part M of the Building Regulations - Means of Access to and into the Dwelling where it states:

“The objective is to make reasonable provision within the boundary of the plot of the dwelling for a disabled person to

approach and gain access into the dwelling from the point of alighting from a vehicle which may be within or outside the plot. In most circumstances it should be possible to provide a level or ramped approach.

The presence of a driveway might provide a better opportunity for creating a level or ramped approach, particularly if it also provides the sole means of approach for visitors who are disabled. The driveway itself could be designed as the approach from the pavement or footpath or may be the place where visitors park.

It is important that the surface of an approach available to a wheelchair user should be firm enough to support the weight of the user and his or her wheelchair and smooth enough to permit easy manoeuvre. It should also take account of the needs of stick and crutch users. Loose laid materials, such as gravel and shingle, are unsuitable for the approach.

The requirement M1 will be satisfied if, within the plot of the dwelling, a suitable approach is provided from the point of access to the entrance.

The whole, or part, of the approach may be a driveway.

If the topography is such that the route from the point of access towards the entrance has a plot gradient exceeding 1 in 20 but not exceeding 1 in 15, Requirement M1 will be satisfied if a ramped approach is provided.”

- 3.4.3 Gleeson Homes and Regeneration provides a solid paved alighting point within the plot and without exception Local Authority and NHBC Building Control Inspectors have accepted this as compliance with Part M.
- 3.4.4 Gleeson Homes and Regeneration do not disagree with the implication in Part M that if the layer of crushed aggregate is too thick, it will act in a loose manner and would be unsuitable and inappropriate for disabled access. However, when laid to the correct specification, observation and experience shows that wheelchair users and people using crutches, the infirm, the elderly, cyclists and people with pushchairs can easily travel across the aggregate from the public highway to dwelling houses and

that the surfacing does not deny or even reduce the level of accessibility that would result from the alternative use of a bound material such as concrete, macadam or block paving.

- 3.4.5 Gleeson Homes and Regeneration has a policy of providing alterations to their houses for disabled persons free of charge. Approximately 1 in every 250 customers request alterations to their home under this scheme but Gleeson Homes and Regeneration have never been asked to carry out work to the driveways.

3.5 **Maintenance**

3.5.1 **Long term maintenance of the drives for residents**

3.5.1.1 The private accesses do not form part of the public highway and their maintenance is the responsibility of the residents. This is no different to any other feature of residential development and is not the concern of the Highway or Planning Authorities.

3.5.1.2 Gleeson Homes and Regeneration issues a manual to their customers giving advice on the care and maintenance of their new homes. This manual contains advice on driveway maintenance and a copy of the relevant page is contained in **Appendix 4**. More recently, all properties have a restrictive covenant requiring occupants to maintain the drive and ensure that the aggregate does not spill on to the public highway.

3.5.2 **Long term maintenance liability for the Highway Authority**

3.5.2.1 This particular issue was raised at the Rotherham Appeal where, as noted in his decision letter, the Inspector concluded that the responsibility for maintaining the highway in a reasonable condition is a matter for the Council under other legislation and liability for any injuries is a matter between the parties concerned. It is therefore not a planning issue.

3.6 **Anti-Social Behaviour**

- 3.6.1 This issue was raised at the Tunstall Appeal, where the Inspector concluded that the use of gravel in an anti-social manner was remote,

and at the Bradford Appeal where the opposite conclusion was drawn. Despite having built some 2000 houses with gravel drives, Gleeson Homes and Regeneration have not received any direct complaints from residents of this form of anti social behaviour and are therefore still of the opinion that the use of gravel on their driveways does not lead to anti-social behaviour. On the contrary, Gleeson Homes and Regeneration considers that the surfacing acts as a noise deterrent to intruders.

3.7 **Sustainable Urban Drainage**

3.7.1: Government policy for construction of drainage for new developments includes the National Planning Policy Framework and the associated Technical Guidance, the Building Regulations, the Code for Sustainable Homes and the DCLG's Guidance on the permeable surfacing of front gardens 2008. In December 2011, pursuant to the Flood and Water Management Act 2010, the Government published its draft National Standards for Sustainable Drainage Systems which were intended to be used by the proposed Sustainable Drainage Approval Bodies (SABs). The Government has recently announced that approval of drainage systems will now be managed through the planning system.

3.7.2: The draft National Standards sets out the principles of sustainable drainage systems which are:

- management of surface water run-off at source;
- management of surface water run-off at the surface where it is reasonably practicable to do so;
- integration of public space with the drainage system;
- cost effectiveness of design and operation;
- provision for climate change over the lifetime of the development.

The use of gravel driveways is a form of permeable paving which is a recognized element of a sustainable drainage system and as such, complies with the above principles. In particular, these areas are not positively drained and do not contribute to the overall impermeable areas for the development.

3.7.3 The draft National Standards set out a preferred hierarchy for the disposal of surface water which complements the requirements in the Building Regulations. In order of preference, surface water should be discharged:

- to ground;
- to a surface water body;
- to a surface water sewer;
- to a combined sewer.

Gravel driveways, being permeable surfaces, allow infiltration of rainfall and on to adjacent garden areas. Even where soil permeability is poor, the effect of the gravel driveway is to limit the rapid response run-off, thereby reducing flood peaks.

3.7.4 By its very nature and definition, crushed aggregate is a permeable surfacing that allows rainwater to infiltrate and avoids the need for piped drainage of driveways. Use of crushed aggregate as a driveway surfacing material is therefore consistent with Government sustainable urban drainage policies and in this respect must be considered preferable to a sealed surfacing.

3.7.5 When Gleeson Homes and Regeneration submit surface water drainage calculations to a Water Authority, it includes crushed aggregate driveways as permeable surfaces.

3.7.6 Gleeson Homes and Regeneration submit private drainage schemes showing surface water drains around houses to the Building Control body (either the Local Authority or NHBC) and in every case the premise that crushed aggregate drives are accepted as permeable surfaces is approved by the Building Control body.

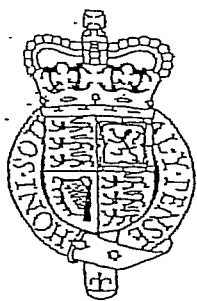
3.7.7 In the respect where the Local Authority has approved the drainage system they have also approved crushed aggregate drives.

4.0 SUMMARY AND CONCLUSIONS

- 4.1 This report has been prepared on behalf of Gleeson Homes and Regeneration and considers the use of crushed aggregate as a surfacing material for private driveways and parking areas in residential development.
- 4.2 All Gleeson Homes and Regeneration developments focus solely on building low cost homes for people on low incomes in areas of industrial decline and social and economic deprivation. The company builds a range of affordable homes for sale to people who would otherwise be unable to afford a new home, thereby helping them onto the property ladder. Gleeson funds all of its own projects, allowing regeneration to take place without reliance on Government investment.
- 4.3 Part of the low unit cost is achieved by using crushed aggregate to surface private driveways, parking spaces and shared surfaces within housing developments, however, the use of such materials has resulted in objections by some Local Planning and Highway Authorities. Indeed the objections have formed the basis of at least twelve planning Appeals.
- 4.4 This report has addressed all of these concerns including alleged difficulties encountered by disabled persons when crossing crushed aggregate. The report has demonstrated that all of the concerns raised by interested bodies are ill-founded and that when laid to a correct specification, crushed aggregate is a suitable and appropriate surfacing material on driveways and parking areas in residential development.
- 4.5 Experience and observation has shown that wheelchair users and people using crutches, the infirm, the elderly, cyclists and people with pushchairs can easily travel across crushed aggregate from the public highway to dwelling houses and that the surfacing does not deny or even reduce the level of accessibility that would result from the alternative use of a bound material such as concrete, macadam or block paving.

- 4.6 It can be concluded therefore that there are no valid planning reasons why crushed aggregate should not be used as a surfacing material on driveways, parking areas and shared surfaces within residential development.

Appendix 1



Appeal Decision

Hearing held on Tuesday, March 14, 2000
at County Hall, Wakefield

By Peter F Davies BSc(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
Tollgate House,
Houlton Street
Bristol BS2 9DJ
☎ 0117 987 8927

3 APR 2000

Appeal: T/APP/X4725/A/99/1032820/P4

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal of an application under Section 73.
- The appeal is brought by Pelham Construction Ltd against the City of Wakefield Metropolitan District Council.
- The site is located at Area 5, New Hall Development, off Ferrybridge Road, Pontefract.
- The application (Ref: 99/99/55598/W), dated 15 April 1999, was refused by the Council on 19 October 1999.
- The development proposed is the removal of condition 5, relating to the surfacing of private accesses, imposed on planning permission No: 98/99/55598/M on an application for the approval of reserved matters, dated 9 November 1998.
- At the Hearing an application for a full award of costs was made by Pelham Construction Ltd against the City of Wakefield Metropolitan District Council. This is the subject of a separate letter.

Decision: The appeal is allowed for reserved matters at Area 5 New Hall Development, off Ferrybridge Road, Pontefract in accordance with the application No 99/99/55598/W made on the 15 April 1999 without compliance with condition No 5 previously imposed on planning permission No 98/99/55598/M dated 9 November 1998 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Procedural Matters

1. The disputed condition states :-

"The development shall not be brought into use until the privately maintained accesses shown on the approved plan have been laid out with a hardened, sealed and drained surface in accordance with the approved plan."

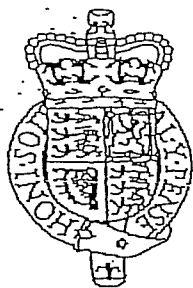
2. The reason for the condition was :-

"To ensure satisfactory completion of the development in the interests of road safety."

3. At the Hearing, the main parties agreed that the gravel accesses to the houses at the site had not been sealed.

The Main Issue

4. This is whether the disputed condition was reasonably imposed, in the interests of road safety.



Appeal Decision

Hearing held on 12 September 2000

By G P Thomas BA (Hons) DMS MRTPI

An Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
Room 1404
Tolkate House
Houston Street
Bristol BS2 9DU
Tel: 0117 937 8527

Date 03 NOV 2000

Appeal Ref: APP/R1010/A/00/1043438

Springfield Nurseries, Station Road, Bolsover.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to a condition.
- The appeal is made by Pelham Construction Ltd against the decision of Bolsover District Council.
- The application (ref: 99/00474/VAR), dated 21 October 1999, was granted planning permission by the Council on 21 March 2000 subject to condition.
- The development permitted is the provision of two off-street car parking spaces within the curtilage of each dwelling at the above housing development.
- The condition in dispute is No 17 (Replacement Condition) which states that: Two off-street car parking spaces shall be provided within the curtilage of each dwelling and retained for parking use at all times. For at least the first 5 metres from the highway/footway the off-street car parking spaces or the drives leading to them shall be laid out and surfaced in a solid bound material (which may be porous).
- The reason given for the condition was: To avoid the need for vehicles to park on adjoining highway and to prevent loose gravel/stones reaching the footway and highway, all in the interests of highway safety.

Summary of Decision: The appeal is allowed and the planning permission varied.

Preliminary Matters

1. The application to vary the condition relates to planning permission (99/00182/FUL) for residential development for 43 houses and associated roads dated 11 August 1999. Condition 17 required that; "Two off-street car parking spaces shall be provided within the curtilage of each dwelling and retained for parking uses at all times. The spaces shall be laid out and constructed in solid bound material". The reason for the condition was "To avoid the need for vehicles to park on adjoining highways in the interests of highway safety." The appeal seeks the removal of the requirement to finish the surface in a solid bound material.

Procedural Matters

2. It was agreed at the hearing that Drawing No. 676:2f had been submitted with the application to amend the planning condition. The notation on this plan states "1st 3m of private drives to be surfaced with tarmac remainder to be rolled gravel and self-draining". The appellant indicated that this notation was not correct and that the application to vary the condition related to the whole length of the driveway. The Council accepted this and it is on this basis that I shall determine this appeal.
3. Since the development has commenced without complying with the requirement of the condition with regard to the surfacing of the access driveways I shall deal with the appeal

on the basis of an application made under Section 73.

Main Issue

4. I consider the main issue in this appeal to be the effect of varying the condition on highway safety with particular regard to the use of the footways.

Planning Policy

5. The development plan for the area includes The Derbyshire Structure Plan (approved 1990) and The Bolsover District Local Plan, adopted February 2000. Structure Plan Transport Policy 14 aims to provide safe and convenient conditions for pedestrians and disabled people. I consider the following Local Plan policies to be relevant to this appeal. Policy GEN 1 establishes minimum requirements for development. This includes, amongst other things, a requirement for safe access and circulation arrangements for pedestrians, cycles and vehicles entering and leaving a site; and, that development shall not increase health and safety risks. Policy GEN 13 requires the needs of people with a disability to be taken into account in developments to which the public has access. TRA 15 relates to the design of roads and paths in new development and requires, amongst other things, that roads and footpaths comply, in size and layout to a standard suitable for adoption by a highway authority. The Council has also produced Supplementary Planning Guidance, Housing Layout and Design, December 1997. I attach substantial weight to this document in accordance with paragraph 3.16 of PPG 12 'Development Plans'. The advice given in PPG 1 'General Policy and Principles' with regard to other legislation is also relevant to this appeal.

Reasons

6. The development, which forms a large cul-de-sac, is under construction and some of the dwellings are occupied. Some of the houses have individual driveways whilst others are served by common courtyards off the estate road. The earlier part of the development includes a tarmac 'buffer strip' of some 2 - 3m between the back of the footway and the driveways which are then surfaced with loose stones. The site is on sloping ground but the majority of the dwellings have relatively level driveways and some slope down from the highway. The houses currently being built will have the steepest drives leading up from the road.
7. The reason attached to the original condition (99/00182/FUL) refers to highway safety only in terms of avoiding the need for vehicles to park on adjoining highways. The replacement condition (99/00474/VAR) requires a minimum 5m strip in a bound material from the back of the footway. The reasoning includes a reference to the prevention of gravel/stones reaching the footway and highway, all in the interests of highway safety. It appears to me therefore that it is necessary to establish whether loose stones on the footway or highway do pose a threat to highway safety.
8. The Council provided photographs showing loose stones carried onto the footways and estate roads at four housing development sites, including the appeal site, within the area. A few such stones were present on the road and footways during the site visit. However, I did not consider the amount to be significant. None of the houses with driveways leading down into the road are occupied as yet and it is therefore difficult to judge whether a significant amount of loose stones will be carried onto the public highway. Having visited the three

other sites in the area, I did not find a large amount of loose material had been carried onto the footways or roads from the driveways that slope down to the highway.

9. I am satisfied that only a small amount of loose material will reach the footways and estate road in this development. In view of the low traffic speeds that would be achievable within the estate, I consider that the risk of damage to car windscreens or bodywork from such stones would be minimal. The Council has not put forward any accident figures to support the possible safety risk although reference has been made to the possibility that cars would swerve to avoid such material and to cycle and motorcycle accidents due to loose materials on roads. I consider the likelihood of traffic swerving to avoid such stones and thereby leading to a risk of accidents and the risk to cyclists and motorcyclists is very small indeed.
10. The Council contends that the loose material would also impair the safety of users of the footways. Access Bolsover, which is the local voluntary access group, confirmed that loose material on the footways could be a danger to wheelchair users, sight impaired people and those with prams or pushchairs. Whilst I recognise Access Bolsover's genuine concern I do not consider that the amount of loose stones that is likely to reach the footway is such that it poses a significant danger.
11. The Highway Authority, in responding to a later planning application, acknowledge that other legislation exists to combat problems of loose material on the highway should such a situation arise. I also take into account appeal Ref T/APP/X4725/A/99/1032820/P4 that was drawn to my attention.
12. I conclude that a loose surface on the driveways would not pose a danger to users of the highway and that the requirement of the condition to provide a solid bound surface is neither necessary nor reasonable. The use of an unbound surface material would not be in conflict with the policies I have indicated above.
13. The Council contends that, in addition to the reasons it gave when imposing this condition, regard should be given to difficulties users would have in negotiating the drives themselves.
14. The Council accepts that the Building Act now incorporates means of access to dwellings but states that it is seeking to ensure better access than these provisions. However, the Council's Supplementary Planning Guidance on Housing Layout and Design does not refer specifically to the surfacing of access drives. Annex 2 'Mobility Housing' provides guidance for housing which is designed to be accessible to a wide range of users. Whilst the document specifies the maximum gradient for a ramped access from the parking area to the dwelling's principal entrance it does not refer to the surfacing material that should be used. Furthermore, the document does not make any reference to the surfacing materials to be used between the public footway and the principal entrance to a dwelling.
15. Whilst I have some sympathy with the points put forward by Access Bolsover on this issue I consider that other legislation is in place with regard to disabled access to dwellings. Annex C of PPG 1 states that planning legislation should not normally be used to secure objectives achievable under other legislation.

Conditions

16. The Council states that it does not consider that conditions would render the proposal acceptable and has not suggested any conditions to be imposed on a planning permission. However, having regard to the provisions of Circular 11/95 'The Use of Planning

Conditions in Planning Permissions' I consider it necessary and reasonable to impose a condition requiring the driveways and car parking spaces to be surfaced in order to ensure a satisfactory appearance to the development. I shall therefore impose such a condition.

Conclusions

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

18. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for residential development for 43 houses and associated roads on the site of Springfield Nurseries, Station Road, Bolsover in accordance with the application No. (ref 99/00474/VAR) dated 21 October 1999, without compliance with condition No. 17 previously imposed on planning permission No. 99/00182/FUL dated 11 August 1999 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 condition:

- 1) No dwelling shall be occupied until space has been laid out within the curtilage for two cars to be parked and the area shall be retained for parking use at all times. The car parking spaces and any driveway leading to them shall be surfaced in either bound or unbound material.

Information

19. Particulars of the right of appeal against this decision to the High Court are enclosed for those concerned.
20. This decision does not convey any approval or consent that may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.
21. Attention is drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970, as amended.

G. J. P. Thomas

INSPECTOR



Appeal Decision

Hearing held on 17 February 2004

Site visit made on the same day

by Karen McCabe BA(Hons) MTP DMS MRTPI

an Inspector appointed by the First Secretary of State

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Date

05 MAR 2004

Appeal A - Ref: APP/M1005/A/03/1121943

Land off Vicarage Lane and New Road, Codnor Park, Ironville

- 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 planning permission was granted.
- The appeal is made by Clarke Homes Ltd against the decision of Amber Valley Borough Council.
- The application (Ref. AVA/2002/0769), dated 4 July 2002, was refused by the Council by notice dated 10 February 2003.
- The application sought the removal of conditions attached to a planning permission (Ref. AVA/1998/0904), dated 25 April 2002, for erection of houses with garages and/or parking spaces, construction of roads and ancillary drainage works.
- The condition in dispute is No. 10 which states that: 'Before any of the dwellings on Plots 23 to 28 are occupied a 1.8 metre wide footway with kerbing and carriageway drainage shall be constructed along the Vicarage Lane frontage in accordance with a scheme to be first agreed in writing with the Local Planning Authority.'
- The reason given for the condition was: 'In the interests of the safety of the users of the access and public highway safety in general.'

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions in the terms set out in the Formal Decision below.

Appeal B - Ref: APP/M1005/A/03/1121945

Land off Vicarage Lane and New Road, Codnor Park, Ironville

- 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 planning permission was granted.
- The appeal is made by Clarke Homes Ltd against the decision of Amber Valley Borough Council.
- The application (Ref. AVA/2002/0770), dated 4 July 2002, was refused by the Council by notice dated 10 February 2003.
- The application sought the removal of conditions attached to a planning permission (Ref. AVA/1998/0904), dated 25 April 2002, for erection of houses with garages and/or parking spaces, construction of roads and ancillary drainage works.
- The condition in dispute is No. 14 which states that: 'All driveways shall be constructed in solid bound material, unless agreed in writing with the Local Planning Authority.'
- The reason given for the condition was: 'In the interests of the safety of the users of the access and public highway safety in general.'

Summary of Decision: The appeal is allowed and the disputed condition varied. Planning permission is granted subject to conditions in the terms set out in the Formal Decision below.

Procedural Matters

1. At the beginning of the hearing it emerged that I had not received the Highway Authority's statement in respect of appeal B, and that the Appellant had not received its statement in connection with appeal A. Copies of these statements were provided and there was a ten minute pause in proceedings to assimilate their contents. The hearing then continued in the normal manner.
2. The reason for refusal of the application to which appeal B relates was that removal of condition 14 would be detrimental to highway safety. However, at the hearing the Council explained that its concerns in respect of this condition related solely to the effect of surfacing the drives with unbound material on the safety and convenience of pedestrians, particularly those using New Road and Pipers Court. I have therefore confined my highway considerations on appeal B to this issue.
3. The Appellant would agree to a variation of condition 14 that the shared access drive off Vicarage Lane be constructed in a bound material, all other driveways to be in a bound or unbound material. I have considered varying the condition in this way when deciding appeal B.

Main Issues

4. In the case of appeal A I consider the main issue to be the effect of removing condition 10 on vehicular and pedestrian safety on Vicarage Lane.
5. As regards appeal B, I consider the main issue in this case to be the effect of removing or varying condition 14 on pedestrian safety and convenience on Vicarage Lane, New Road and Pipers Court.

Planning Policy

6. The statutory development plan comprises the Derby and Derbyshire Joint Structure Plan adopted in 2001 and the Amber Valley Borough Local Plan adopted in August 1994. The parties agreed at the hearing that the following policies are relevant to these appeals. Structure Plan policy 1 seeks to give priority to public transport, walking and cycling, while policy 4 states, among other requirements, that provision will be made for safe and convenient access, internal circulation and for links with existing developments. Such provision should be for public transport, pedestrians, cyclists, disabled people and vehicles.
7. Local Plan policy H10 requires proposals for housing development to provide, among other features, satisfactory vehicular access to the road network. Policy TP5 expects development proposals to meet certain criteria, including having satisfactory access to the road network and satisfactory provision for access, manoeuvring and circulation within the site for pedestrians, cyclists and vehicles.
8. The local plan is currently being reviewed, with the revised deposit plan produced in 2002 now being considered at a local plan inquiry. Policies H13 and TP1 both require development proposals to provide, among other features, satisfactory access to the transport network. Although these policies could be subject to detailed change, I consider that they maintain the thrust of the relevant policies in the adopted local plan. I can thus afford these particular policies of the emerging plan considerable weight as a material consideration.

9. In determining these appeals I have also had regard to the advice in national planning policy guidance, in particular Planning Policy Guidance Note 1: General Policy and Principles (PPG 1) and Note 13: Transport (PPG 13), both of which I consider to be important material considerations.

Reasons

10. Both appeals relate to a residential development on land lying between Vicarage Lane and New Road on the edge of the settlement of Ironville. Six houses are served by a shared access drive off Vicarage Lane. Three houses have individual drives onto New Road, with the remaining dwellings being laid out around a cul-de-sac off this road called Pipers Court. At the time of my visit the development was substantially complete and the dwellings occupied.

APPEAL A

11. Vicarage Lane serves a number of existing residential properties, with more housing development under construction. There is a continuous kerbed footway from the Ironville end of the road to a point opposite the shared access drive to the appeal development. It was confirmed at the hearing that this footway would be continued south in front of the development now being built. On the appeal site side of Vicarage Lane there is a kerbed footway in front of the terraced dwellings to the south of the site, while to the north (towards Ironville) there is no separate provision for pedestrians.
12. PPG 13 seeks to give greater priority to walking and advises that particular attention should be paid to the design, location and access arrangements of new development to help promote walking as a prime means of access. It places great emphasis on people being able to travel safely whatever their chosen mode.
13. The disputed condition requires the provision of a footway along the Vicarage Lane frontage of the appeal site. Notwithstanding the internal pedestrian links indicated on the approved site layout (Plan A1), it was established at the hearing that the only pedestrian access to the development site from Vicarage Lane would be to the six dwellings on the shared access drive.
14. In my assessment, if a footway were to be provided along the site frontage, pedestrians from these houses (and indeed those from the neighbouring terraced dwellings) would be likely to travel along it when walking to and from Ironville. As the footway would not continue past the appeal site, at some point these walkers would have to cross to the opposite side of the road in order to carry on walking on a separate footway. I accept that walkers would decide on their exact crossing point. Nevertheless, I am concerned that the provision of a frontage footway would encourage pedestrians to walk to its end before crossing the road. At this point visibility would be obscured by the bend in the road, and further limited by the roadside embankment and vegetation immediately to the north. Given the likely level and speed of traffic on Vicarage Lane, I consider that this would place pedestrians crossing the road in a potentially hazardous situation.
15. Without such a frontage footway, pedestrians from the appeal development and the adjoining terraced dwellings would, I believe, be much more likely to cross the road directly from their houses to the footway on the opposite side. Visibility on this straight

stretch of road would, in my opinion, be noticeably better than at the north end of the development site. Thus the risk of pedestrian accidents would be considerably less.

16. I note the suggestion that the footpath required by this condition could, in the future, link to a new footway to the north of the site, thus providing a longer continuous footway along this side of Vicarage Lane. However, it was established at the hearing that no such additional footway is included in any current highway programme, nor is redevelopment of the adjoining land under active consideration. Against this background therefore, it seems to me that the footpath could stop at the north end of the appeal site for some considerable time into the future, during which period it would pose a risk to pedestrians by encouraging road crossing at an inherently unsafe spot.
17. The Council was concerned that without the frontage footway pedestrians for the appeal site would have to stand on, or cross to, the shared access drive when crossing the road. Although this drive does not have any separately demarcated pedestrian area, it is short and serves a limited number of dwellings. In my assessment, any pedestrians crossing from or to the drive would be clearly seen by vehicle drivers and would themselves see any vehicles using the drive. Moreover, vehicle drivers would be expecting to share the drive with pedestrians. I consider therefore that there would be an extremely limited risk of vehicle/pedestrian conflict arising from the lack of a footway along the site frontage.
18. As regards visibility for vehicle drivers at the junction of the shared drive with Vicarage Lane, I recognise that construction of a footway would probably require remodelling of the existing embankment at the front of the site. Whether or not this would improve the available visibility for drivers using the access, from my observations I am satisfied that, with the vegetation trimmed back, adequate sightlines can be provided for the safe operation of this junction without altering the embankment. I note that these sightlines meet the standard required by the Highway Authority for this access. Furthermore, as it was confirmed at the hearing that the embankment up to the hedgeline lies within the highway, there is no reason to believe that the required visibility splays could not be maintained in the future.
19. Taking all these factors into account, while providing footways with new development may generally be desirable, in the particular circumstances of this case I consider that failure to construct a footpath along the Vicarage Lane frontage of the development site would not have a materially adverse effect on vehicular and pedestrian safety. Moreover, given the existing and planned continuous footway on the opposite side of the road, people would not, in my view, be seriously discouraged from travelling by walking along Vicarage Lane by the absence of such a frontage footpath. Removing condition 10 would not therefore conflict with Structure Plan policies 1 and 4 and Local Plan policies H10 and TP5. It would be consistent with policies H13 and TP1 of the emerging local plan and the advice in PPG 13.
20. For these reasons I conclude that the condition is not necessary. It would not be reasonable to retain it.

APPEAL B

21. The shared element of the access drive onto Vicarage Lane (some 18 metres in length) has now been surfaced with tarmac, as have the carriageway and footways of the Pipers Court cul-de-sac. I saw that all the individual drives to dwellings and garages are surfaced

with limestone aggregate, which the parties agreed is not a bound material. The disputed condition requires all drives to be constructed in solid bound material. The Council is concerned that use of an unbound material will allow gravel to be scattered onto the adjoining highways causing a hazard for pedestrians. PPG 1 points out that development proposals provide the opportunity to secure a more accessible environment for everyone. PPG 13 adds that places that work well are designed to be used safely and securely by all in the community.

22. At both my preliminary and my formal visit I noticed very little scattering of stones from the drives onto the adjacent footways. I note the photographic evidence submitted by the Highway Authority, and also the observations of the Amber Valley Access Group. Nevertheless, given the direction of slope and the gradients of the individual drives, even if residents do not sweep up the gravel, I consider that any deposits would be likely to remain small and localised. In my opinion, the likely amount of stones on the footpaths and shared access drive would not be so significant as to create a serious inconvenience for pedestrians. Furthermore, while an uneven surface could pose difficulties for elderly, infirm or disabled users of the footways, the limited presence of loose material would not cause a noticeable reduction in the accessibility of this particular development.
23. The Highway Authority was of the view that stones would be scattered more easily over time as the aggregate becomes worn. Be that as it may, I was given no evidence that the deposits would increase to such a point that they would become a noticeable hazard for users. Moreover, the length and nature of the roads in and around this development is such that, in my assessment, it is unlikely that traffic would be travelling at such a speed as to cause any stones scattered into the carriageway to endanger vehicles or pedestrians. As regards children picking up and throwing loose stones, this seems to me to be a matter for parental control. I note that neither party at the hearing had any experience of accidents caused by stones on the highway arising from gravel drives.
24. Reference was made to other appeal decisions with regard to driveway surfacing. While these appeals are relevant to this decision, and provide general guidance, each case is different and must be considered on its own merits. In this particular case I conclude that construction of the individual drives on the appeal site using unbound material would not be materially harmful to pedestrian safety and convenience on Vicarage Lane, New Road and Pipers Court. It would thus accord with Structure Plan policies 1 and 4 and Local Plan policies H10 and TP5. It would be consistent with policies H13 and TP1 of the emerging local plan and the advice in PPG 1 and PPG 13.
25. Concerns were also expressed about the suitability and long term maintenance of gravel drives. However, such issues are matters for individual homeowners. As regards any possible future claims for damages, these would be matters for the Highway Authority and the landowner concerned. In my opinion, the aggregate used on the drives is in keeping with the range of materials found in the appeal development and does not appreciably detract from its appearance. I do not judge any of these matters to be sufficient to outweigh my conclusions on the main issue in this appeal.
26. For the reasons given above I consider that condition 14, insofar as it restricts the surfacing of the individual drives, is unnecessary. However, the parties agreed at the hearing that this condition also includes the surfacing of the shared access drive off Vicarage Lane. Given the gradient of the shared element of this particular drive and the number of vehicles likely

to be using it, I consider that an unbound surface could lead to significant deposits of loose material on Vicarage Lane to the detriment of pedestrian safety and convenience. I conclude therefore that it would be reasonable to vary condition 14 to restrict the construction of this particular shared element of driveway to a solid bound material.

Conditions

27. The Council suggested at the hearing that condition 14 be replaced with one requiring the driveways to plots 1-22 to be surfaced in a bound material. Given my conclusions on appeal B, I consider this variation of condition to be unnecessary for securing pedestrian safety and convenience. I regard such a requirement therefore as being unduly onerous and unreasonable.

Conclusions

APPEALS A AND B

28. For the reasons given above and having regard to all other matters raised, I consider that both the appeals should succeed. I shall grant a new planning permission without the disputed conditions but substituting another and retaining the relevant non-disputed conditions from the previous permission.

Formal Decision

APPEALS A AND B

29. I allow both the appeals and grant planning permission for erection of houses with garages and/or parking spaces, construction of roads and ancillary drainage works at land off Vicarage Lane and New Road, Codnor Park, Ironville in accordance with the applications (Refs: AVA/20020769 and AVA/2002/0770) both dated 4 July 2002, without compliance with conditions numbers 10 and 14 previously imposed on planning permission (Ref. AVA/1998/0904) dated 25 April 2002 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 condition:

- 1) That part of the access drive to Vicarage Avenue jointly used by Plots 23 - 28 shall be constructed in a solid bound material. All other driveways shall be constructed in either a bound or unbound material.

Information

30. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
31. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Karen McCabe

INSPECTOR



Appeal Decision

Hearing held on 21 October 2003

Site visit made on 21 October 2003

by Michael R Moffoot DipTP MRTPI DipMgt MCMI

an Inspector appointed by the First Secretary of State

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Date

11 NOV 2003

Appeal Ref: APP/P4415/A/03/1114185

Hangsman Lane, Laughton Common, Rotherham S66 9BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
- The appeal is made by Whelmar Homes Ltd against the decision of Rotherham Metropolitan Borough Council.
- The application, made by letter dated 28 October 2002, sought approval of details pursuant to condition No 09 of an outline planning permission [Ref. RB1998/1374(OUT)] granted by the Council on 19 May 2000.
- The application was refused by the Council by letter dated 11 November 2002.
- The development proposed is outline application for the erection of 85 dwellings.
- The detail for which approval is sought is the use of gravel surfacing to driveways.

Summary of Decision: The appeal is allowed and the use of gravel surfacing to driveways is approved.

Procedural Matters

1. Although the outline planning permission relates to the erection of 85 dwellings, it was confirmed that the appeal is in respect of the refusal by the Council to permit the use of gravel surfacing on driveways to 49 dwellings constructed by the Appellants as part of a larger residential development. The extent of the appeal site is indicated on Plan A as agreed by the main parties at the Hearing. The relevant plots are numbers 1-40 and 48-56 inclusive, as shown on Plan B.
2. The relevant condition states:- "Before the development is brought into use, that part of the site to be used by vehicles shall be properly drained and constructed in concrete, tarmacadam, block paving or other such material as may be agreed by the local planning authority and shall thereafter be maintained in a sound condition".
3. The reason for the condition is:-
"To encourage drivers to make use of the parking spaces and to ensure that the use of the land for this purpose will not give rise to the deposit of mud and other extraneous material on the public highway in the interests of road safety".
4. In relation to the highway safety implications of the proposal, the Council confirmed that its concerns related to the deposition of gravel from driveways on to the public footway and the consequential hazards to users of the footway. I have therefore confined my highway considerations to this issue.

Main Issues

5. I consider there are 3 main issues in this case. The first issue is the effect on highway safety of using a gravel finish to driveways. The second issue is the visual impact of the gravel. The third issue is the implications for accessibility of using gravel.

Planning Policy

6. The main parties agreed that there are no development plan policies directly relevant to this appeal and accordingly I have determined it on its planning merits having regard to all material considerations, including documents submitted by the parties.
7. Reference has been made to national guidance in Planning Policy Guidance Notes 1 - 'General Policy and Principles' (PPG1); and 13 - 'Transport'; 'Places, Streets and Movement', the companion guide to Design Bulletin 32; Part M of the Building Regulations; BS 8300:2001 - 'Design of buildings and their approaches to meet the needs of disabled people - Code of practice'; and the Disability Discrimination Act.

Reasons

Highway Safety

8. The appeal site comprises a small residential estate of some 49 detached and semi-detached dwellings situated on the edge of the village of Laughton Common. The properties are of brick construction under tiled roofs, with frontage and access to 3 culs-de-sac off Hangsman Lane. The driveways have been surfaced with loose limestone gravel contained by timber edging boards within the properties and pin kerbs where they abut the footway. Five householders have re-surfaced their driveways with block paving.
9. The Council was concerned that gravel dragged off the driveways on to the footways would endanger pedestrians potentially causing falls and injury, and I heard from a local resident that incidents of youngsters falling off their bicycles were attributable to gravel. At my preliminary and formal site visits there was little evidence of gravel on the footways and local residents confirmed that the area had very recently been swept by a maintenance contractor, which the Appellants did not dispute. Although the Council had not undertaken any surveys and did not provide photographic evidence of gravel deposition, I have little doubt that the passage of vehicles over the driveways does drag gravel on to the footways. However in my view the amount of material that would be likely to be deposited would be small and in localised areas around the driveway access point. I consider that this would not represent a significant hazard to users of the footway and the risk of accidents and injury would be very low, such that it would not justify the dismissal of this appeal on highway safety grounds. Similarly, gravel dragged on to the road would be unlikely to significantly endanger pedestrians or other road users.
10. I have therefore concluded on the first issue that the use of a gravel finish to the driveways on the estate would not be materially harmful to highway safety.

Visual Impact

11. Although some householders have resurfaced their driveways in block paving, the majority remain in gravel. Aesthetically I consider that this material provides contrast and texture to the surface finishes on this open plan development and complements the variety of

materials employed in the construction of the dwellings, reflecting advice in 'Places, Streets and Movement'. In my view the diversity of surfacing materials on the estate makes a positive contribution to the development and I do not consider that the variation in driveway finishes that I observed harms the appearance of the area. Whilst the Council is concerned that the use of other materials by householders would result in a "hotch potch" of driveway surfaces, I have confined my considerations to the merits of gravel, which I have found to be acceptable.

12. I have already concluded that the amount of gravel deposited on the footways and roads would be small, and I consider that this would not be unsightly or harmful to the appearance of the estate. Whilst sealed driveways would probably suffer less from weed growth than gravel, I saw little evidence of weeds at my visit, and regard this as a matter for individual residents to control as part of the routine maintenance of their properties. Although there appeared to be some evidence of scarring of the footway surface from gravel dragged over by vehicles, I do not consider that this appreciably harms the appearance of the area.
13. I have therefore concluded on the second issue that the use of gravel does not have a harmful effect on the appearance of the estate.

Accessibility

14. The Council and some local residents argued that the gravel makes access to dwellings for wheelchair users difficult and conflicts with the Building Regulations and BS 8300:2001. The Appellants advised that the development fully complied with the Building Regulations in respect of disabled access. Although I sympathise with these accessibility concerns and the access problems that some residents have experienced, I consider that the matter should be pursued under separate legislation. In this respect, Annex C to PPG1 states that "planning legislation should not normally be used to secure objectives achievable under other legislation.....even though the powers and duties resulting from the other legislation may also be the concern of the local authorities". I heard no compelling evidence to show why this PPG1 guidance should be set to one side and consider that it should prevail in the circumstances of this case. Furthermore, it is open to householders to provide alternative access surfacing to their properties, subject to any necessary consent.
15. Accordingly I have concluded on the third issue that the gravel would not affect accessibility to any material extent.

Other Matters

16. The Council submitted that the gravel would be a long-term maintenance liability for the authority and any legal repercussions of accidents attributable to the material may have to be directed towards the relevant property owner. Whilst I acknowledge these concerns, I consider that responsibility for maintaining the highway in a reasonable condition is a matter for the Council under other legislation and liability for any injuries is a matter between the parties involved.
17. Although some residents argued that they were unaware of the proposed use of gravel on the driveways prior to purchasing their properties, this is not a land-use planning issue but a private matter between the householders and the developer. The removal of gravel from lawns would reduce the chance of damage to grass cutting machinery and is a householder maintenance matter, as is the clearing of any gravel from house drainage gullies. Similarly,

the removal of gravel from road gullies is a matter for the Council as highway authority to undertake as part of their maintenance of the estate roads, once they are adopted. Finally, I have seen no evidence to show that damage to vehicles has occurred due to gravel being thrown up by tyres, and consider that the low speed of vehicles on the estate roads and driveways would make this very unlikely.

Conclusions

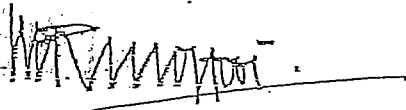
18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

19. In exercise of the powers transferred to me, I allow the appeal and approve the use of gravel surfacing to driveways on plots 1-40 and 48-56 inclusive at Hangsman Lane, Laughton Common, Rotherham in accordance with the terms of the application made by letter dated 28 October 2002.

Information

20. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



INSPECTOR



Appeal Decision

Hearing held on 3 August 2004

Site visit made on 3 August 2004

by J Chance BSc DipTP-MRTPI

an Inspector appointed by the First Secretary of State

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Date

31.08.2004

Appeal Ref: APP/Z4718/A/03/1135037

Hadfield Court, Hadfield Road, Heckmondwike WF16 9QE

- 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 planning permission was granted.
- The appeal is made by Arundale Homes Ltd against the decision of Kirklees Metropolitan Council.
- The application (Ref. 2003/70/93313/E5), dated 21 July 2003, was refused by the Council by notice dated 9 October 2003.
- The application sought the removal of a condition attached to a planning permission (Ref. 2002/61/90944/E5), dated 16 August 2002, for the erection of 20 dwellings with garages and/or parking spaces together with ancillary road and drainage works.
- The condition in dispute is No 3 which states that: The areas to be used by vehicles including parking, loading and unloading areas shall be surfaced, sealed and drained before the development is occupied/brought into use and thereafter retained.
- The reason given for the condition was: In the interests of the free and safe use of the highway and to accord with Policies D2 and BE2 of the Unitary Development Plan.

Summary of Decision: The appeal is dismissed.

Main Issue

1. The main issue is the effect that removal of the condition would have on the safety of all users of the highway.

Planning Policy

2. The development plan is the Kirklees Unitary Development Plan (UDP) (adopted 1999). The following policies were agreed at the Hearing to be relevant to the appeal. Policy BE1 indicates that development should be of good quality design such that it contributes to a built environment, which, amongst other things, promotes safety, including crime prevention and the reduction of hazards to highway users. Policy BE2 includes, amongst other matters, a requirement to achieve satisfactory access to existing highways within the design of new development. One of the main thrusts of Policy T10 is that development, which would create or materially add to highway safety or environmental problems, would not normally be permitted.
3. Policy G5 indicates that development proposals should have regard to equality of opportunity in terms of access to buildings and open space facilities and other relevant design aspects. In addition, Policy D2 requires, amongst other things, that the overall development should not prejudice highway safety.

Reasons

4. The Hadfield Court development is on the southern side of Hadfield Road adjacent to an established residential area to the north of Heckmondwike town centre. The majority of the 20 houses in the development have been occupied since late 2003.
5. The development is served by two separate accesses from Hadfield Road, known as Piperwell Close and Marled Close. The top section of Piperwell Close comprises a cul-de-sac of approximately 40m in length, with a 5m wide carriageway and footways on both sides. That section of road and the footways have been surfaced with tarmac. The 15 houses around that cul-de-sac have either individual drives or shared common drives leading to garages or parking areas.
6. For clarity, it was agreed at the Hearing that the individual drives and parking areas would be referred to as private accesses and the shared drives serving up to 5 dwellings would be referred to as private drives. In this case, I have taken the "highway" to include roads, private drives, private accesses and footpaths.
7. The remaining 5 houses on Marled Close are served by a separate private drive of about 15m in length.
8. The condition in dispute requires all the areas used by vehicles to be surfaced, sealed and drained before the development is occupied. The private accesses and drives have been surface with unsealed material, referred to as gravel, which I saw to consist mainly of fairly angular, regular-sized limestone pieces with small amounts of sandstone material of more variable size. The Council's concerns are with the effects of surfacing these private accesses and drives with unbound/unsealed material on the safety of pedestrians, cyclists and motorcyclists and with the difficulties of access for wheelchair users and people with pushchairs.
9. I saw on my preliminary and formal visits that there was a scattering of gravel pieces on the tarmac sections of road and footway in Piperwell Close adjacent to some of the private accesses and drives. I also saw considerable pitting and marking of those surfaces, which showed that loose stones had been carried over on to them in the past. The Council has also provided photographic evidence of gravel deposition on the road, footways and separate public footpath. I was advised that the private drive serving Nos 14 to 22 had been re-profiled less than a week earlier to prevent vehicles grounding when they reached the tarmac section of the cul-de-sac. Nevertheless, in the time that had elapsed since that work was done, I saw that localised ruts had begun to form where vehicle tyres had moved the material to the sides in small mounds, even though there was little evidence of carry-over of the gravel on to the tarmac.
10. The appellant argues that vehicle speeds in Piperwell Close are such that drivers would be unlikely to lose control through skidding on any loose material that had been carried over onto the road. Whilst I accept that not everyone will drive slowly on every occasion, I share the appellant's views that carry-over of the loose material would be unlikely to compromise the safety of vehicle drivers. I also consider that most motorcyclists and adult cyclists would generally lower their speeds when entering Piperwell Close and would with familiarity learn to avoid the areas of road with the greatest carry-over of gravel from the private accesses and drives.

11. In my view, because of the propensity of the unbound gravel to roll and travel, it will continue to be carried over onto the road and footways and it is unlikely that all residents will sweep it up after every journey. Consequently, in my opinion, it will present a trip hazard to pedestrians. Not only would this particularly be the case at night but, in my view, would also present difficulties during the day to people whose vision was impaired or who were not confident in the exact placement of their steps. Moreover, for those people who have to use sticks or crutches on a permanent or temporary basis, I consider that there would be an even greater risk of them falling over loose material that had travelled from its intended place. In addition, I consider that loose gravel on the road and footways would increase the risks of young children falling off their bicycles and possibly cutting themselves on the limestone pieces, when playing in the cul-de-sac.
12. Furthermore, the carry-over of gravel onto the tarmacadam carriageway and footways of Piperwell Close presents, in my view, unacceptable difficulties and safety hazards for those in wheelchairs resulting from stopping unexpectedly or tipping at an angle after mounting loose stones. This would particularly apply to the self-propelled type of wheelchair, but also to those that are pushed by others, since their occupant could tip forwards if the chair's movement were suddenly impeded.
13. However, in the case of pushchairs and prams, although the journey might be unpleasantly bumpy for the infant, I do not feel that the child's safety would be compromised in the same way as it would for the wheelchair user. Pushchairs could be lifted over large areas of loose stones on the road or footway and would be easier to steer around small areas of deposition.
14. Notwithstanding my views on the effects of loose gravel on the safety of drivers, motorcyclists, adult cyclists and people with pushchairs in the tarmacadamed areas, I consider that there are significant risks to the safety of pedestrians, wheelchair users, people with sticks or crutches and small children on bicycles. In my opinion, this is contrary to the intentions of Policies BE1 and T10.
15. Notwithstanding that the buildings comply with Section 6 of Part M of the Building Regulations, given the location and arrangement of the dwellings on the site, in my view, there are access difficulties for disabled and infirm people that are additional to those previously identified. Such people, who do not have the assistance of a motor vehicle, would face severe problems in getting onto Hadfield Road or onto the public footpath leading to the open space from Nos 16 to 22, or in accessing those properties from elsewhere within the site. In that part of the site the loose laid gravel and the gradient, which on site was estimated by both main parties to be about 1 in 12, would, in my opinion, severely restrict access and movement for disabled or infirm residents or visitors, who were in wheelchairs or on motorised scooters. Those people would effectively be prevented from getting to and from that part of the site because the surface would not be firm enough to support the weight of the user and wheelchair or allow for sufficient propulsion and manoeuvring. This would be contrary to the intentions of Policy G5.
16. At the Hearing, some local residents expressed concerns over loose stones flying up from the tyres of vehicles. I was shown marks on a garage door and house front door, which were thought to have been caused by such stones from vehicles setting off from the parking area. Not only would loose gravel be likely to shift when a vehicle began to move, but there would, in my opinion, be a risk of stones that had initially lodged in the tyre treads flicking upwards and outwards, with the movement of the wheels. This would, in my view,

pose a risk of injury to other family members who were in the front gardens or close to those driveways and parking areas, and to pedestrians, who were walking in the cul-de-sac. In particular, I consider that there would be a similar risk of injury to users of the public footpath through the site from such stones associated with vehicles moving to and from Nos 16 to 22, where the private drive slopes downwards from that path. Consequently, in my view, these safety risks associated with the unbound surface conflict with the intentions of Policies BE1 and T10.

17. Within Piperwell Close I saw that there are a small number of properties where the approach to the garage slopes quite steeply. At the Hearing, some local residents said that the movement of the gravel under the vehicle wheels makes it difficult to negotiate accurate entry into or egress from those garages from or onto the highway or private drive. It is my opinion that, by virtue of the gradients involved and the narrowness of the garages and driveways, such manoeuvres pose a safety risk to those residents possibly resulting in personal injury, and damage to their vehicles, their property and even other dwellings. I consider that this is contrary to the intentions of Policies BE1 and BE2.
18. Turning now to Marled Close, it was agreed at the site visit that the general gradient of that separate private drive is about 1 in 12. I also saw that the first 3 houses have narrow individual accesses into narrow garages and that there is a substantial drop in level adjacent to the edges of those private accesses. Again, I consider that there would be little allowable margin for error due to the movement of the unbound material before a driver might be injured or property damaged through a vehicle hitting the garage or falling off the edge of the drive. In addition, in my opinion, it would be both unsafe and very difficult for users of wheelchairs, whether self-propelled or pushed, and motorised scooters to venture into Marled Close or to reach the buildings themselves.
19. At the Hearing, the Council said that its concerns over general road safety did not relate to Hadfield Road. However, I do not share the Council's views. I note that the upstand at the back of the pavement to Hadfield Road appears to prevent localised carry-over onto that road of the gravel from Marled Close. However, on my visits I saw considerable carry-over of the limestone chippings from Piperwell Close onto the southern half of that road almost as far as Marled Close. In my view, there is a risk that cars and other four-wheeled vehicles, and particularly motorcycles and bicycles could skid on that loose material and possibly cause an accident. In addition, vehicle speeds on Hadfield Road would be sufficient for such loose stones to be thrown up at the windscreens of cars following behind, possibly causing damage as well as threatening the safety of those highway users. This would conflict with the intentions of Policies BE1, T10 and D2.
20. In addition, some residents indicated that local children had on several occasions picked up loose stones from that part of Hadfield Road and thrown them at the upper floor side windows of No 1 Marled Close, requiring replacement of the glass. Whilst this should be a matter for parental control, I saw on both my visits numbers of unsupervised children of all ages in the immediate vicinity of the site and conclude that this is usual for the area. As residents at the Hearing also referred to occasions when children on the public footpath had thrown pieces of gravel within the site, I regard this to be an additional risk associated with the use of unbound material, which adds to the harm already identified.
21. Both main parties have drawn my attention to previous appeal decisions regarding the use of unbound/unsealed material at other residential sites. While these are relevant to this

decision and offer general guidance, I note that they do not all reach the same conclusion, demonstrating that each case is different and must be considered on its own merits. Some of the other sites referred to have fewer gravelled private drives and more gravelled private accesses. This site has two lengths of private drive, which provide substantial areas of gravel with a considerable number of traffic movements over them. In addition, the Inspectors' decisions on other sites suggest that the deposition of gravel on the footways and roads is small and localised and therefore does not present a significant hazard, whereas I consider there is a more widespread problem in the current case. Furthermore, I saw little reference in the other decisions to the problems of rutting or an uneven surface to the gravel, which suggests that there are additional problems at this site. Whilst I have limited information about the size of gravel used on other sites, the relatively coarse material on this site appears to have difficulty in bedding together and its size and angular nature make it particularly dangerous when deposited on a tarmac surface.

22. In this case I conclude that the use of unbound/unsealed material poses a danger to users of the development's highway layout and to users of the adjacent highway, Hadfield Road, and restricts the movement of disabled and infirm people out of and into the overall development and denies them access to certain areas of the site. The use of such material for the private accesses and drives is in conflict with Policies BE1, BE2, T10, G5 and D2 of the UDP. The requirement of Condition 3 to surface, seal and drain all the areas used by vehicles would ensure the avoidance or reduction to acceptable levels of the problems I have identified. I therefore conclude that Condition 3 is both necessary and reasonable and that removal of it would be unacceptable.
23. I have taken account of the appellant's views that Condition 3 is unduly restrictive. I have considered Condition 3 having regard to the advice in Circular 11/95 concerning maintenance conditions. I am satisfied that the requirement is relevant, reasonable and sufficiently precise to be enforceable and therefore does not need to be modified. In addition, I do not regard the Condition to be unduly restrictive since the occupier would be able to change the driveway surface as long as it remained sealed and drained.

Other Matters

24. I have had regard to matters concerning the Council's unwillingness to adopt Piperwell Close because of the transfer of loose material onto the tarmac section and the associated increased liabilities, as well as to the maintenance requirements for the private areas by the residents. I have also taken account of views on the performance of the unbound surfaces in winter weather, consequential parking of vehicles on the road and the crime prevention advantages of hearing movement across the gravel. However, none of these affects my conclusions on the main issue that the removal of the condition in dispute would be unacceptable.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

26. I dismiss the appeal.

J. Chance

INSPECTOR



Appeal Decision

Hearing held on 13 December 2005

Site visit made on 13 December 2005

by P J Asquith MA(Hons) MA MRTPI

an Inspector appointed by the First Secretary of State

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Date

Appeal Ref: APP/R1010/A/04/1162717

Land south of Blind Lane and east of Woodhouse Lane, Bolsover, Chesterfield, Derbyshire, S44 6QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Whelmar Homes Ltd against the decision of Bolsover District Council.
- The application Ref 04/00442/VAR, dated 4 June 2004, was refused by notice dated 5 August 2004.
- The application sought planning permission for the erection of 70 two-storey dwellings without complying with a condition attached to planning permission Ref 00/00425/REM, dated 12 July 2001, for the erection of 70 two-storey dwellings.
- The condition in dispute is No. 9 which states that: 'Before a dwelling is occupied its off-street parking space(s) and any driveway shall be laid out as shown on the approved plans, and constructed in a solid bound material or an unbound material. If an unbound material is used it shall be graded aggregate, blinded with a fine aggregate down to dust and rolled (unless an alternative is agreed with the Local Planning Authority). The parking space(s) shall be made available for use and maintained thereafter free from any impediment to its designated use unless planning permission has been obtained from the Local Planning Authority'.
- The reason given for the condition is: 'To ensure that adequate off-street parking is provided and retained for use to reduce the incidence of on-street parking and its attendant dangers and in compliance with policy/ies GEN 1, GEN 2 and TRA 14 of the Bolsover District Local Plan'.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions in the terms set out in the Formal Decision.

Procedural Matters

1. The development of the 70 dwellings has been completed and the properties occupied. The off-street parking spaces and driveways have been constructed. Whilst some parking areas and driveways have subsequently been resurfaced with block paviors, flagstones or different aggregates, it is clear that they were originally surfaced with an unbound crushed aggregate finish. They have not been finished as required by Condition No. 9 with a fine aggregate down to dust and rolled, as specified if an unbound material was to be used. The appellant company wishes Condition No. 9 to be varied so that there is no requirement for an unbound material finish to be blinded with a fine aggregate down to dust and rolled. This would therefore, in effect, allow the current treatment that exists for the majority of the properties to remain.

Main Issues

2. From all I have seen, read and heard, I consider there to be two main issues in this case: first, the effect of varying the condition in dispute in terms of vehicular and pedestrian safety; and second, the impact of this on the appearance and character of the area.

Planning Policy Background

3. Policy GEN 1 of the adopted Bolsover District Local Plan (LP) sets out minimum requirements which development will be expected to satisfy. These include the need for safe access arrangements for pedestrians, cycles and vehicles and the requirement that the development should not increase health and safety risks. Policy GEN 2 indicates that permission will not be granted for development which creates materially harmful impacts on the local environment. It provides an extensive list of factors that will be taken into account. The reason for the imposition of Condition No. 9 refers also to LP Policy TRA 14. However, as this relates to the provision of parking space within developments, and makes no reference to the surfacing of such, I do not consider it has any direct relevance in the consideration of the issues I have identified.
4. Whilst reference has been made to policies within a replacement local plan, it was indicated at the Hearing that work on this emerging plan had been abandoned and it therefore has no status.

Inspector's Reasons

First issue – Pedestrian and vehicular safety

5. The development to which the disputed condition relates is a modern residential estate of 70 detached and semi-detached two, three and four-bedroomed houses, which are served by a tarmacadamed estate road and footpaths leading from Woodhouse Lane. From the estate road properties are served by individual or shared driveways, these for the most part comprising a hard sub-base of graded stone, topped by a thin layer of cement dust and covered by 10mm gravel. A number of individual properties have driveways and parking areas surfaced in block paviors where householders have chosen to modify the original surfacing. Three dwellings, having some of the steepest sloping driveways, have been resurfaced with flagstones by the developer.
6. Stoned driveways and parking areas, rather than macadamed or paved ones, have been provided as part of the appellant company's ethos of providing affordable housing for sale, since the use of crushed aggregate helps to achieve low unit costs. The company does not wish to blind these areas in the manner specified within Condition 9 on the basis that this would lead to far greater dirt migration from the surface, with footprints into homes and tyre marks over the highway. The present surfacing also provides a permeable surface allowing water ingress and this therefore helps to satisfy sustainable urban drainage policies contained within Planning Policy Guidance Note 25, *Development and Flood Risk*.

7. The Council is concerned that the loose surfacing material from the driveways and parking areas is being dragged onto the footpaths and estate road, principally by vehicular use or in wet weather, and that this is leading to hazards for both pedestrians and road users. At both the application stage and within the context of this appeal a number of residents have voiced concerns indicating that in their view such hazards include pedestrians slipping on the gravel, with concern particularly for the elderly, infirm and young, and cars skidding on gravel or swerving to avoid it. Should an unbound material continue to be used the Council would wish this to be finished in the manner specified within the existing condition No. 9 so that there would be less likelihood of material being spilled onto the footpaths and roads, thereby obviating such hazards.
8. The appellant company accepts that some loose material will be deposited from driveways onto adjacent footpaths and onto the estate road. However, it argues that this will not be to any significant extent, pointing to several appeal decisions where my colleague Inspectors have endorsed this view in similar cases. The development is situated on generally sloping ground and some individual driveways slope towards the estate road. I do not doubt that this, particularly in certain cases where slopes are quite pronounced, assists in the migration of some gravel over footpaths and the road.
9. On my pre-Hearing site visit I noted very little incidence of gravel spillage onto either the footpaths or the roads, but it was acknowledged by the appellant company at the Hearing that, as part of the present maintenance arrangement until the estate road is formally adopted, the road and footpaths are being swept by hand on a weekly basis. This was due to have taken place on the day of my visit. During the Hearing site visit I noted that in all but one area of the residential estate the amount of gravel that had found its way onto the roads and footpaths was very small. There was, however, one area where there was a more noticeable incidence of gravel spillage, particularly over the footpath, near the top of the estate road where it leads into a private gravelled driveway serving six dwellings.
10. Whilst acknowledging the findings of my colleagues whose decisions have been brought to my attention, I have not had the benefit of visiting any of the sites referred to or being familiar with the details and individual circumstances of those cases. I must come to a view on the likelihood of gravel spillage in this particular case on its own merits. No photographic or survey evidence has been produced to indicate the incidence of gravel scatter at other times. I do not doubt that this does occur, and that this may be greater than if a larger grade of gravel had been used for surfacing the private drives. Nevertheless, what might occur is likely to be small and localised. Notwithstanding the claims by some residents as to the potential slip hazard of scattered gravel, I do not consider the incidence of gravel spillage from driveways and parking areas is likely to be of such magnitude that it would lead to significant risk to pedestrian safety. The gravel is of a grade that would, to my mind, indicate a negligible risk of anyone tripping over any small accumulations that might arise.
11. Having regard to the safety of users of the road, the nature of the estate road layout based on three short culs de sac is such that vehicle speeds are likely to be low. At the Hearing it was agreed that the design speed was in the region of 15mph. At such low speeds I

consider the risk of damage to vehicles or injury to pedestrians from gravel that has found its way onto the road and flying from beneath wheels is likely to be minimal. Similarly, I consider the likelihood of accidents resulting from drivers of vehicles or riders of pedal or motorcycles swerving to avoid gravel, or skidding on it, is also likely to be negligible. Nor am I convinced that there would be material risk to pedestrian or highway user safety beyond the housing estate as a result of trapped gravel within tyre treads flying off when vehicle speeds might be higher. There is no substantive evidence to indicate otherwise. The local highway authority offered no objections to the proposed variation of the condition, although it did recommend that if there was to be a variation as requested an advisory note should be sent recommending the use of a solid bound material. I noted no material evidence, nor was any pointed out on my Hearing visit, of damage to the highway or footpaths as a result of gravel abrading or scoring the macadamed surfacing.

12. Some objectors have expressed concerns about the safety implications and ease of pedestrian movement over the gravelled surfacing of the driveways. The disabled, elderly, infirm, pregnant or very young may be those most likely to be concerned about or affected by potential access arrangements. The development has been completed and approval granted under Part M of the Building Regulations. These require reasonable provision within the boundary of a dwelling plot for access by a disabled person and it must therefore be assumed that the Council was satisfied as to the surfacing material chosen in this regard. The Council itself has provided no evidence of safety or access difficulties within the curtilage of dwellings arising from the present surfacing. Furthermore, the appellant has produced DVD evidence, shown at the Hearing, which included a demonstration of movement across two gravelled driveways within the development by differing forms of wheelchair and by pushchair. These appeared to show little difficulty in use arising from the unbound gravelled finish, although these did not show access along some of the steeper driveways. Whilst I sympathise with any residents who may have access difficulties, I consider these are more likely to result from the gradient of driveways rather than the chosen surfacing material.
13. I therefore conclude on this issue that the variation of the condition along the lines suggested by the appellant would not result in material harm to highway or pedestrian safety and would not conflict with the intent of LP Policy GEN 1.

Second issue – Appearance and character

14. Although not referred to in its reason for refusal, within the context of the appeal the Council maintains that the current surfacing of the remaining originally gravelled driveways and parking areas is detrimental to the visual amenity of the area. This is as a result of gravel spilling onto the footpaths and carriageway and because of the migration of gravel exposing the coarse surface beneath.
15. In my opinion the chosen gravelled finish provides an appropriately contrasting material to the tarmacadamed estate road and footpaths and is a suitable complement to the other finishes within this housing development. I have already concluded that there is unlikely to be a significant volume of gravel deposited on the roads and footpaths. What might find its way there would not in my view represent a materially discordant feature. In a

number of places I noted that driveways had become slightly rutted, exposing the base material, with gravel being pushed to the side, clearly as a result of vehicles manoeuvring there. I also noted in a limited number of areas weed growth through the gravelled surfacing. However, I consider these latter matters are ones that routine maintenance by householders should appropriately address. Overall, I do not consider that variation of the condition in the manner suggested, in order to allow the existing gravelled surfacing to remain, would result in material harm to the appearance and character of the area and accordingly would not conflict with LP Policy GEN 2.

Other Matters

16. I have taken account of all other matters raised, including the local highway authority's concerns that if the present surfacing remains this could have ongoing maintenance implications for the authority once the estate road and footpaths are adopted. It is also indicated that it might be necessary to pursue measures available under section 151 of the Highways Act 1980 against individual frontagers of the adopted highway if material is carried onto it from private driveways and where this might be considered a danger to highway safety. I have some sympathy with the desire to ensure that there would be no undue maintenance costs with an implied burden on the public purse, or ongoing maintenance implications for householders. Nevertheless, such considerations do not outweigh my conclusion that the variation of the condition along the lines suggested would not in itself result in harm to highway safety.
17. I have also noted other expressed concerns regarding the drainage of the housing estate. However, there is no substantive evidence to suggest that movement of gravel from driveways contributes to drain blockage problems. Whilst it is claimed that gravel has been thrown by children I consider this to be a matter of parental control. The fouling of the presently gravelled driveways by cats may undoubtedly be unpleasant but is not a matter that is pertinent to the main issues I have identified.

Conclusion

18. It is therefore my overall conclusion on the main issues that the existing treatment of driveways and parking areas is neither harmful to vehicular or pedestrian safety nor to the appearance and character of the area. It is unnecessary for these areas to be treated in the manner specified for unbound material as set out in Condition 9, necessity being one of the tests of the imposition of conditions as set out in Circular 11/95, *The Use of Conditions in Planning Permissions*. My conclusions on these main issues are not outweighed by any of the other matters raised. I shall therefore allow the appeal and remove Condition No. 9, substituting it with a condition that has no reference to the specification of unbound material.

Formal Decision

19. I allow the appeal and grant planning permission for the erection of 70 two-storey dwellings at land south of Blind Lane and east of Woodhouse Lane, Bolsover, Chesterfield, Derbyshire, S44 6QF in accordance with application No. 04/00442/VAR, dated 4 June 2004, without compliance with Condition No. 9 previously imposed on

planning permission No. 00/00425/REM, dated 12 July 2001, 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 condition:

1. Before a dwelling is occupied its off-street parking space(s) and any driveway shall be laid out as shown on the approved plans and constructed in a solid bound or unbound material. The parking space(s) shall be made available for use and maintained thereafter free from any impediment to its designated use unless planning permission has been obtained from the Local Planning Authority.



INSPECTOR



Appeals Decision

Hearing held on 22nd November 2005

Site visit made on 22nd November 2005

by T Cookson MRTPI DipTP FRGS

An Inspector appointed by the First Secretary of State

The Planning Inspectorate

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Date

23 DEC 2005

Appeal A:

Appeal Reference: APP/M3455/A/04/1165901

Land off High Street, Tunstall, Stoke-on-Trent, ST6 5ET

- 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 under Section 73A of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Clarke Homes Limited against Stoke-on-Trent City Council.
- The application (reference: SOT/42928) is dated 2nd June 2004.
- The application sought the removal of a condition attached to a planning permission (reference: SOT/40553) dated 6th October 2003, for residential development with ancillary road and drainage works.
- The condition in dispute is no. 14 which states that: 'no development shall take place until details of the surface treatment of the driveways hereby approved has (sic) been submitted to, and approved in writing by the local planning authority. The driveways shall be fully hard surfaced in a bound material prior to the first occupation of the dwellings'.
- The reason given for the condition is: 'in the interests of both the visual amenity in the locality and the safety of users of the adjoining highway'.

Summary of Decision: The appeal is dismissed.

Appeal B:

Appeal Reference: APP/M3455/A/04/1168526

Land off High Street, Tunstall, Stoke-on-Trent, ST6 5ET

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Clarke Homes Limited against the decision of Stoke-on-Trent City Council.
- The application (reference: SOT/41952) dated 17th October 2003, was refused by notice dated 27th October 2004.
- The application sought the removal of a condition attached to a planning permission (reference: SOT/40553) dated 6th October 2003, for residential development with ancillary road and drainage works.
- The condition in dispute is no. 14 which states that: 'no development shall take place until details of the surface treatment of the driveways hereby approved has (sic) been submitted to, and approved in writing by the local planning authority. The driveways shall be fully hard surfaced in a bound material prior to the first occupation of the dwellings'.
- The reason given for the condition is: 'in the interests of both the visual amenity in the locality and the safety of users of the adjoining highway'.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The applications the subject of these appeals are identical.
2. The residential development in question has been substantially completed with the driveways of the houses having been surfaced in unbound gravel.

Main Issues

3. There are three main issues in these appeals. The first is the effect of not having the driveways constructed of a fully hard surface in a bound material on highway safety and safe and secure access to the premises. The second is whether or not the absence of driveways in a bound material would be likely to cause anti-social behaviour. The third is the effect of not having the driveways constructed of a fully hard surface in a bound material on the character and appearance of the area.

Planning Policy

4. There are three policies relevant to the appeals. Policy T13 of the Staffordshire and Stoke-on-Trent Structure Plan deals with safety, the improvement of facilities and the reduction of the impact of motor vehicular traffic on local roads. Policy BP10 of the Stoke-on-Trent City Plan details the considerations that will be applied to the consideration of new development; and TP14 of the City Plan is concerned with parking and servicing arrangements on new development.

Appraisal

5. With regard to the first issue the Council is concerned that there is the potential for gravel to spill out over the highway. This would cause pedestrians to lose their balance when treading on a stone, and it would create difficulties for disabled persons in wheelchairs and people pushing prams. Thus more people would be tempted to use the road rather than the footway. The authority is also concerned that the gravel spilled on the road from the drives would create a hazard if vehicles have to brake sharply, which could lead to a loss of control. There would also be a danger of stones hitting pedestrians and vehicles.
6. On this latter point, the length and nature of the roads in and around the development is such that I find that vehicular traffic would be unable to travel at such a speed as to endanger the well-being of pedestrians or other vehicles. With the former point, whilst I accept that disabled people in wheelchairs and people with prams would find it easier to negotiate a clear bound surface, I consider from the evidence presented and the way the gravel is laid that it is possible to manoeuvre on the drives and the footway in an adequate manner. And with the small size of the pieces of gravel I feel it very unlikely that pedestrians would lose their balance.
7. The question of anti-social behaviour, the second issue, arises from the assessment that the area is deprived, suffers from a higher than average crime rate, and that the gravel would provide ammunition for people to throw at others and at property. However, there is no evidence to support this viewpoint. And whilst the precautionary principle is advocated by the Council, I find that it pays little or no heed to the beneficial effects of providing this affordable housing in the neighbourhood, which I regard as an important consideration. It

was evident on my site visit that residents have pride in their homes and that the housing has greatly improved the physical and social environment of this inner urban area. Added to this is the small size of the pieces of gravel, which is such that I see the threat of it being used in an anti-social manner as being remote.

8. Turning to the third issue, the housing development occupies what was once the site of industrial premises surrounded by Victorian terraced housing. Much of the surrounding older housing remains, with some street works having been provided to improve the general appearance. Overall, however, it is an area principally devoid of soft landscaping. Houses front directly onto the footway, and surfaces are of tarmacadam with traces of the original cobbles visible in some areas.
9. Against this background the developers have introduced what is essentially one of their standard layouts and designs that incorporates very small or no front gardens and small gravelled driveways for the most part. The approach reflects admirably on the company's aim to provide self-financing, affordable housing. However, I consider that in the context of the appeal site and its surroundings, the use of gravel for the driveways and footpaths is alien to the hard surfaces found in this inner urban area. It is a rigid approach to design that introduces a surface material not found in the immediate locality. Rather it is more suited to a suburban or rural setting. The large areas of shared accesses covered in gravel next to High Street are especially prominent and visually incompatible with the surroundings. Altogether I consider that the use of gravel as a material for the driveways causes an unacceptable diminution in the character and appearance of the area.

Conclusions

10. I consider that condition 14 has been appropriately imposed, that it is both necessary and reasonable, and that its removal from the permission would be unacceptable. In reaching these conclusions I have had regard to all other matters raised. However, none is sufficient to outweigh the considerations I deem to be material.

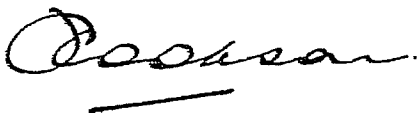
Formal Decisions

Appeal A:

11. I dismiss the appeal, and refuse to grant planning permission for the variation/deletion of condition 14 of planning permission SOT/40553 to permit use of unbound loose driveway surface material.

Appeal B:

12. I dismiss the appeal.



Inspector



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RECEIVED - 4 JUL 2006

Peacock & Smith
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LS3 1AB

Your Ref:
Our Ref: APP/W4705/A/05/1173648
Date: 3 July 2006

Dear Sir/Madam

**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY ARUNDALE HOMES LIMITED
SITE AT SITES C, D AND F, BUTTERSHAW VILLAGE, BUTTERSHAW DRIVE, BRADFORD,
WEST YORKSHIRE**

I enclose a copy of our Inspector's decision on the above appeal.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
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E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully

Mrs Sheila Parkin

COVERDL1



Appeal Decision

Hearing held on 09 May 2006

Site visit made on 09 May 2006

by **C Hughes BA Hons DipTP MRTPI**

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

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Date
- 3 JUL 2006

Appeal Ref: APPW4705/A/05/1173648

Sites C, D and F, Buttershaw Village, Buttershaw Drive, Bradford, West Yorkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Arundale Homes Ltd against the decision of the City of Bradford Metropolitan District Council.
- The application Ref 04/03171/VOC, dated 5 July 2004, was refused by notice dated 8 December 2004.
- The application sought planning permission for the variation of a condition attached to planning permission Ref 02/00894/FUL, dated 14 October 2002, for construction of houses with garages and/or parking space together with ancillary works.
- The condition in dispute is No5 which states that: Before each dwelling is brought into use the off street parking facility hereby approved shall be laid out, surfaced, sealed and drained within the curtilage of the site. The gradient shall be no steeper than 1 in 15 except where otherwise approved in writing by the Local Planning Authority.
- The reason given for the condition is: In the interests of highway safety and to accord with Policies GP2 and TP9 of the Unitary Development Plan.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions in the terms set out below in the Formal Decision.

Procedural Matters

1. Construction of the houses on these sites, with gravel drives and parking areas, commenced before the appeal application was made, and condition 5 was breached as some houses were already occupied. I am therefore dealing with the application as having been made under the terms of Section 73A(2)(c) of the Act. Since the application, the development has been largely completed and occupied. The appellant wishes to retain the gravel parking facilities which have been provided.

Main Issues

2. There are 3 main issues in this case:
 - i) the effects of gravel parking areas on the safety and free movement of traffic of all kinds using highways on the development
 - ii) the effects of gravel drives on the safety and security of residents
 - iii) the impact on the appearance and character of the area.

Reasons

Effects on Traffic Safety and Movement

3. On my site visits there was virtually no evidence of gravel on footways and carriageways in or near the development. However street sweepers and maintenance teams had been active in the area. The Council's photographs, taken in March 2005, show scatters of loose stones in places, with more significant concentrations on some footways. The appellant's experience is that little spreading of gravel occurs, but residents have lived on the site for 3 years in some cases and refer to the regular need to sweep up loose gravel. On balance I take the view that the presence of gravel on footways is a significant consideration.
4. It appears to me that there is little evidence of sufficient amounts of stone on carriageways to cause cars to skid or swerve. Although some drivers can be expected to speed, the roads are designed for low speeds, and I conclude that danger is not likely to arise for car users, or from cars throwing up gravel. Off the sites, so little gravel will be carried in car tyres that, again, I do not think that danger would be caused.
5. It seems to me that, in general, users of other wheeled vehicles, such as bicycles and wheelchairs, would not find difficulty in negotiating the footways or carriageways, as appropriate. This is because most of the individual pieces of stone are too small, at about 20mm or so, to halt or significantly to deflect the wheels of such vehicles.
6. On the other hand, I consider that some types of movement would be hindered. Notwithstanding that research carried out for the appellant has found that someone using crutches was able to cope with stones, it seems to me that partially sighted, elderly and infirm people, and those lacking the confidence to place their feet firmly on the ground, would find it difficult and to a certain degree dangerous to negotiate the stone scatters on the footway. Furthermore, children running and cycling with more abandon than adults would be at risk of falling. In reaching these conclusions I bear 2 things in mind. Some stones, probably derived from the sub-bases of drives, are larger than the average, as I saw. Also, the stones in places would lie loosely on a smoother surface and would be more prone to movement under the pressure of someone stepping on them.
7. I note that the appellant has never had an insurance claim as a result of the effects of gravel. Nevertheless, because of the considerations outlined above, my conclusion on the first issue is that there is some objection to the retention of the gravel drives and parking areas on the basis that some people, including individuals who have difficulty in getting about in normal circumstances, would be at risk of falling. In this respect only the appeal proposal is contrary to the provisions of Policy TM19A of the Replacement UDP for the Bradford District. There is also a degree of conflict with Policies D1 and D6, which refer respectively to providing for access for those with physical disabilities and to the provision of adequate and safe pedestrian facilities within development.

The Safety and Security of Residents

8. There is a substantial body of representations to the effect that children and youths pick up stones and throw them at windows, patio doors, cars, and people. I take these representations at face value. Many residents have witnessed such incidents and on my site visit I saw evidence of damage to a window which was consistent with the stone throwing described by residents. A letter from one resident gives details of an incident which led to

the police apprehending the youths responsible. Stone throwing is an under-reported crime, but the Police have 29 crime reports regarding such incidents in this area.

9. Therefore, although much of the gravel on the site is small, I have no doubt that the safety and security of residents is being harmed as a result of stone throwing. As recorded above, some of the stones are larger than the majority. It may be that children bring stones from off the site, but the availability of large quantities on the site threatens the safety of those living there. In my view the clear problems caused by the gravel outweigh heavily the benefits of gravel in deterring intruders. The appeal proposal is contrary to UDP Policy D4.

The Character and Appearance of the Area

10. The drives and parking areas on the new development sites are lighter in colour and coarser in texture than those in surrounding streets. Nevertheless the contrast fits in with the general differences between the new and the old. The new houses are, for example, in different coloured brick and tile compared with the older houses. The 3 sites are of sufficient scale to have their own character, which does not have to be dependent upon the character of the nearby streets, and this is shown by the Council's decision to permit the new housing with its different materials.
11. There is however one aspect of the use of gravel drives which in my opinion spoils the appearance of the area, and this is the scattering of loose stone on footways and carriageways which the Council's photographs and the residents' representations show to be not uncommon. To my mind this untidy appearance is not a major visual problem, but it adds to the objections I have found under the other main issues.

Other Matters

12. The contribution of the new housing development to the regeneration of this deprived area has been achieved by the near-completion of the development. Provision of sealed drives and parking areas would not harm regeneration. On the other hand, the opportunity for low level crime represented by the availability of stones for throwing by less responsible and younger members of the community, and the presence of stones on the highway affecting the appearance of the area, would tend to prevent the full benefits of regeneration from being realised.
13. Access within house curtilages is a matter for the Building Regulations, and approval under this separate legislation has been granted by the Council. The Council agrees that its Highway Design Guide is old and has largely been superseded by national guidance. I note the sustainability advantages of gravel drives, which do not need drainage provision and reduce storm water run-off. However, I consider that it is not sustainable to subject existing and future residents to the safety, security and access problems resulting from the provision of the gravel drives.
14. The Council is concerned about the possible need in future to take legal action against house owners because of the spread of gravel onto the roads, and says it would be reluctant to adopt the highways in the development. The former is a matter for the Council and property owners, and the decision on highway adoption is for the Council to take. The appellant refers to permitted development rights allowing home owners to spread gravel within their curtilages but the appeal involves 235 dwellings and not the random use of

gravel by individuals. In fact the size of the development, and the evidence in this case, distinguish this appeal from other appeals to which my attention has been drawn.

15. The appellant refers to the possibility of using gravel traps on certain drives. This would not stop the spread of gravel from other drives, nor prevent gravel being carried onto the highway by children playing. Most importantly, it would not prevent stone throwing.

Conclusions

16. The appellant company is a leading exponent of the practical regeneration of deprived areas and builds affordable homes. This should be fully acknowledged. There would be a cost to the appellant company if the drives have to be resurfaced, and the precedent would dissuade the company from working in Bradford. However, the planning objections to the retention of the gravel drives and parking areas, taken together, are too weighty to enable me to allow their retention. I conclude that condition 5 imposed on planning permission 02/00894/FUL was necessary, and that it is still necessary to secure the provision of sealed drives and parking areas. In order to allow a reasonable opportunity for the appellant to do this, whilst making the provision enforceable, I am allowing the appeal and imposing on the new planning permission thereby created a reworded condition 5. The new wording also recognises that the drives have already been formed, and omits the gradient requirement in the original condition 5. The new condition is enforceable without phasing.
17. I have taken account of the other matters raised, but all of these matters are outweighed by the considerations which have led to my decision.

Formal Decision

18. I allow this appeal and grant planning permission for the construction of houses with garages and/or parking space together with ancillary works at sites C, D and F in accordance with application Ref 04/03171/VOC made on the 5 July 2004 without compliance with condition number 5 previously imposed on planning permission Ref 02/00894/FUL dated 14 October 2002 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 condition:

5. Within 2 years from the date of this letter, the off street parking facility for each dwelling hereby approved shall be laid out, hard surfaced, sealed and drained, within the curtilage of the site.

C. Hughes

APPEARANCES

FOR THE APPELLANT:

Peter Wood Dip TP MRTPI

Senior Partner in the firm of Peacock & Smith, Town
Planning Consultants, Leeds

David John Pearson BEng(Hons)
Dip Transportation MICE

Director of Brian Hall, Consulting Engineers, Leeds

Jolyon Harrison

Chief Executive of the appellant company

FOR THE LOCAL PLANNING AUTHORITY:

Mohammed Yousuf

Area Planning Manager with the Council

Robert Taylor

Senior Engineer Development Control with the Council

Steven Town

District Police Architectural Liaison Officer

INTERESTED PERSONS:

Colette Murphy

21 The Crescent, Buttershaw, Bradford

Deborah Major

8 Stainton Close, Buttershaw, Bradford

Mrs S Anderson

2 Stainton Close, Buttershaw, Bradford

Mrs Smith

2 Caldbeck Drive, Buttershaw, Bradford

DOCUMENTS SUBMITTED AT THE HEARING

- | | | |
|----------|---|---|
| Document | 1 | List of persons present at the hearing |
| Document | 2 | Council's letter of notification of the hearing |
| Document | 3 | Letters from residents. |
| Document | 4 | Research findings concerning crushed aggregate driveways |
| Document | 5 | Replacement UDP for Bradford District as approved in October 2005 |
| Document | 6 | Letter to Mrs Anderson from the appellant, dated 31 March 2005 |
| Document | 7 | Photographs from 'Places, Streets and Movement' |

PLANS

Plans A - D Application Plans

PHOTOGRAPHS

Photos 1 - 4 Workmen on site



The Planning Inspectorate

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An Executive Agency in the Office of the Deputy Prime
Minister and the National Assembly for Wales

Challenging the Decision in the High Court

Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Frequently asked questions

"Who can make a challenge?" - In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land - other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this - see Further Information).

"How much is it likely to cost me?" - An administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees - see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" - This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" - You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" - Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again but for different or expanded reasons.

"What can I do if my challenge fails?" - The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Further information about challenging the decision

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 2LL, telephone 0207 9476655, Website: www.courtservice.gov.uk

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Council on tribunals

If you have any comments on appeal procedures you can contact the Council on Tribunals, 81 Chancery Lane, London WC2A 1BQ. Telephone 020 7855 5200; website: <http://www.council-on-tribunals.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.

Contacting us

High Court Section
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Phone: 0117 372 8962

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General Enquiries

Phone: 0117 372 6372

E-mail: enquiries@pins.gsi.gov.uk

Complaints

Phone: 0117 372 8252

E-mail: complaints@pins.gsi.gov.uk

Cardiff Office

The Planning Inspectorate

Room 1-004

Cathays Park

Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: Wales@pins.gsi.gov.uk

The Parliamentary Ombudsman

Office of the Parliamentary

Commissioner for Administration

Millbank Tower, Millbank

London SW1P 4QP

Helpline: 0845 0154033

Website: www.ombudsman.org.uk

E-mail: opca-enqu@ombudsman.org.uk





The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime Minister and the National Assembly for Wales

Our Complaints Procedures

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it.

Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly held.

We therefore do our best to ensure that all complaints are investigated quickly, thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms.

When investigating a complaint we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, we know that there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. Minor slips and errors may be corrected under the terms of the Planning & Compulsory Purchase Act 2004 but we cannot amend or change in any way the substance of an Inspector's decision.

Who checks our work?

The Government has said that 99% of our decisions should be free from error and has set up an independent body called the Advisory Panel on Standards (APOS) to report on our performance. APOS regularly examines the way we deal with complaints and we must satisfy it that our procedures are fair, thorough and prompt.

Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"If you cannot change a decision, what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds whether these views justify refusing planning permission.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. It can investigate and has discretionary powers to take action if a condition is being ignored.

Further information

Every year we publish a Business and Corporate Plan which sets out our plans for the following years, how much work we expect to deal with and how we plan to meet the targets which Ministers set for us. At the end of each financial year we publish our Annual Report and Accounts, which reports on our performance against these targets and how we have spent the funds the Government gives us for our work. You can view these and obtain further information by visiting our website (see 'Contacting us'). You can also get booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or on the ODPM website - www.odpm.gov.uk/

Contacting us

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The Parliamentary Ombudsman

Office of the Parliamentary
Commissioner for Administration
Millbank Tower, Millbank
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Helpline: 0845 0154033
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Direct Line 0117-3726252
Switchboard 0117-3728000
Fax No 0117-3728443
GTN 1371-6252

Mrs L Morton (Development Control)
North Lincolnshire Council
Planning Dept
Church Square House
P O Box 42
Scunthorpe
N Lincs
DN15 6XQ

Your Ref: 2004/2083
Our Ref: APP/Y2003/A/05/1176573
Date: 3 July 2006

Dear Madam

**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY PELHAM HOMES LINCOLN LTD
SITE AT LAND OFF:, NORMANBY ROAD/ PARK FARM ROAD, SCUNTHORPE**

I enclose a copy of our Inspector's decision on the above appeal.

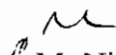
The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252
Fax No. 0117 372 8139
E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully


Mr Nick Hall

COVERDL1

DEVELOPMENT CONTROL SECTION	
04 JUL 2006	
DATE RECEIVED	
Referred To	



Appeal Decision

Hearing held on 04 May 2006

**by Richard E Hollox BA(Hons) BSc(Econ)
MPhil FRTPI FRICS**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
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e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

05 May 2006

Appeal Ref: APP/Y2003/A/05/1176573

Land off Normanby Road/Park Farm Road, Scunthorpe

- 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 above Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Pelham Homes Lincoln Ltd against the decision of the North Lincolnshire Council.
- The application Ref 2004/2083, dated 29 November 2004, was refused by notice dated 25 January 2005.
- The application sought the removal of 2 conditions attached to a planning permission Ref 2003/0002 dated 1 November 2004 for the erection of 371 houses – 110 detached and 261 semi-detached houses with garages and/or parking spaces together with road and drainage works.

Summary of Decision: The appeal is allowed and planning permission is granted subject to the terms set out in the Formal Decision below.

Procedural Matters

1. The disputed conditions are:

16. No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use.

17. No loose material shall be placed on any driveway or parking area within 10 m of the adopted highway unless measures are taken to the satisfaction of the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented, these measures shall be retained.

2. The Reason for the conditions is:

The Local Planning Authority considers that to remove the requirements of the conditions will result in water and extraneous material being transported/flowing onto the public highway which will prejudice the safe and unimpeded flow of traffic, and therefore the development will not be in accordance with the Council's Residential Road Design Guide.

Main Issue

3. From what I have read, seen and heard, I consider that one main issue arises in the determination of this appeal. This is whether there is an unacceptable risk that the removal of either or both conditions would result in water being discharged onto the public highway

and extraneous material being carried onto it by one means or another, resulting in serious danger and inconvenience to persons passing along it.

Planning Policy

4. The development plan is the adopted Humberside Structure Plan as amended by adopted —Alteration No 3 (1993), the adopted (May 2003) North Lincolnshire Local Plan and Regional Planning Guidance (RPG) 12. At the Hearing, however, it was agreed that there were no policies in it of direct relevance to the removal of these conditions. Nevertheless, I have taken account of Structure Plan Policy T17 which seeks the design of new development to ensure the optimum ease and safety of movement for pedestrians, cyclists and people with disabilities. The Council's Residential Roads Design Guide, its representatives told me, *fulfils the aims of planning policies*. Although it does not have the status of Supplementary Planning Guidance let alone that of an adopted policy, I have taken its advice into account. I have also kept in mind Government policy in Circular 11/95 concerning the reasonableness of planning conditions and the importance of good design as set out in Planning Policy Statement (PPS) 1.

Reasons

5. At the Hearing, the Council accepted that the Appellant Company had complied with Condition No 16. This stems from information in the planning application and other documents concerning the materials and means of construction of driveways and other hard surfaces within the residential scheme. Essentially, the Council agreed that the specified crushed aggregate is a permeable surfacing which, with the proposed design and construction of the driveways, would allow surface water to be absorbed on site. The Council accepted that any risk of an appreciable quantity of water finding its way onto the public highway was remote. In the particular circumstances of this case, I have no reason to disagree. As the Council pointed out, however, this is not to say that this condition should not be attached to planning permissions in other circumstances where it would meet the tests of reasonableness in the Circular.
6. I share the Council's concerns about loose material, in this case crushed aggregate, escaping from driveways and spilling onto the public highway. This is most likely to occur where driveways slope down appreciably towards the public highway and mainly as a result of cars and other vehicles being driven to and from the driveways. In my judgement, there is a significant risk that even a small amount of loose material on the footway and the carriageway could cause inconvenience and danger, particularly for pedestrians and cyclists respectively. Inadequate maintenance of driveways could increase the problem. The Design Guide states that all measures shall be taken to prevent the discharge of loose material onto the public highway from private driveways and parking areas, and this is a sensible precaution. And, as I saw at my inspections, loose material on the public highway is no visual asset to the surroundings.
7. Owing to the modest speed of traffic along estate roads, I do not consider that there is much risk of material being thrown up from the carriageway and causing injury to pedestrians or damage to vehicles or other property. I note the references to the Highways Act 1980, but safety and convenience on the public highway is also a planning consideration. All reasonable measures should be taken to increase the convenience and comfort of cyclists and pedestrians, in line with Government policy concerning sustainable transport and the

Council's policies of encouraging cycling as a means of transport in this generally flat part of the country where there appears to be much potential for it. I therefore think it reasonable for the Council to seek to prevent by condition the escape of loose material from private driveways onto the public highway.

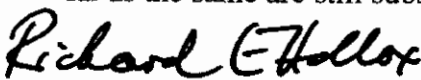
8. The Appellant Company already does a good deal to prevent the circumstances outlined above. On the steeper gradients, crushed aggregate is bonded into the surface, and the quality of the aggregate has been improved and its appropriateness for the purpose enhanced during the last few years and since the completion of the residential schemes which I inspected. Care in the choice of size and shape of aggregate will minimise its escape from driveways. But there may be instances where the gradient is sufficiently steep to justify alternative or additional measures. These might include the placing of Agrablock gravel traps at or near the boundary of private driveways with the public highway. These measures and improvements are part of the Appellant Company's responsible approach towards minimising the escape of loose material and where necessary they would go a good way towards meeting the terms of Condition No 17. The need for them in certain circumstances demonstrates the reasonableness of the condition.
9. There are a previous appeal decisions where Inspectors have noted the usually small amounts of loose material on the public highway. Circumstances are likely to differ from one residential scheme to another, if only because of the gradients of particular driveways. I have taken these decisions into account, but I accord more weight to the evidence heard and seen at my Hearing. I accept that there appears to be no compelling evidence at present to show that loose material on the public highway has directly led to accidents or serious inconvenience, but a judgement must be made about the risk that it might do so in the future. Safety and convenience on the public highway is an important consideration, and in my view loose material would pose an appreciable risk without the measures indicated. The Council is right to be cautious, and Condition No 17 should stay.
10. The proposed dwellings will be affordable, being low-cost accommodation for people on low incomes, and I accept that costs must be kept to a minimum wherever possible. But not, I consider, at the risk of danger or inconvenience on the public highway.

Conclusions

11. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed in so far as Condition No 16 is concerned.

Formal Decision

12. I allow the appeal, and grant planning permission for the erection of 371 houses – 110 detached houses and 261 semi-detached houses with garages and/or parking spaces together with road and drainage works at land off Normanby Road/Park Farm Road, Scunthorpe in accordance with the application, Ref 2004/2083 dated 29 November 2004, without compliance with Condition No 16 previously imposed upon planning permission Ref 2003/0002 dated 1 November 2004 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.



RICHARD E HOLLOX
(Inspector)

APPEARANCES

FOR THE APPELLANT:

Mr P Wood	Peacock and Smith, Suite 2A, Joseph's Well, Hanover Walk, LEEDS LS3 1AB
Mr D Pearson	Bryan G Hall, Suite E8, Jacob's Well, Hanover Walk, LEEDS LS3 1AB
Mr J Harrison	Pelham Homes Lincoln Ltd
Mr K Rix	Pelham Homes Lincoln Ltd
Mr A Clarke	Pelham Homes Lincoln Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr W Hill	Principal Planner, North Lincolnshire Council
Mr D Cowling	Highway Control Officer, North Lincolnshire Council
Mr T Sowerbutts	Team Manager, North Lincolnshire Council

INTERESTED PERSONS:

None

DOCUMENTS ETC SUBMITTED AT THE HEARING

Document	1	List of persons present at the Hearing
Document	2	Interim Report on the Findings of a Research Study
Document	3	Inspector's Notes for Hearing, with initial Main Issues.
Sample	1	Sample of Crushed Aggregate

PLANS

Plan	A	Location Plan @ 1:10,000
Plan	B	Planning Layout Dwg No 897/2A



Appeal decision

Hearing conducted on 9 January 2007

by **Robert A Luck** BSc CEng MICE DipTE MIHT MEWI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
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Bristol BS1 6PN

☎ 0117 372 6372

e-mail:
enquiries@planning-
inspectorate.gsi.gov.uk
Date: 16 January 2007

Appeal Ref: APP/W3005/A/06/2014327

Edward Gardens, Ashwood Avenue, Kirkby in Ashfield, Notts. NG17 7RE

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
- The appeal is brought by Clarke Homes Ltd against the decision of Ashfield District Council.
- The application Ref: 2006/0047, dated 15 December 2005, was refused by notice dated 2 March 2006.
- The application sought planning permission for residential development for 53 houses, at land between Edward Street and Ashwood Avenue, Ashwood Avenue, Kirkby-in-Ashfield, Nottingham, without complying with a condition attached to planning permission Ref: 2004/0332, dated 1 January 2005.
- The condition in dispute is No 6 which states that:
"Prior to the commencement of use of the hereby permitted development all vehicle manoeuvring areas, parking areas and any footpaths shall be surfaced in hard-wearing materials previously agreed by the Local Planning Authority"
- The reason given for the condition is:
"To ensure a satisfactory standard of development"

Summary of decision: The appeal is dismissed.

Procedural Matters

1. At the hearing the main parties agreed that, in accordance with the appellant's letter enclosed with the application and dated 8 December 2005, the proposal was to replace the disputed condition with the following:
"6. Before a dwelling is occupied its off-street parking space(s) and any driveway shall be laid out and constructed as shown on the approved plans. The parking space(s) shall be made available for use and maintained thereafter free from any impediment to its designated use unless planning permission has been obtained from the Local Planning Authority."
2. The application drawings show a "gravel finish to private drives". It was agreed at the hearing that the disputed condition seeks to override this by requiring the surfacing materials to be "hard wearing". While the appellant company maintained that gravel (i.e. 38mm of 15/20mm unbound crushed aggregate to BS EN 13242, well rolled and compacted) is a hard wearing material, it accepted that the Council's intention was that a bound material to an approved specification should be used. For the sake of brevity and clarity I shall use the term "gravel" to mean the same material as that referred to by the appellant.

3. The disputed condition also refers to surfaces which it is intended should be adopted. There is therefore an overriding requirement that these should be constructed to the satisfaction of the highway authority.

The Main Issues

4. I consider the main issues in this appeal to be:
 - The effect of the use of gravel in driveways on the character and appearance of the area;
 - The effect of the use of gravel in driveways on the safety and convenience of road users.
 - Whether the benefits of using gravel outweigh any identified harmful effects.

Planning Policy

5. The Development Plan for the area includes the Ashfield Local Plan Review (2002). Policy ST1 requires, amongst other things, that development should not adversely affect the character, quality, amenity or safety of the environment, nor should it adversely affect highway safety. Policy HG5, dealing with new residential development, includes the requirements that access should be safe and convenient, and that the design of the development should be acceptable in appearance. Policy TR3 expects suitable provision to be made for safe and convenient access by pedestrians and people with limited mobility.

Reasons and Conclusions

Character and Appearance

6. At the hearing, the Council did not dispute that well-maintained gravel on driveways and private parking areas is compatible with the character and appearance of the area. Equally, it was agreed by both main parties that the gravel does find its way onto the footways and carriageways. Recognising this problem from experience, the appellant company has included in the terms of sale of the houses on recently-developed sites, including the appeal site, a covenant or agreement that its customers should sweep any such gravel back from the highway onto their driveways. In Derbyshire it has an arrangement that a highway authority inspector who sees any spilled-over gravel should telephone the company who will pursue the matter with the relevant occupier. At the time of the hearing, no such telephone calls had been received. The final sanction available to the company in the event of any non-compliance on the part of its customers is action through the Courts to enforce the covenant or agreement.
7. I visited the site informally on the afternoon before the hearing and undertook an accompanied visit during the hearing. On both occasions I saw no more than a slight scattering of gravel on the highways. The wearing course had not been laid to either footways or carriageways, so that their surfaces were such as would be likely to exhibit noticeable signs of scarring from the action of vehicles driving over any loose gravel. Photographs of conditions at the site about a week earlier, submitted at the hearing by the Council (Photograph Set A) show limited areas close to the back of the footway where significant quantities of gravel have spilled off the drives, together with wider areas of the footway with a scattering of loose uncoated stones. Photographs of other sites submitted by the Council with its written submissions show substantial and, in some cases, widespread areas of gravel on footways and carriageways, though the appellant said that these sites are

not subject to the relevant covenant. The appellant's photographs included with its submissions show some of these, and other, sites in a much more favourable light.

8. The specification for the drive construction employed in this case allows for a maximum of 38mm of gravel, laid onto a base of unbound, close-graded aggregate whose surface has been dusted with cement after rolling. The evidence of the appellant's representative was that the cement stabilises the surface of the base and provides adhesion for the lower level of gravel, into which the upper level of gravel "locks" mechanically, so resisting displacement. The problem with this, as I see it, is that once a few stones have been displaced, as the appellant has acknowledged does happen, the locking mechanism is weakened and further loss will be more likely, either under trafficking, or the frequent raking recommended by the appellant to residents as a means of maintaining a good appearance to their drives. It is my opinion, therefore, that the intensity of gravel spillage or tracking onto the highway (especially the footway) will increase over time.
9. During my visit I saw well-defined wheeltracks and significant unevenness in the surfaces of a number of the driveways. In some cases not only had the cement-bound surface of the base been exposed, but the fines of the underlying aggregate had migrated to the drive surface, indicating the cement-bound layer had broken down and thus showing inherent weaknesses in the designed structure. I understand first occupation of the houses took place over a period extending from 18 months to six months before the hearing. In my opinion, the evident tendency for the surface and sub-surface structure of the drives to lose integrity in these ways over such a time span is not compatible with the properties to be expected of the hard wearing surface required by the disputed condition.
10. Even modest accumulations of stones on footways and carriageways give the street scene an uncared-for look, and it seems to me a poor design that requires a high level of maintenance intervention to avoid an outcome harmful to what would otherwise be a potentially attractive suburban street scene. I do not altogether support the view that gravel on drives is an especially likely source of ammunition for vandals compared to, say, stones from ornamental garden features. However, I sympathise with the concerns expressed by the Police that degradation in appearance has an escalating effect on poor attitudes and behaviour in a locality.
11. While the appearance of the drives themselves is not an issue in this appeal, I saw during my visits that a number of them had a noticeable amount of weed growth on them, while well-defined wheeltracks at various locations had evidently not been raked regularly as recommended. The latter was especially noticeable where the drive was not part of the frontage of the host house. To my mind, these observations somewhat undermine the appellant's view that homeowners on this sort of site are generally concerned to keep the front of their properties in good order. The effectiveness of the system for enforcing the covenant to keep the highway clear of stones is, in my view, unproven. There is no evidence before me to show that the lack of reports in Derbyshire reflects a lack of problems: for instance, inspection frequency may be an important factor. I am not therefore satisfied that there is a high likelihood that gravel will be cleared from public areas by local residents with sufficient frequency and thoroughness over an extended period of time.
12. I conclude that the effect of the use of gravel on driveways at this site would be to cause significant harm to the character and appearance of the area. To vary the disputed condition

suggested by the appellant or to remove it would therefore bring the proposed development into conflict with Local Plan Policies ST1 and HG5.

Highway Safety

13. The appellant has provided a DVD showing the use of gravel drives by what appear to be reasonable fit and active people in wheelchairs, using crutches and pushing buggies. Little difficulty appears to have occurred, apart from the case of a wheelchair manually operated by the user. On one occasion there was some difficulty in traction and on another it was clear that the chair was skidding down a slope with one or both main wheels fully braked by the user. The appellant company has said that it would provide a bound surface for any purchaser experiencing difficulties on a drive. Any proven significant problem in such cases would be a matter to be addressed under other legislation.
14. Stones are picked up in the treads of tyres in the normal course of events and I do not consider the use of gravel on drives or spillages onto carriageways would give rise to unacceptable effects in this respect. Further, with the speeds likely to be achieved by vehicles in the layout of the appeal site, significant problems would not arise, in respect of braking, turning or flying stones, from the amount of gravel which would accumulate on the carriageway between routine sweepings by the relevant authority. It is observable that, in any case, the passage of vehicular traffic tends to push gravel towards the side of the road and out of wheeltracks. The use of gravel on drives would not lead to such a pattern of deposits on the carriageway as would harm the safety of road users.
15. Significant accumulations of stones of nominal size up to 20mm on the footway would present an unstable surface to pedestrians on foot, especially those of limited mobility, and wheelchair users. The problem would be more acute since the greatest accumulations will be where vehicle crossings already present a steeper crossfall to be negotiated. I consider such problems to be at least an inconvenience to wheelchair users, but a safety hazard to pedestrians, especially those who walk with some difficulty and those with visual impairment.
16. I therefore conclude that to vary the disputed condition suggested by the appellant or to remove it would cause the proposed development to harm the safety and convenience of road users and thus conflict with Local Plan Policies ST1, HG5 and TR3.

The Benefits

17. The appellant company is concerned to provide low-cost housing on the open market, and thus help to regenerate deprived housing areas which provide a poor living environment. To be effective, the design should seek to minimise cost within the parameters of acceptable design. However, in view of my conclusion on the effect of the use of gravel on the character and appearance of the area, I consider this is an element tending to be counter-productive to the achievement of the company's aims. Moreover, the maximum additional cost incurred in using bound material was stated by the appellant at the hearing to be about £600 per dwelling. Even if savings could not be made by tying the work in with the surfacing of the footways and/or undertaking all driveways as part of a single operation, the extra cost, if passed directly onto the purchaser, would add less than 1% to the price of the cheapest two bedroom semi-detached house, stated by the appellant to be £73,145.

18. Unlike gravel, bitumen bound macadam, paved or concrete surfaces are subject to staining by oil droppings. Any other damage to such surfaces is expensive to repair in comparison with the cost of topping up gravel. However, the need for maintenance is likely to be less frequent and may not occur in any case until the owner is better able to afford it. I have noted that at the appeal site, visible deterioration of gravel surfaces within some drives has become apparent in less than 18 months.
19. In principle, gravel provides a free-draining surface so that rain falling on it soaks through to the ground rather than being directed into a positive drainage system. In this respect it accords with national policy on sustainable drainage. However, it is far from clear to me that in fact it would soak through the cement layer and the underlying close-graded base material. If it did not, the water would start to flow off the surface as soon as the voids in the clean stone layer were filled. Moreover, moderate shaping of bound surfaces could direct much of the runoff onto soft landscaped areas.
20. In summary, I conclude the benefits of the gravel construction, in terms of initial cost, maintenance costs, the effects of neglect and permeability, are limited. As such they are heavily outweighed by the harm to the character and appearance of the area and to highway safety.

Other Considerations

21. It has been brought to my attention that my colleague Inspectors have both allowed and dismissed similar appeals. This reflects the principle that each appeal should be determined on its own merits, as I have reached my decision in this case.

Overall Conclusion

22. For the reasons given above and having regard to all other matters raised I conclude that, on balance, the appeal should be dismissed.

Formal Decision

23. I dismiss the appeal.

RA Luck

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Brian Twigg DipURP MRTPI	Area Development and Building Control Manager, Ashfield District Council
Mr Peter M Evans BEng (Hons)	Engineering Services, Ashfield District Council
Mr Stephen Gregory	Ashfield District Council
Mr Michael Powis	'A' Div. Headquarters, Nottinghamshire Police.

FOR THE APPELLANT:

Mr Peter Wood	Peacock & Smith, Suite 2A Joseph's Well, Hanover Walk, Leeds LS3 1AB, Agent.
Mr David J Pearson BEng CEng MICE	Brian G Hall, Suite E8 Joseph's Well, Hanover Walk, Leeds LS3 1AB.
Mr R Harrison	Clarke Homes Ltd.
Mr I Slater	Clarke Homes Ltd.

DOCUMENTS

- 1 Letters of notification of the hearing arrangements dated 26 October 2006 and 7 November 2006, submitted by the Council.
- 2 Site notice of the hearing arrangements, submitted by the Council.

PHOTOGRAPHS

- A Set of 7 photographs identified as having been taken between 14:39 and 14:42 on 2 January 2007, showing gravel on footways and carriageways at the site.



The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime
Minister and the National Assembly for Wales

Challenging the Decision in the High Court

Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions and advertisement appeals.). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Frequently asked questions

"Who can make a challenge?" – In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land – other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this – see Further Information).

"How much is it likely to cost me?" – A relatively small administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees – see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" – This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" – You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" – Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again but for different or expanded reasons.

"What can I do if my challenge fails?" – The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Further information

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 2LL, telephone 0207 9476655; Website: www.courtservice.gov.uk

Council on tribunals

If you have any comments on appeal procedures you can contact the Council on Tribunals, 81 Chancery Lane, London WC2A 1BQ. Telephone 020 7855 5200; website: <http://www.council-on-tribunals.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.

Contacting us

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The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime Minister and the National Assembly for Wales

Our Complaints Procedures

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly held.

We therefore do our best to ensure that all complaints are investigated quickly, thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms.

When investigating a complaint we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, we know that there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. Minor slips and errors may be corrected under the terms of the Planning & Compulsory Purchase Act 2004 but we cannot amend or change in any way the substance of an Inspector's decision.

Who checks our work?

The Government has said that 99% of our decisions should be free from error and has set up an independent body called the Advisory Panel on Standards (APOS) to report on our performance. APOS regularly examines the way we deal with complaints and we must satisfy it that our procedures are fair, thorough and prompt.

Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"If you cannot change a decision, what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds whether these views justify refusing planning permission.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. It can investigate and has discretionary powers to take action if a condition is being ignored.

Further information

Every year we publish a Business and Corporate Plan which sets out our plans for the following years, how much work we expect to deal with and how we plan to meet the targets which Ministers set for us. At the end of each financial year we publish our Annual Report and Accounts, which reports on our performance against these targets and how we have spent the funds the Government gives us for our work. You can view these and obtain further information by visiting our website (see 'Contacting us'). You can also get booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or on the ODPM website - www.odpm.gov.uk/

Contacting us

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Appeal Decision

Hearing held on 6 March 2007

Site visit made on 6 March 2007

by **Alison Lea** MA (Cantab) LARTPI Solicitor

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

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Date: 12 March 2007

Appeal Ref: APP/P4225/A/06/2025136

Land at Borrowdale Road, Middleton, Rochdale

- 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 planning permission was granted.
- The appeal is made by Chorley Homes Limited against the decision of Rochdale Metropolitan Borough Council.
- The application Ref 06/D46938, dated 6 March 2006, was refused by notice dated 6 June 2006.
- The application sought planning permission for 2 storey residential development – 22 dwellings without complying with a condition attached to planning permission Ref 05/D45405, dated 6 October 2005.
- The condition in dispute is No 9 which states that: Before any development is commenced details of the design and construction of the car parking spaces indicated on the approved plans shall be submitted for the written approval of the local planning authority. The duly approved scheme shall be implemented in full before the dwellings are first occupied and the areas shall be retained thereafter for car parking.
- The reason given for the condition is: In order to ensure that there is adequate provision for vehicles to be parked clear of the highway in the interests of road safety and amenity and to prevent obstruction.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions in the terms set out below in the Formal Decision.

Procedural Matters

1. The parties agreed at the hearing that Condition 9 did not prohibit the use of crushed aggregate as a surface for driveways. However, when the appellant proposed that crushed aggregate be used the Council expressed concern about the proposed material and the appellant decided to apply to vary the condition. Both parties acknowledge that a more normal procedure might have been to submit the details in accordance with the existing condition and, if refused, to appeal against that refusal. However, the Council accepted the application as valid, determined it and the appellant has submitted this appeal. The parties agree that in determining this appeal the main issue of whether or not the use of crushed aggregate is acceptable or not will fall to be determined, and accordingly, I have determined the appeal on the basis submitted.

Main Issues

2. The main issues in this case are therefore
 - (a) whether the proposal would be prejudicial to highway safety; and

danger to pedestrians including the mobility impaired. It would not be contrary to Policy A/3 or Policy BE/2 insofar as it relates to safety matters.

Character and Appearance

10. The Council considers that the driveways, even if properly maintained, have an unfinished appearance and that their colour and texture is out of keeping with the area. I accept that the driveways form a contrast to the road in that they do not have a smooth texture and are lighter in colour. However, I agree with the appellant that they add visual interest and they provide a visual divide between the private and public realm. At the time of both my preliminary and accompanied site visits they appeared generally neat and tidy, and I do not agree that they have an unfinished appearance. Even with some spillage I consider that their appearance would not be detrimental to the character and appearance of the area and would not be contrary to guidance which promotes good design in new development. In my view the driveways do not detract from the overall appearance of the development which improves the appearance of the housing estate of which it forms part.
11. I conclude therefore that the use of crushed aggregate would not cause significant harm to the character or appearance of the area and would not be contrary to Policy BE/2 of the unitary development plan.

Other Considerations

12. The Council expressed concern that the driveways could be susceptible to drainage problems. However, although reference was made to puddles having been observed on the driveways no evidence as to drainage problems was produced. Furthermore I accept that crushed aggregate is a permeable surfacing that allows rainwater to infiltrate into the ground and its use is generally consistent with sustainable urban drainage policies. I also note that the references to drainage problems raised by the occupiers of one of the properties pre-dates the remediation to the surfaces which has been carried out. In my view the drainage qualities of the surface weigh in favour of permitting this appeal
13. Reference has been made to the security aspects of the surface due to its texture creating a noise when access is gained over it and the fact that its use is viewed positively by a number of police forces. I accept however that access can be gained to a number of properties without recourse to the aggregate driveways and this has not therefore been critical to my decision making.
14. I note the other concerns which have been raised by the occupiers of some of the properties, and in particular the potential health hazard caused by cats using the driveways as a litter tray, and moisture collecting on bricks. However, no evidence has been produced which would outweigh my conclusion on the main issues.

Conclusions

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting a new condition 9 and retaining the non-disputed conditions from the previous permission. The new condition 9 will, in the interests of highway safety, require the off street parking to be provided before each dwelling is brought into use, and to be thereafter retained for car parking.

APPEARANCES

FOR THE APPELLANT:

Mr P Wood	Peacock & Smith, Suite 2A, Josephs Well, Hanover Flank, Leeds LS3 1AB
Mr D Pearson	Bryan G Hall, Suite E8, Joseph's Well, Hanover Walk, Leeds LS3 1AB
Mr I Slater	NorthCountry House, Barlborough, Chesterfield S43 4WD

FOR THE LOCAL PLANNING AUTHORITY:

Ms H Barker	Town Hall, Rochdale OL16 1AB
Mr T Wood	Floor 3, Municipal Offices, Smith Street, Rochdale
Mr R Bennett	Telegraph House, Baillie Street, Rochdale

DOCUMENTS

- 1 Council's Notifications of the hearing
- 2 Letter dated 31 January 2007 from Mr and Mrs Fish
- 3 Agreed List of Plans

PLANS

- A (1-10) Appeal Plans

Formal Decision

16. I allow the appeal and grant planning permission for residential development – 22 dwellings at land at Borrowdale Road, Middleton, Rochdale in accordance with the application Ref 06/D46938 dated 6 March 2006, without compliance with condition number 9 previously imposed on planning permission Ref 05/D45405 dated 6 October 2005 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 condition: Before each dwelling is brought into use the off street parking facility hereby approved shall be laid out within the curtilage of the site and thereafter retained for car parking.

Alison Lea

INSPECTOR

- (b) the effect of the proposal on the character and appearance of the surrounding area.

Planning Policy

3. The development plan for the locality includes the Rochdale Replacement Unitary Development Plan (2006). Policy A/3 provides that development proposals will be permitted provided they facilitate safe and convenient access for pedestrians, disabled people and other people with restricted mobility.
4. Policy BE/2 provides that development proposals will be required to demonstrate good design by, amongst other matters, ensuring that they are compatible with or improve their surroundings, appropriate treatment of open spaces between and around buildings and providing for safe and convenient access and circulation.

Reasons

5. The appeal site is located in a residential area within the Langley Physical Regeneration area. It is accessed off Borrowdale Road and comprises a single cul-de-sac consisting of 22 dwellings which have been constructed by the appellant. The appellant has surfaced the driveways with crushed aggregate, which surface the Council considers to be unacceptable.

Highway Safety

6. The Council confirmed that its concern was restricted to the public highway and that, even in respect of the mobility impaired; it was not suggesting that the driveways themselves would not be accessible. The appellant acknowledged that there will be occasions when there is some spillage of aggregate from the driveways onto the public highway. Although it accepts that this would not cause a danger to vehicular traffic, the Council is concerned that aggregate on the footway may result in accidents to pedestrians, including pedestrians with push chairs and the mobility impaired and that it would create a perception of being unsafe.
7. I accept that a substantial amount of aggregate on the footway may cause some inconvenience and hinder the progress of some pedestrians, and I have seen photographs of a considerable amount of aggregate from driveways on the public highway. However, I am informed that since the photographs were taken the appellant has carried out remediation to the driveways and that they now meet the Company's specification, and I note that the concerns expressed by the occupiers of a number of the properties pre-date the remediation. At the time of both my preliminary and accompanied site visit the amount of spillage was small and in my view insufficient to cause a danger to any users of the highway, or to create a perception of such danger. I do not accept that it would cause a significant slip hazard.
8. I have no reason to believe that the amount of spillage would increase in the future to such an extent that it would cause a danger or perception of danger and, I note that the Council has produced no evidence of accidents being caused by the spillage of aggregate from this type of driveway. I also note that the appellant's evidence that it has laid this type of driveway for 10 years and no accidents have been reported is undisputed. Accordingly although I acknowledge the Council's concern about the possibility of future litigation I give it little weight. Any possible future claims would be dealt with by other legislation.
9. I conclude therefore that the use of crushed aggregate on the driveways would not be prejudicial to highway safety, and in particular would not cause danger or a perception of



Appeal Decision

Hearing held on 25 October 2007

Site visit made on 25 October 2007

by Jeremy Youle

BA(Hons) MATRP MRTPI DipPSM

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

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**Decision date:
22 November 2007**

Appeal Ref: APP/F4410/A/07/2033591

Land to rear 138-154 Marshland Road, Moorends, Doncaster, DN8 4SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Whelmar Homes against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 06/00216/WCC, dated 23 January 2006, was refused by notice dated 8 November 2006.
- The application sought planning permission for the "erection of 20 new dwellings on approx 0.5 ha of land without complying with a condition attached to planning permission Ref 05/0742/P, dated 17 May 2005.
- The condition in dispute is No 08 which states that: "all driveways to serve the properties hereby approved shall be constructed of concrete/tarmac of (sic) other bound material and not gravel".
- The reason given for the condition is: "in the interest of highway safety".

Decision

1. I allow this appeal and grant planning permission for the erection of 19 new dwellings on approx 0.5 ha of land at land to rear 138-154 Marshland Road, Moorends, Doncaster, DN8 4SU in accordance with application Ref 06/00216/WCC made on the 23 January 2006 without compliance with condition number 08 previously imposed on planning permission Ref 05/0742/P dated 17 May 2005 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Preliminary matters

2. Planning permission for residential development was granted in May 2005 (Ref: 05/0742/P). Although the Council's decision notice refers to 20 dwellings, the scheme was revised to 19 dwellings and the Council's decision was made on that basis. I have amended the description of development in my decision above accordingly. Planning permission was subsequently granted in October 2005 (Ref: 05/02353/FUL) for the substitution of house types and minor resiting of buildings on plots 1-9. This permission required compliance with the conditions attached to the May 2005 permission. It was confirmed at the Hearing that plots 1-9 and plots 10-19 have been built in accordance with the October 2005 and May 2005 permissions respectively.
 3. Condition 08 attached to the May 2005 permission requires that all drives are constructed of concrete/tarmac or other bound material and not gravel. However, the drives, including those which are shared, have been surfaced in
-

crushed aggregate laid on top of a stone sub base dusted with cement. The appeal proposal seeks to remove this condition and to allow the existing surfacings to be retained. The aggregate had been laid at the time the appeal application was submitted and I have therefore dealt with the appeal under Section 73A of the above Act.

4. The appeal proposal relates to the original May 2005 permission. If I were to allow the appeal a new permission would be created and the original May 2005 permission would remain extant and unaltered. In this event any outstanding matters relating to the October 2005 permission would be for the appellant and the Council to resolve.

Main issues

5. I consider that the main issues are the effect that removing the disputed condition would have on:
 - highway safety and accessibility
 - the character and appearance of the area

Reasons

Highway safety

6. During the Hearing there was considerable discussion about the 'locking' properties of aggregate. Notwithstanding this, I could see on both my preliminary and accompanied site visits that the top layer of crushed aggregate is loose and I am not convinced that it can be regarded as a bound surface. Consequently, it is likely that some material will be transferred onto the road, including the pavement.
7. Photographs taken by the Council show a significant amount of aggregate on pavements within the estate. However, I understand that these were taken before the development and the road had been completed. Consequently, they may not be representative of the current situation. I have also been shown photographs of a housing development at Balby by the same developer where aggregate has been spilt onto the road. However, I have no firm evidence that these drives are of the same specification as those on the appeal site.
8. At the time of both my site visits there was only a small amount of aggregate on the road, although I have been told that the developer's contractors sweep up material from time to time and I could see some evidence of aggregate pitting in localised areas on the tarmac pavements. The spread of aggregate was most extensive outside plots 17 and 18 which have drives that slope up away from the road. However, even here, the amount of spilt material was small and largely confined to the rear of the pavement. Although larger aggregate from the sub base was visible on some drives, I have no evidence that this is being spread onto the road in any significant quantities, or that it would be in future. The appellant provides owners with a manual advising that the drives will need maintenance and that any aggregate spilt onto the footpath or public highway should be brushed back to where it belongs. Such routine maintenance would help ensure that the spread of material is minimised.

9. Taking all of this into account, I am not convinced that the amount or size of aggregate likely to be spread onto the road would cause adults or children, including those with mobility difficulties, to have accidents through tripping or slipping. Nor do I consider that this material would significantly impede the progress of wheelchairs, pushchairs, crutches or bicycles including when used by children. Furthermore, the appellant contends that despite having laid many such drives at different developments there have been no reports of accidents caused by the spread of aggregate onto the road. This evidence has not been contested by the Council. Given likely vehicle speeds, I agree with the Council that there is little risk of spilt material causing motorists to have accidents.
10. I am, therefore, satisfied that the use of aggregate drives does not present any significant risk to those using the road and so does not compromise highway safety. Consequently, there is no conflict with Policy T 5 of the Doncaster Unitary Development Plan (UDP), adopted in 1998, which seeks to ensure that new development will not create or materially add to problems of road safety and that all roads are constructed to appropriate standards.

Accessibility

11. The appellant has carried out research into the use of aggregate drives at three of their own developments. I have been told that these drives are of similar specification to those at the appeal site and have no reason to doubt this. The research includes video evidence which was submitted with the planning application and the appeal and part of which was shown at the Hearing. This shows that people using wheelchairs, mobility scooters, pushchairs and crutches were able to make reasonable progress across the drives, even where they appeared to be at some gradient. I accept that those carrying out the tests looked to be strong and healthy and that the study has not been externally verified. However, despite the reported difficulties of some residents, including when using pushchairs, I have no firm evidence to contradict the overall findings.
12. The main parties agree that access for people with disabilities within the plots falls within the scope of the Building Regulations and that consent has been given by the National House-Building Council (NHBC), the approving authority in this case. Despite this, the Council considers that the use of aggregate does not comply with the Regulations and has drawn my attention to a meeting of the District Surveyors Association, Technical Liaison Committee in June 2005 at which the NHBC's approach to the use of such materials was questioned. However, I have been given no indication that policy or practice has changed since that time.
13. A bound material would be easier for people with mobility difficulties and pushchairs to use. However, the aggregate surfacing allows adequate access for such users even on plots with some gradient and long drives. Consequently, bearing in mind the control exercised through the Building Regulations, I am not convinced that this matter would justify dismissing the appeal. Accordingly, the proposal satisfies UDP Policy PH 13 which requires that consideration is given to the requirements of disabled people.

Character and appearance

14. The aggregate surfacing does not look unusual or incongruous and I am not convinced that the amount of material likely to be spread onto the road would cause any significant visual harm. On some drives the sub base is exposed and weeds are growing through the surface. However, this has not materially harmed the appearance of the estate. In any case these problems, along with the spread of aggregate onto grassed areas, could be dealt with by routine maintenance. Accordingly, I am satisfied that there is no conflict with UDP Policy ENV 52 which requires that new buildings should respect their townscape and landscape setting including in terms of detailing and materials.

Other matters

15. I have been given no substantive evidence to indicate that the aggregate has been used by children or others engaging in anti-social behaviour or that it would be likely to. Furthermore, at the Hearing local residents told me that potential problems involving children were dealt with quickly. Even if such control proved ineffective the small size of the aggregate would limit the risk of it being thrown. I am not convinced that the noise of vehicles and pedestrians crossing the aggregate drives, including where shared, would significantly harm the living conditions of residents. Despite concerns, I have no firm evidence that spreading material would cause highway drainage problems, that the surfacing would damage shoes or that there would be any significant difficulty moving wheelie bins.
16. The use of aggregate conflicts with the guidance in the technical appendix to Council's Highways Design Guide entitled 'Better Places to Live in South Yorkshire' which states that drives should be surfaced with bound materials. However, although I was told at the Hearing that this document has been subject to consultation it does not appear to derive out of the development plan and this limits the weight I can attach to it. Furthermore, I have concluded that the use of an unbound surface has not caused the problems feared by the Council.
17. Rain water would be more likely to soak through an aggregate surface than a bound surface helping to limit the speed of surface water run-off from the site in line with Policy R3 of the Regional Spatial Strategy for Yorkshire and the Humber (2004) which promotes the use of sustainable drainage techniques. The use of aggregate is cheaper than some other forms of surfacing and so has helped to make the houses more affordable. While these matters weigh in favour of the appeal proposal they have not been decisive given my conclusions on the main issues above.
18. The main parties have drawn my attention to several other appeal decisions. These provide some general guidance and are relevant to my consideration of this appeal. However, I have not been party to the evidence before each Inspector and so cannot be certain that any are directly comparable to the appeal proposal which I have, in any case, determined on its own merits.

Conclusions and conditions

19. The use of aggregate drives has not had a materially adverse effect on highway safety or on accessibility and there has been no significant harm to the character

or appearance of the area. I have considered the other concerns raised by local residents and the South Yorkshire Police's Architectural Liaison Officer but can find nothing that would justify dismissing the appeal. Accordingly, it is not necessary to require that the drives are surfaced in concrete/tarmac or other bound material.

20. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but retaining the relevant non-disputed conditions from the previous permission. The requirements of condition 04 attached to the May 2005 permission partly overlap with the disputed condition 08. However, condition 04 requires that the parts of the site to be used by vehicles should be provided in accordance with details to be agreed by the Local Planning Authority. Accordingly, this would be a matter for the Council to consider in the light of my decision.

Jeremy Youle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Wood	Senior Partner, Peacock & Smith Limited, Suite 2A, Josephs Well, Hanover Walk, Leeds, LS20 9EF
David Pearson	Director, Bryan G Hall, Consulting Civil & Transportation Planning Engineers, Suite E8, Josephs Well, Hanover Walk, Leeds, LS3 1AB
Ian Slater	Regional Director, Gladedale (Central Division) Ltd, North Country House, Barlborough, S43 4WP

FOR THE LOCAL PLANNING AUTHORITY:

Mark Jones	Senior Planner, Doncaster Metropolitan Borough Council
Graham Hargraves	Principal Engineer, Highway Development Control, Doncaster Metropolitan Borough Council
Derrick Beardsly	Senior Engineer, Highway Development Control, Doncaster Metropolitan Borough Council

INTERESTED PERSONS:

Robert Woods	4 Moorside Court, Moorends, Doncaster
W Woods	20 Bloomhill Court, Moorends, Doncaster
Jeanette Hargreaves	16 Moorside Court, Moorends, Doncaster, DN8 4SL
Tracey Thompson	16 Moorside Court, Moorends, Doncaster, DN8 4SL
R Hendy	8 Moorside Court, Moorends, Doncaster, DN8 4SL
P Hendy	8 Moorside Court, Moorends, Doncaster, DN8 4SL
T Jones	Architectural Liaison Officer, South Yorkshire Police

DOCUMENTS

- 1 Letter from Miss S Hendy of 8 Moorside Court on behalf of the residents of Moorside Court
- 2 Photographs of Moorside Court submitted by a local resident
- 3 Photographs of development at Balby submitted by the Council
- 4 Appeal Decision, Land at Borrowdale Road, Middleton, Rochdale (Ref: APP/P4225/A/06/2025136) submitted by the appellant

Inspector's Reasons

5. At the Hearing, the main parties agreed that there were no policies of the Wakefield Unitary Development Plan (1994) directly relevant to the appeal. I shall determine it, therefore, on its merits, taking into account national advice in Planning Policy Guidance Note 13: Transport (PPG 13). I have also considered all the other documents referred to by the appellant.

Assessment

6. The site is a cul-de-sac of 19 dwellings on a larger residential development. The majority of the houses are occupied. Its access from the main estate road turns at about 90 degrees to the east in the vicinity of Plot 2, its remaining length following a channelled path over a low ramp to the dwellings at the head of the cul-de-sac. There are footpaths from the access point to the vicinity of Plot 16, thereafter a margin to the highway. Drive accesses have been finished in gravel, albeit one with some paving slabs, and their gradients are generally greater at the houses on the south side of the cul-de-sac. The parties agreed that the design of the development reflected the Council's speed standard.
7. Turning, firstly, to the likely deposit of gravel on the road, I saw at my preliminary visit that this had taken place, albeit close to the footpaths and road margin. There was little evidence at the formal visit. The Council argued that gravel on the highway could result in the loss of control of vehicles by drivers exceeding the design speed for the development. It is reasonable that loose material on a highway provides a less stable surface for vehicles than that sealed. That deposited at the site would, however, be likely to be limited while the varied alignment of the carriageway, including a ramp and channelling, leads me to the view that vehicle speeds would be likely to reflect its design. There would not be any unacceptable threat to the safety of other road users in this respect.
8. Similarly, in general terms, loose material on any carriageway does represent a potential threat to windscreens. The appellant argued that the likely speed of vehicles within the cul-de-sac would not have any unacceptable implication for other vehicles, not least due to the gravel specification used. The Council's concern related primarily, however, to off-site conditions when vehicles from the development would be travelling at higher speeds. I do not consider that the limited deposit or its specification would result in any significant harm.
9. Although some of the access drives are "relatively steep" as argued by the Council, it was not in dispute that all are within the Council's adopted standard. In inclement weather, the Council considered that a combination of snow and gravel would result in insufficient grip to allow some vehicles to gain access to the drives, resulting in parking on the road. The appellant argued that the treatment of the driveways would facilitate ready drainage with a greater skid resistance, this not leading to parking on the carriageway. Neither party was able to place before me technical evidence relating to this matter, relying on the professional opinion of their witnesses. I am not persuaded that a gravel finish is less suited to vehicles in inclement weather than a sealed surface. Nonetheless, the perception of an unstable surface in inclement weather would be likely to result in some limited parking on the road. Visibility for drivers from the access along the road is acceptable - including that for children playing on the road or moving to and from a nearby play area - such that I do not consider that any unacceptable implications for road safety would arise. Furthermore, while loose material can cause some difficulty for the elderly or infirm, its likely limited presence on the road does not, in my view, constitute an objection to the proposal.

APPEAL DECISION

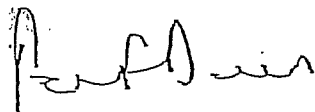
10. At the Hearing, the Council also addressed 2 other matters. It considered that gravel drives would have an increased maintenance implication for residents in order to maintain the visual appearance of the development. While it would be reasonable for me to assume that gravel on the road and margins would result in residents "sweeping up" frontages, the Council did not suggest that this has a road safety implication. There was no convincing evidence before me that gravel accesses has adversely affected the appearance of the development. The Council also considered that gravel drives would result in difficulties for disabled access to dwellings, but its view in this respect was not persuasive and it does not relate to the main issue in the appeal.
11. In terms of road safety, I consider the relevant advice in PPG 13 to be that in paragraph 6.1. It indicates that developments should not compromise the safe movement and free flow of traffic or the safe use of the road by others. These general intentions are applicable to this appeal and, for the reasons set out above, the use of gravel accesses is acceptable. In the specific circumstances of this case, the disputed condition is not necessary in the interests of road safety and its removal would not conflict with national planning guidance.

Other Matters.

12. I have taken into account all those raised, including the planning history at the site and in the area as well as the appellant's view on the applicability of permitted development rights at the site. None outweigh the main considerations that have led me to my conclusion.

Conclusion

13. For the reasons given above, I conclude that the appeal should, on balance, succeed and I shall exercise the powers transferred to me accordingly.



INFORMATIVE

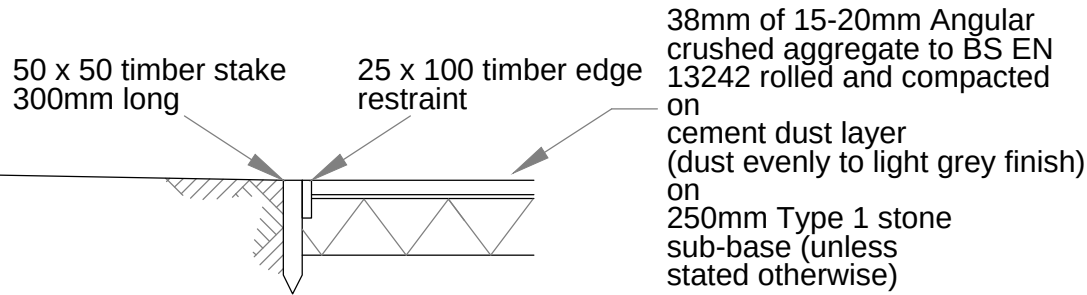
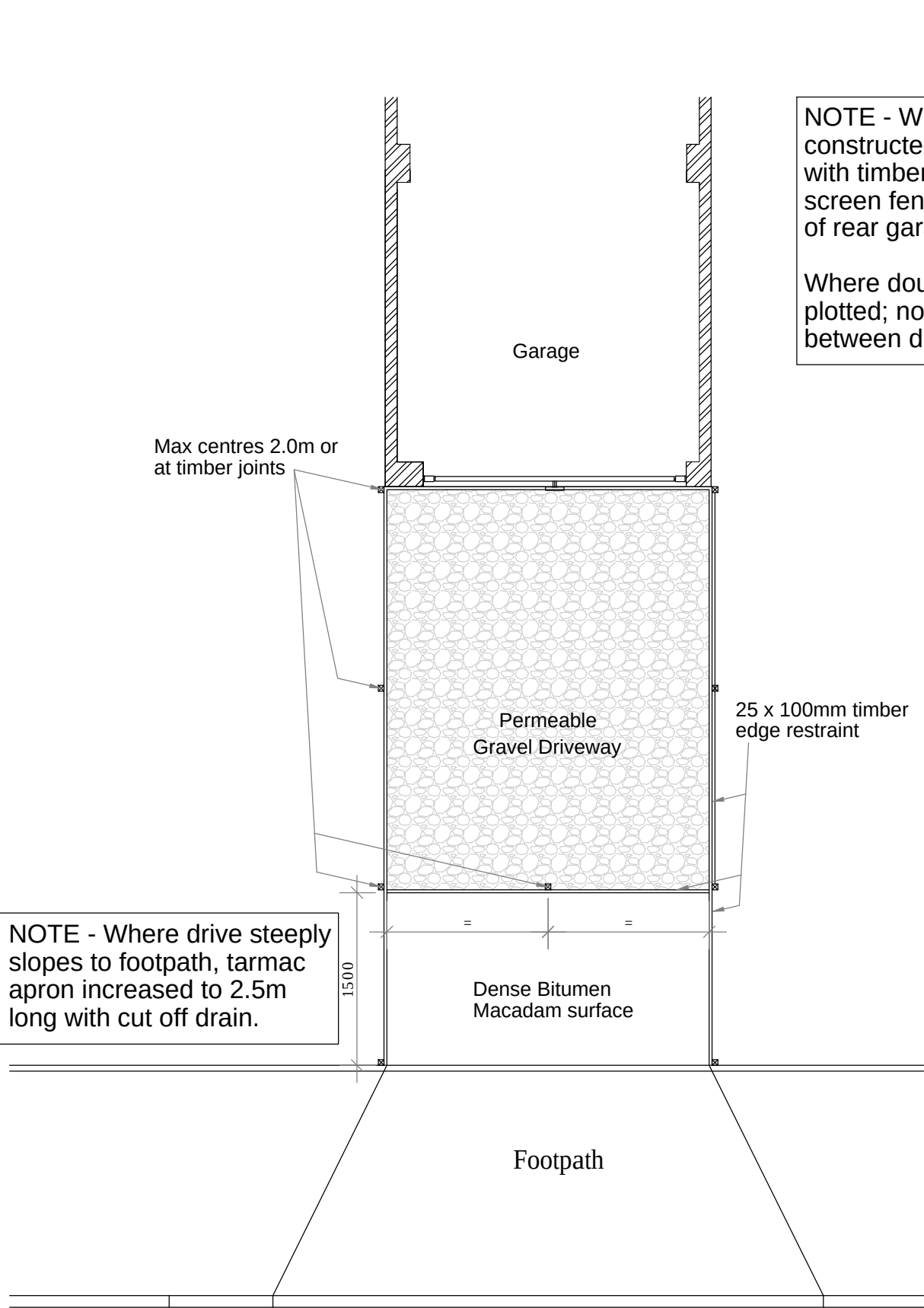
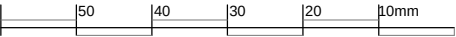
- * This decision only grants permission under Section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent that may be required.

Hearing Decisions and Issues

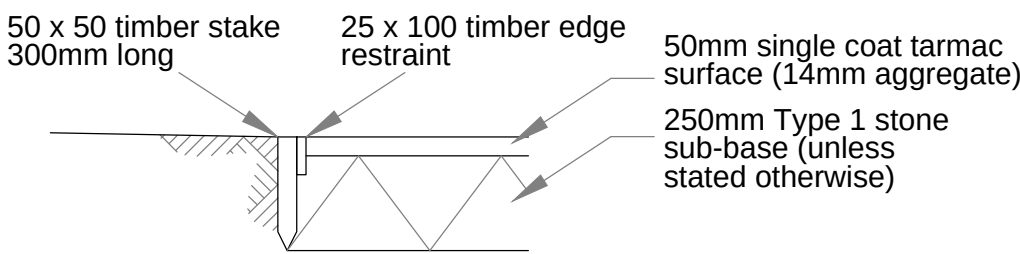
Site No	PINS Ref	Location	Decision	Issues					
				Highway Safety	Visual amenity	Accessibility	Highway Maintenance	Anti-social behaviour	Drainage
1	APP/X4725/A/99/1032820	Old Hall Farm, Pontefract	Allowed	√					
2	APP/R1010/A/00/1043438	Springfield Nurseries, Bolsover	Allowed	√					
3	APP/M1005/A/03/1121943	Vicarage Lane, Ironville	Allowed	√					
4	APP/P4415/A/03/1114185	Laughton Common, Rotherham	Allowed	√	√	√	√		
5	APP/Z4718/A/03/5037	Hadfield Court, Heckmondwike	Dismissed	√		√			
6	APP/R1010/A/04/1162717	Blind Lane & Woodhouse Lane, Bolsover	Allowed	√	√				
7	APP/M3455/A/04/1165901	High Street, Tunstall Appeal	Dismissed	√	√			√	
8	APP/W4705/A/05/1173648	Buttershaw, Bradford	Allowed	√	√			√	
9	APP/Y2003/A/05/1176573	Normanby Grange, Normanby Road, Scunthorpe	Allowed	√					√
10	APP/W3005/A/06/2014327	Ashwood Avenue, Kirkby In Ashfield	Dismissed	√	√				
11	APP/P4225/A/06/2025136/N	Borrowdale Road, Middleton, Rochdale	Allowed	√		√			
12	APP/F4410/A/07/2033591/N	Marshlands Road, Doncaster	Allowed	√	√	√			

Appendix 2

Notes:
Sketch schemes may be based on plan information of unknown origin and is subject to verification and survey.
Contractors must verify all dimensions on site before commencing any work or shop drawings. This drawing is not to be scaled. Use figured dimensions only.
Building areas are liable to adjustment over the course of the design process due to ongoing construction detailing developments.
Subject to statutory approvals and survey.



Gravel Section (1:20)



Tarmac Section (1:20)



B	Additional Notes added.	15.01.16	djb
A	Drawing amended following client comments	04.07.13	wc

revisions
status -

edward architectural services ltd

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project Standard Details

client Gleeson Homes & Regeneration

title Garage Threshold / Gravel Drive Details

drawn djb checked . date 22.08.12 scale 1:20/50@/

job no 0282 drawing no SD712 rev B

Plan (1:50)

DRIVE / PARKING COURT SPECIFICATION

- A. Strip off topsoil and organic material over the area of the drive to a firm base.
- B. Lay 250mm of type 1 stone sub base.
- C. Lightly dust surface of the sub base with cement dust.
- D. Lay 38mm of 15 – 20mm Crushed Aggregate and roll and compact.

NOTES

- 1. The stone sub base may be increased in depth if ground conditions and/or levels dictate.
- 2. A geotextile membrane may be laid under the sub base if required.
- 3. The dusting of cement dust must take place immediately prior to the aggregate being laid. This must be evenly sprinkled to a ghostly grey colour on completion.
- 4. The depth of the unbound aggregate must not exceed 38mm.

Appendix 3

20 DEC 1999

Dr Alan C Woodward
Head of Shaping Technology GroupPilkington Technology Centre
Hall Lane Lathom Ormskirk Lancashire England L40 5UF
Telephone +44(0)1695 50000 Direct Dial +44(0)1695 54279
fax +44(0)1695 54827 e-mail: woodwardac@pic.pilkington.co.ukPILKINGTON
TECHNOLOGYBroseley Homes
St Cuthberts House
St Cuthberts Way
Newton Aycliffe
Durham DL5 6DNDate: 16th December 1999
Reference:
Direct tel: 01695 54279
Direct fax: 01695 54827

Dear Angela

With reference to your enquiry of the likely damage to car windshields from Stones.

I enclose a chart showing how car windshields behave with respect to the impact of granite chippings, which are used to dress road surfaces. Our experience indicates that the likelihood of irreparable damage is highest when vehicles travel down a newly dressed road surface. Typically local councils put a 20mph speed limit in these areas which means the chippings will not be projected high or fast enough to impact other cars' windshields.

Our surveys over many years also indicate that a high proportion of damaged windshields occur on the edge of urban areas where cars are travelling 30-40mph and the curb sides are not edged with curb stones or the road has been newly dressed.

Most windshields have an outer glass thickness of the laminate of 2.1mm and as the chart indicates, at 40mph, it is expected on average that 12% of impacts by a 2-3 gram, 12mm granite chipping, would cause damage likely to lead to a replacement windshield.

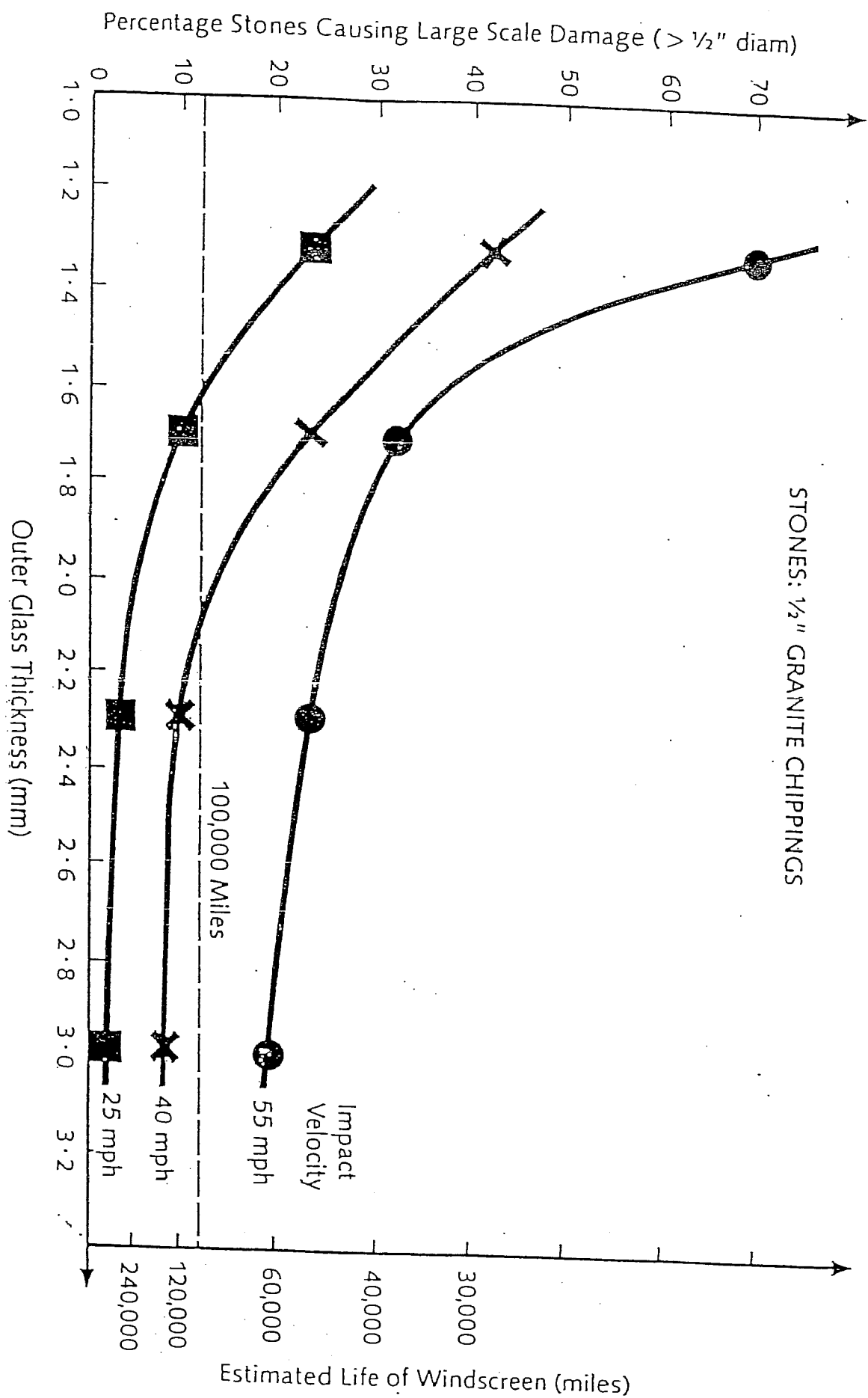
We have no data for gravel. However I would expect 6mm diameter "pea gravel" to behave similar to the granite chippings. Smaller gravel, say 3mm diameter, is likely to be much less severe and relatively harmless at impact speeds below 40mph.

Please telephone me if you wish to discuss this subject further.

Yours sincerely

Alan Woodward

STONE IMPACT DATA FOR UK DRIVING CONDITIONS



Appendix 4

THE EXTERIOR OF THE PROPERTY

The aggregate drive



In the same way that you maintain your garden you will occasionally need to carry out maintenance to your drive. We recommend that to keep your drive in good condition you should regularly rake the aggregate using a normal garden rake.

Please assist your neighbours (and the highway authority!) by ensuring that any aggregate spilt from your drive onto the footpath or the public highway is brushed back to where it belongs.

To control weeds, we recommend you consult a garden centre about the selection and use of an appropriate weed killer for your situation.

Ensure you follow the Health and Safety recommendations on the packaging.