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## Appeal Decision

Site visit made on 13 September 2016

by **B.Hellier BA(Hons) MRTPI**

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

Decision date: 20 September 2016

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**Appeal Ref: APP/E2340/W/16/3151871**

**Land north of Gisburn Road, Blacko, Nelson, Lancashire, BB9 6LZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Greenwood against the decision of Pendle Borough Council.
  - The application Ref 13/15/0624P, dated 8 December 2015, was refused by notice dated 22 March 2016.
  - The development proposed is the erection of up to 19 houses.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The application was in outline seeking approval for the principle of development. Details of access, appearance, landscaping, layout and scale are reserved for subsequent approval. An indicative layout supported the application but it represents only one way in which the site might be developed and is not for formal determination at this stage.

### Main issues

3. Having regard to the reason for refusal and the representations from local residents I consider the main issues are:
  - the effect of the proposal on the character and appearance of the village and the surrounding area;
  - the effect on the living conditions of occupiers of nearby properties in relation to outlook; and
  - whether any harm caused to character and appearance and living conditions, and any other harm, would significantly and demonstratively outweigh the benefits associated with increasing the supply of new housing.

### Reasons

#### *Planning policy*

##### Development Plan

4. The principal housing delivery policy is Core Strategy<sup>1</sup> (CS) Policy LIV1. It indicates that, until such time as the Council allocates sites in Part 2 of its Local

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<sup>1</sup> Local Plan for Pendle Part 1: Core Strategy 2011-2030. Adopted December 2015

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Plan, proposals for new housing development will be supported on sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those identified in the SHLAA<sup>1</sup>. The appeal site is in a reasonably accessible location and is identified as a deliverable site in the SHLAA.

5. CS Policy ENV1 says that proposals should aim to safeguard or enhance the landscape character of an area having regard to the different landscape types that are present in the borough. CS Policy ENV2 requires that development should contribute to the sense of place and make a positive contribution to the historic environment and local identity and character.

#### National policy

6. It is agreed that the Council is not able to demonstrate a five year supply of deliverable housing sites. As such the National Planning Policy Framework (NPPF) indicates that its housing supply policies should be treated as out of date. Where relevant development plan policies are out of date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.
7. However CS Policies ENV1 and ENV2 are not housing supply policies and I attach full weight to them. They also accord with the relevant objectives of the NPPF which are to seek good design that responds to local character and development which protects and enhances valued landscapes<sup>2</sup>.

#### *Character and appearance*

8. Blacko is a linear village strung out for about 1km along the A682 as it climbs gently up from Nelson in the Pendle Water valley to cross the moors to Gisburn. The appeal site is at the top end of the village where the road levels out and runs along the contour. It is in effect two linked road frontage sites on agricultural land on either side of a block of two terraces on the north side of the road. On each site the indicative layout shows a line of dwellings set back along the established building line interrupted on the east by a single access from the main road with a spur off on either side running to the rear of the dwellings<sup>3</sup>.
9. In plan form this would appear to be an appropriate form of development. There is already a mixed ribbon of older terraces and more recent detached and semi-detached dwellings along the road elsewhere in the village. However in this case the landform rises sharply from the road particularly at the eastern end of the site and then sweeps up to the summit of Blacko Hill where the Stansfield Tower is a distinctive local landmark on the skyline. Coming up the main road from the south the field provides a pleasant natural break in the street scene and allows views to the tower on the skyline. This openness makes a significant positive contribution to village character and gives a separate identity to the cluster of development in this part of the village.

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<sup>1</sup> Pendle Strategic Housing Land Availability Assessment Update Report 2013-14

<sup>2</sup> NPPF paragraphs 58 and 109

<sup>3</sup> The westerly spur would also run to the rear of the existing terraces to serve the proposed dwellings to the west of the terraces.

10. Development here would result in a loss of this green and open aspect and the loss of local views to the skyline. Even with considerable excavation into the slope new development would be likely to have an overbearing impact on the street scene, out of scale with the roadside cottages to the east. This would be contrary to the advice in the Lancashire Landscape Strategy<sup>1</sup>. The site lies within the *Moorland Fringe (South Pendle Fringe)* Landscape Character Area which encompasses land situated on the upland slopes between the moors and the more intensively farmed lowlands. The Strategy seek to protect the upper slopes from development particularly near skylines and to respect the characteristic settlement pattern of small isolated clusters of dwellings. This is something development of the appeal site would signally fail to do.
11. I find that the proposal would have a significant and serious adverse effect on the character and appearance of the village and its surroundings contrary to the provisions of CS Policies ENV1 and ENV2. It would also be contrary to the NPPF in that it would not respect local character and it would harm a landscape that is clearly valued by local people.

#### *Living conditions*

12. Residents in properties on the south side of the main road enjoy pleasant views over the rising land opposite to the Stansfield Tower. Development on the appeal site would be at a higher level than existing properties and would close off these views. The effect would be visually intrusive but there is no right to a view and it would not be so close or oppressive as to create unacceptable living conditions.
13. The appeal site includes a strip of field above the back gardens of the existing terraces on the north side of the road. Some of these gardens are short with a rear retaining wall such that any additional building or boundary treatment would be likely to result in a noticeable sense of enclosure and, potentially, loss of privacy for anyone in the back garden or rear rooms. Furthermore the end terrace, 440 Gisburn Road, enjoys an outlook from its gable elevation. The indicative layout shows there would be considerable overshadowing. However in both cases I consider these concerns could be addressed at the reserved matters stage.
14. I do not find that there would be a significant detrimental impact on the outlook of nearby occupiers.

#### *Education*

15. There is a lack of capacity in Blacko Primary School and neighbouring primary schools to accommodate projected pupil demand. Similarly, having regard to secondary school places there is a forecast shortfall. The education authority is seeking a contribution of £73,423<sup>2</sup> towards two secondary and three primary school places. This need is not disputed by the appellant and I agree that it would be necessary as an infrastructure cost arising directly from the proposed development.

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<sup>1</sup> A Landscape Strategy for Lancashire: *Landscape Character Assessment and Landscape Strategy*. Published December 2000 by Lancashire County Council/Countryside Agency

<sup>2</sup> This was the position at 20 January 2016. This would need to be reassessed at the date the planning permission is granted.

16. The Council proposes to secure this funding by condition. However conditions may not be used for financial contributions. There is no unilateral undertaking before me. Therefore the effect on education has not been adequately addressed.

*Planning balance*

17. There would be social and economic benefits associated with the proposal. It would make a small but positive contribution to housing supply including three affordable housing units and would attract funding to support local services from the New Homes Bonus. In the absence of a five year supply of developable sites substantial weight should be given to these benefits.
18. It is accepted that the SHLAA is an important source of evidence which will be used to inform plan making but the inclusion of a site in the SHLAA does not necessarily mean that planning permission for housing development should be granted. In this case I find that there would be considerable harm to the character and appearance of the village and its setting in a landscape valued by the local community and contrary to the design and landscape policies of the NPPF. Additional adverse weight should be attached to the effect on education. The overall harm would significantly and demonstrably outweigh the benefits.
19. The identified adverse environmental impact means that this would not be a sustainable form of development and would not, therefore, accord with CS Policy LIV1 or with Policies ENV1 and ENV2.

**Conclusion**

20. For the reasons given above I conclude that the appeal should be dismissed.

*Bern Hellier*

INSPECTOR