



Appeal Decision

Site visit made on 12 July 2017

by **Michael Moffoot DipTP MRTPI DipMgt MCMI**

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

Decision date: 28 July 2017

Appeal Ref: APP/E2340/W/17/3173356

Land off Gisburn Road and Greenberfield Lane, Barnoldswick, Lancashire BB18 5LJ

- 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 Ann Brooks & Elizabeth Beasley against the decision of Pendle Borough Council.
 - The application Ref: 16/0597/OUT, dated 24 August 2016, was refused by notice dated 15 November 2016.
 - The development proposed is 'construction of new access road and 20 no new houses reapplication on 16/0382/RES'.
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Decision

1. The appeal is allowed and outline planning permission is granted for construction of new access road and 20 no new houses on land off Gisburn Road and Greenberfield Lane, Barnoldswick, Lancashire BB18 5LJ in accordance with the terms of the application ref: 16/0597/OUT dated 25 August 2016 and subject to the conditions in the attached Schedule.

Application for Costs

2. An application for costs was made by Ann Brooks & Elizabeth Beasley against Pendle Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is in outline form with all matters other than access, layout and scale reserved for future approval.
4. In the interests of clarity I have slightly condensed the description of the proposed development.

Main Issue

5. The main issue in this case is the effect of the proposed development on highway and pedestrian safety.

Reasons

6. The appeal site comprises an irregular shaped parcel of land on the northern fringe of the town with frontages to the B6251 Gisburn Road and the unclassified Greenberfield Lane. The land is presently down to rough grass bounded by timber and post-and-wire fencing, hedges and trees. Established development adjoins three sides and open fields lie to the east.
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7. Amongst other things, Policy ENV 4 of the *Pendle Local Plan Part 1: Core Strategy* (2015) requires proposals for new development to have regard to the potential impacts they may cause to the highways network, particularly in terms of safety and the potential to restrict free flowing traffic, causing congestion. Where an adverse impact is identified, the policy states that applicants should ensure adequate cost effective mitigation measures can be put in place, and where the residual cumulative impacts of the development are severe, planning permission should be refused. The *National Planning Policy Framework* states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It also requires decisions to take account of whether safe and suitable access to the site can be achieved for all people.
8. The proposal involves the erection of 20 two-storey dwellings arranged around a cul-de-sac accessed off Greenberfield Lane, and includes car parking, garaging and an area of public open space on the eastern boundary. No details of appearance or landscaping are provided at this stage.
9. Amongst other things, the Council submits that due to restricted carriageway width, vehicular movements associated with the proposal would lead to conflict with other road users at the access to the site and at the junction of Greenberfield Lane and Gisburn Road. It also contends that the proposal would compromise pedestrian safety on the lane. Local residents raise additional highway safety concerns, including poor visibility at the site access, inadequate footway provision and increased on-street parking on the site frontage to Gisburn Road.
10. Greenberfield Lane is subject to an 'Access Only' Traffic Regulation Order and extends eastwards from its junction with Gisburn Road to serve various properties. They include an agricultural machinery sales/repair business, farms, a number of dwellings, a football ground, allotment, a small caravan site and a waste water treatment plant. The lane also provides a turning facility for buses and a bus stop adjacent to the eastern boundary of the site.
11. The proposal includes widening and slight realignment of Greenberfield Lane near the existing field gateway in order to accommodate the new site access together with provision of footways to the bus stop and Gisburn Road.
12. Greenberfield Lane is subject to a 60 mph speed limit in the vicinity of the appeal site. However, given the alignment and restricted width of the lane here I consider that the Highway Authority's estimated 85th percentile design speed of 20 mph is realistic in this case. The appellants' submitted TRICS¹ data estimates that the development would generate 11 vehicle movements during each of the weekday peak hours (0800-0900 and 1700-1800) and 97 movements during a typical weekday (0700-1900). This broadly matches the Highway Authority's estimate of trip generation. I agree that most of these trips would use the Gisburn Road/Greenberfield Lane junction given its proximity to the town centre and the wider highway network.
13. The revised site access proposals to Greenberfield Lane would provide visibility splays of 2.4m x 25m in each direction. Given the 20 mph design speed I am satisfied that these sight lines would be adequate to serve the proposed development. Gisburn Road is subject to a 30 mph speed limit in the vicinity of

¹ Trip Rate Information Computer System

the appeal site. In these circumstances, *Manual for Streets* advocates visibility splays of 2.4m x 43m at most road junctions. This standard is achieved at the Greenberfield Lane junction, and as such vehicles from the appeal site exiting the junction would be able to do so satisfactorily.

14. At its narrowest, the section of Greenberfield Lane between Gisburn Road and the site access is of sufficient width to accommodate the two way flow of most traffic generated by the proposal together with the majority of vehicles associated with other properties and land uses served by the lane. Most vehicles would also be able to pass cyclists and horses without undue conflict. I acknowledge that on occasion, agricultural and commercial vehicles and buses using the lane may come into conflict with traffic from the proposed development. Nevertheless, such incidents would not be frequent, and over such a short section of the lane would not justify dismissal of the appeal on highway safety grounds.
15. Local residents refer to traffic collisions that have occurred at or near to the Greenberfield Lane/Gisburn Road junction. However, the statistical evidence before me shows that the highway network in the vicinity of the site has a relatively good safety record over the last five years in terms of recorded personal injury accidents.
16. Pedestrians using Greenberfield Lane would benefit from the provision of the new footways I have referred to, thereby improving safety on a stretch of highway where there are presently no footways and conflict occurs between vehicles and those on foot. Although the footway to the Gisburn Road frontage would terminate at the boundary with Laburnum Cottage, pedestrians would be able to cross the road to the footway on the west side to continue their journey.
17. Given the alignment, length and restricted width of Greenberfield Lane to the east of the site, few vehicles generated by the development would be likely to use this route to reach the Skipton Road. Those that do would not add significantly to vehicle movements, and as such highway and pedestrian safety would not be materially compromised on this section of the lane.
18. Provision is made for parking to the rear of the three proposed dwellings fronting Gisburn Road. Any on-street parking on Gisburn Road associated with these properties would therefore be infrequent, and would not make highway conditions on this stretch of the B6251 materially worse. The other dwellings on the site would also have adequate off-street parking facilities, and any overspill parking could be adequately accommodated within the cul-de-sac. Parking on Greenberfield Lane would therefore be very unlikely.
19. Drawing these findings together, I conclude that the proposed development would not materially harm highway and pedestrian safety, and there would therefore be no conflict with policy ENV 4 of the Core Strategy.

Other Matters

20. In terms of landscape impact, the site is contained on three sides by established development and the proposal would comprise a relatively modest incursion into open land. It would not harm the rural character of the surrounding area or result in loss of a green space critical to the setting of the town.

21. The trees along the northern boundary of the site are subject to a Tree Preservation Order and would not be adversely affected by the development subject to suitable root protection measures in conjunction with the construction of the new footway. Other trees within or adjacent to the site are to be retained as part of the proposal and new planting can be provided as part of a landscaping scheme. Concern has been expressed regarding loss of wildlife habitat, but the site is not subject to any special protection and this does not constitute a valid reason for dismissing the appeal.
22. There is no technical evidence before me to demonstrate that the scheme would exacerbate flooding in the locality or cannot be satisfactorily drained. The Environment Agency and United Utilities have no objections to the proposal and Yorkshire Water advises that a water supply can be provided to serve the development.
23. Interested parties submit that there is no capacity in local schools to accommodate children living in the proposed houses, and the Education Authority advises that a financial contribution is required to provide the necessary school places by way of a planning obligation. However, no evidence has been submitted by the Council to justify such a contribution. Therefore it cannot be said that it is necessary to make the development acceptable in planning terms.
24. Other issues raised are unrelated to the planning merits of the case and accordingly have no bearing upon my decision.

Conditions

25. The Council has, in accordance with normal practice and without prejudice, put forward possible planning conditions for my consideration in the event that the appeal is allowed. I have considered the suggested conditions against the advice in the *Planning Practice Guidance* (PPG). In granting planning permission I agree that the general thrust of the conditions is appropriate in order to safeguard the visual amenity of the area and protect the living conditions of nearby residents. Where necessary, I have amended the wording to ensure the conditions are precise and relevant to the proposal.
26. Provision of car parking, footways and other highway works prior to the occupation of any dwelling is necessary and reasonable on highway and pedestrian safety grounds. For the same reasons I shall impose a condition requiring provision of the revised visibility splays at the site access and measures to accommodate construction traffic. Schemes for the maintenance and management of the public open space and protection of trees and hedges during the construction phase are also necessary. Foul and surface water drainage details should be approved to safeguard public health.
27. In the interests of highway and pedestrian safety and residential amenity I shall require a Construction Code of Practice to be approved and implemented during the construction phase. I shall also impose a condition specifying the relevant drawing as this provides certainty.
28. Having regard to advice in the PPG, and in the absence of clear evidence of exceptional circumstances to justify the removal of permitted development rights, it is not necessary to restrict the freedom of future occupiers to extend or alter their dwellings.

Conclusion

29. For the reasons set out above, I conclude that the proposal is acceptable and the appeal should succeed.

Michael Moffoot

Inspector

Schedule of Conditions

1. Details of the appearance and landscaping of the development (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. An application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with Drawing No 2631B but only in respect of those matters not reserved for later approval.
5. No part of the development hereby permitted shall be commenced unless and until a Construction Code of Practice (CCP) has been submitted to and approved in writing by the Local Planning Authority. The CCP shall include details of the measures during construction to manage and mitigate the main environmental effects of the development. The CCP shall include within its scope but not be limited to:
 - a) A programme of works including phasing, hours of operation and measures for the control of traffic to, from and within the site during construction
 - b) The areas and methods of loading and unloading of plant, equipment and materials
 - c) The areas for the storage of plant, equipment and materials
 - d) Details of vehicle wheel-washing facilities, including location
 - e) Measures relating to construction waste management and disposal
 - f) Measures to ensure that vehicular access to adjoining access points is not impeded

- g) Location and details of site compound(s)
- h) Details of any hoarding around the site
- i) Details of parking areas for construction and personnel vehicles
- j) Measures to control the emission of dust and dirt during construction.

All works agreed as part of the approved CCP shall be implemented during an agreed timescale and where appropriate maintained as such during the construction period.

6. The car parking shown on each plot shall be provided prior to occupation of the dwelling it relates to. It shall include surfacing of the driveway/parking area in accordance with materials to be first agreed in writing by the Local Planning Authority. The spaces shall thereafter be retained at all times for the parking of vehicles in association with the occupants of the dwelling.
7. No part of the development hereby permitted shall be commenced until highway works to facilitate construction traffic access to the site have been constructed in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority.
8. No dwelling hereby permitted shall be occupied unless and until a scheme for all highway works to facilitate access to the site from Greenberfield Lane, including visibility splays of 2.4m x 25m in both directions and the creation of new pedestrian footways to Gisburn Road and Greenberfield Lane, has been submitted to and approved in writing by the Local Planning Authority. The new access, visibility splays, footways and associated works shall be constructed in accordance with the approved details before any dwelling hereby approved is first occupied. Thereafter land within the visibility splays shall be permanently maintained free from obstructions within the splays in excess of 1 metre in height above the height at the centre line of the adjacent carriageway.
9. Within two weeks of the commencement of development hereby permitted, details of a maintenance plan for the future management and maintenance of the public open space shown on Drawing No 2631B shall be submitted to and approved in writing by the Local Planning Authority. The maintenance plan shall include details of the timescales and work required to be carried out on the site. The open space shall then be provided in its entirety prior to the first occupation of any dwelling hereby approved and maintained in accordance with the maintenance plan thereafter.
10. No part of the development hereby permitted shall be commenced until plans and particulars showing a scheme of foul sewers and surface water drains have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of flow attenuation measures for the surface water disposal system including final run-off rates. The approved systems shall be installed in their entirety prior to the first occupation of any dwelling and shall thereafter be retained.

11. No ground clearance, changes of level or development or development-related work shall commence until protective fencing in full accordance with BS 5837:2012 'Trees in relation to design, demolition and construction. Recommendations' has been erected around each tree/tree group or hedge to be retained on the site or on immediately adjoining land. No work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. Within the areas so fenced, the existing ground level shall neither be raised nor lowered. Roots with a diameter of more than 25 millimetres shall not be severed. There shall be no construction work, development or development-related activity of any description, including service runs, the deposit of spoil or the storage of materials, within the fenced areas. The protective fencing shall thereafter be retained and maintained during the period of construction. All works involving excavation of soil, including foundations and the laying of services within the recommended distance calculated under BS 5837:2012 of the trees to be retained on the site, shall be dug by hand and in accordance with a scheme of works which has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of works.

Richborough Estates