



Appeal Decision

Site visit made on 16 July 2018

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2018

Appeal Ref: APP/E2340/W/18/3200240

Land off Cob Lane, Kelbrook, Barnoldswick, BB18 6TT

- 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 A. Parker and Miss E. Parker against the decision of Pendle Borough Council.
 - The application Ref 17/0691/OUT, dated 16 November 2017, was refused by notice dated 27 February 2018.
 - The development proposed is outline application for the erection of up to 10. dwellings with access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to ten dwellings in outline at Land off Cob Lane, Kelbrook, Barnoldswick, BB18 6TT in accordance with the terms of the application, Ref 17/0691/OUT, dated 16 November 2017, subject to the conditions set out on the attached schedule.

Application for costs

2. An application for costs was made by Pendle Borough Council against Mr A. Parker and Miss E. Parker and an application for costs was also made by Mr A. Parker and Miss E. Parker against Pendle Borough Council. These applications will be the subject of separate Decisions.

Procedural Matters

3. The application was submitted in outline with all matters reserved for subsequent approval apart from access. A layout has been submitted which I have treated as indicative.
4. The revised National Planning Policy Framework was published on 24 July 2018. The Council and the appellants were given an opportunity to make additional comments relating to the revision and I have taken them into account in reaching my decision.
5. The appellant has submitted a signed Unilateral Undertaking (UU), prepared under Section 106 of the Town and Country Planning Act 1990. I will deal with the UU later in my decision.

Main Issue

6. The main issue is the effect of the proposed development on the setting of the listed buildings Yellow Hall and Stoops Farmhouse and Barn.

Reasons

7. The appeal site is a grass field on the edge of the village. It lies alongside Cob Lane which is a minor road leading from the village into the countryside. There are a number of existing houses fronting the other side of Cob Lane and these overlook the appeal site. The land slopes down towards the village and towards Yellow Hall, a listed building which stands at the junction of Cob Lane and Old Stone Trough Lane. There are good views of the rear of Yellow Hall from Cob Lane across the appeal site, and from within the appeal site itself.
8. Old Stone Trough Lane is a narrow road which leads out of the village in a southerly direction. Close to Yellow Hall, but diagonally opposite it, is another listed building, Stoops Farmhouse and Barn. This building looks out across the road to an open field. This field is part of the appeal site but is not proposed to be built upon.
9. The proposal development is for up to ten dwellings accessed off Cob Lane. It is a revised proposal following the dismissal on appeal¹ of a larger scheme of up to 17 dwellings, which would have also involved the adjacent field.
10. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and that they should be conserved in a manner appropriate to their significance. It also advises, at paragraph 193, that great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be.
11. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the decision taker to have regard to the desirability of preserving the setting of listed buildings.
12. Stoops Farmhouse and Barn is likely to date from the late 17th Century and has high significance as a good example of a vernacular farmstead in the Pennines. It has a long front which faces the lane and the fields opposite. Although no longer in use as a farm, its former use is still legible due its wall to window ratio.
13. Yellow Hall comprises four cottages, was built in the 1830s and is of a style typical of the time. It has a symmetrical frontage with a central gabled feature serving the middle two cottages, and single side gables for the end two cottages. To the rear there have been extensions including a glazed conservatory and unlike the front elevation, there is less uniformity in the design of the existing windows.
14. As a result, the significance of the rear of Yellow Hall is not as great as that of its front. The side gables are somewhat unique features and contribute to the significance of the heritage asset. However, the side gables do sit towards the front elevation of the property and views of them from the rear are reduced in importance by the later additions to the building which tend to screen them.
15. The setting of Stoops Farmhouse and Barn extends to the garden to the rear, the field opposite and the nearby houses on the lane including Yellow Hall. There are views to the building across the appeal site from Cob Lane although these are at an oblique angle and partly screened by the trees and hedgerow

¹ APP/E2340/W/17/3169109

which separate the two fields and vegetation to the rear and side of Yellow Hall.

16. The part of the appeal site which is proposed to be developed is much closer to Yellow Hall than it is to Stoops Farmhouse and Barn, and the setting of Yellow Hall includes this part of the appeal site. There is a relationship between Yellow Hall and this area of open countryside as evidence suggests that historically the building was once surrounded by open countryside.
17. There are clear views of the rear elevation of Yellow Hall from Cob Lane, indeed for some distance along Cob Lane. These views would be significantly affected by the proposal although this impact could be reduced by setting the houses towards the back of the site, maintaining an open buffer area immediately to the rear of the boundary with Yellow Hall and retaining low boundary features along Cob Lane. Nonetheless, there would be some harm to the setting of Yellow Hall in terms of these views and the loss of open countryside immediately adjacent to the building which was highlighted by my colleague in her decision.
18. The rear of Yellow Hall is not as significant as its front for the reasons set out above. However, I consider that the proposal would lead to harm to the significance of the designated heritage asset, but that this harm would be less than substantial.
19. Paragraph 195 of the Framework confirms that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Other considerations

20. Kelbrook is designated as Rural Service Centre in Policy SDP2 of the *Local Plan for Pendle Core Strategy 2011-2030* (the Core Strategy), which sets out the spatial development principles for the borough. Rural Service Centres are expected to provide the focus of growth in Rural Pendle. In accordance with the policy, proposals for new development should be located within a settlement boundary as defined on the proposals map. The appeal site lies just outside the defined settlement boundary.
21. Policy LIV1 of the Core Strategy sets out the approach to housing provision and delivery. It indicates that pending the adoption of the Pendle Local Plan Part 2: Site Allocations and Development Policies, housing development will be supported on sustainable sites which are outside but close to a settlement boundary, and which make a positive contribution to the five year supply of housing land including those identified in the Strategic Housing Land Availability Assessment (SHLAA). The appeal site is not within the 2016/17 SHLAA but is one of the submitted sites which has yet to be assessed.
22. The Council maintains that it has a housing land supply of 5.1 years. The appellant disputes this, arguing that the 20% buffer has not been properly applied. Even if this was the case, the housing land supply would be just under the 5 year threshold at 4.97 years and so I consider that there is not a significant quantity difference between the two figures. The appellant indicates it is not of paramount importance to the appeal. Nevertheless, I consider that the proposal could make a positive contribution to the five year supply of

housing land in the district. This would be a public benefit to which I attach considerable weight.

23. The proposal would make a financial contribution towards the acquisition and refurbishment of redundant and empty homes off site in accordance with Policy LIV4 of the Core Strategy which sets out targets and thresholds for affordable housing. I have attached considerable weight to this benefit.
24. There would also be an off-site contribution towards education provision but since this would to mitigate an increased need for education as a result of the proposed development, I attach only limited weight to that benefit.

Public benefits and harm to the setting of the listed building

25. The proposal would provide new homes in a settlement which has been identified in the Core Strategy as a Rural Service Centre. It is a settlement which is expected to provide additional housing to contribute to the overall housing requirement in the borough in accordance with Policy LIV1 of the Core Strategy. Whilst just outside of the currently defined settlement boundary the appeal site is well connected to the rest of the village.
26. Paragraph 59 of the Framework indicates that it is an objective of the Government to significantly boost the supply of homes and paragraph 78 indicates that in rural areas housing should be located where it will enhance or maintain the vitality of rural services. Whilst the Council asserts that there is a five year land supply, this is just over the threshold, and I consider that this site could contribute to the homes required to meet national and local planning policy objectives.
27. Overall, I consider that this considerable public benefit is sufficient to outweigh the less than substantial harm to the setting of the designated heritage asset. The proposal would accord with Policy ENV1 of the Core Strategy which indicates that development should ensure that the significance of any heritage asset, including its setting, is not harmed or lost without clear and convincing justification. It would also accord with Policies SDP2 and LIV1 of the Local Plan.
28. In reaching this view, I have taken account of the statutory duty to have special regard to the desirability of preserving the setting of listed buildings. I have also taken account of my colleague's appeal decision but consider that the scheme before me is considerably different to the one before her. Significantly the proposal has reduced in scale and by removing the field opposite Stoops Farmhouse and Barn from the scheme, in my view it does not have a harmful effect on the setting of that building.

Other matters

29. Concerns have been expressed by local residents about a number of matters including traffic and highway safety. The County Council highway officers have raised no objection to the proposal on highway safety grounds and an acceptable visibility splay has been incorporated into the scheme. I have no evidence before me to indicate that the proposal would have a harmful effect on highway safety.
30. I have no evidence before me of undue flood risk and I note that there are no objections from any of the relevant agencies on this matter, subject to the

imposition of relevant conditions. The appeal site is within the lowest flood risk zone.

31. Local residents have raised concerns about harm to wildlife as a result of the proposed development. A phase one habitat survey has accompanied the application and I am satisfied that the features of ecological value it has identified such as trees, hedges and the watercourse, could be retained within the scheme and secured through an appropriate condition.
32. In relation to concerns expressed by local residents, I do not have evidence before me that the proposal would lead to reducing broadband speeds or adversely affect other infrastructure service provision in the village. I have not been provided with evidence to indicate that any light emissions from the development would cause undue harm.

Conditions

33. I have considered the conditions suggested by the Council in relation to the Framework and the Planning Practice Guidance. I have made a number of minor changes in the interests of conciseness and clarity, including where necessary combining some suggested conditions.
34. In addition to the conditions relating to the time period for the submission of reserved matters applications, and implementation, there is a need for a condition specifying the plans to which the permission relates, in the interests of clarity and certainty.
35. Layout is a matter reserved for subsequent approval. To ensure that no development takes place in the field opposite Stoops Farmhouse and Barn, and that an open area is retained behind Yellow Hall, I have imposed an additional condition such that the reserved matters have to be prepared to accord with the indicative layout shown on the submitted plans.
36. There is a need for a condition relating to details of ground levels in the interests of the character and appearance of the site and amenity of nearby resident given the sloping nature of the site. There is also a need for a condition requiring details of on-site open space in the interests of the character and appearance of the area.
37. I have combined the Council's suggested conditions in relation to surface and sustainable drainage systems in the interests of clarity. I consider that the detailed information set out in the suggested condition can still be required by the Council as part of the scheme which it will need to approve. This condition is necessary in the interests of environmental protection. A condition is also required in relation to foul water drainage in the interests of environmental protection.
38. For clarity I have amended the Council's suggested condition relating to a construction code of practice which will be required in the interests of amenity. I have referred to it as a construction management plan. I consider that there is no need for a separate condition relating to wheel washing or street cleaning as these be required as part of the plan.
39. Conditions are required to ensure the development accords with the submitted Habitat Survey and to protect the existing trees during construction in the interests of ecology and character and appearance.

40. I have imposed conditions relating to the design and implementation of the access and relating to the design and future management and maintenance of the estate road, in the interests of highway safety. The Council can ensure that the necessary details would be submitted for it to approve. For conciseness and clarity I have made some minor changes to, and combined some of, the conditions suggested to me.
41. Given that a planning obligation has now been completed, there is now no need to impose the condition suggested by the Council relating to it.

Planning Obligations

42. The Framework requires that planning obligations should only be sought, and that the weight be attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development proposed; and are fairly and reasonably related in scale and kind to the development. The submitted UU refers to obligations for financial contributions for off-site affordable housing and education provision.
43. Policy LIV4 of the Core Strategy requires that residential development schemes of 10-14 dwellings in Rural Pendle should provide 20% affordable housing. The Policy indicates that whilst on site provision is the preferred approach, where it is considered preferable and deliverable provision on an alternative site in the same settlement, or a financial sum to be used towards the cost of off-site provision, where possible in the same settlement, would be acceptable.
44. The appellant considers since the 20% requirement would relate to two affordable homes, it would be problematical to find an interested social housing provider to be responsible for them. This is also referred in the planning officer report. In these circumstances I agree that the proposed approach of a financial contribution would be appropriate and accord with Policy LIV4 of the Local Plan.
45. The proposed development would generate additional need for school places. The County Council aims to mitigate this impact by seeking a financial contribution from appropriate schemes. In relation to this specific proposal the County Council has calculated that there is no need to seek a primary school contribution but that a contribution for one secondary school place is required.
46. I consider that the two contributions in the UU are necessary to render the development acceptable in planning terms and to ensure compliance with the development plan and the Framework. They are directly related to the development and are fairly reasonably related in scale and kind. I have attached significant weight to these obligations in the consideration of this appeal.

Conclusion

47. For the reasons given above I conclude that the appeal should be allowed.

Mike Worden

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 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 the following approved plans: 15.142.01B – Site Location Plan, 15.142.04D – Site Layout, 15.142.05D – Proposed Layout.
- 5) The reserved matters shall be prepared in accordance with the parameters plans 15.142.04D – Site Layout and 15.142.05D- Proposed Layout
- 6) The first submission of reserved matters shall include details of the proposed ground levels and a number of sections across the site, which shall indicate existing and proposed ground levels, together with the floor levels of any proposed dwelling/building through which the sections run and shall extend beyond the site boundaries to include any surrounding, adjacent properties. The development shall thereafter be implemented in accordance with the approved details.
- 7) The first submission of reserved matters shall include details of the provision of on-site open space.
- 8) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 9) A scheme for the disposal of foul water shall be submitted to and approved in writing by the local planning authority within two weeks of the commencement of the development. The scheme shall provide for separate systems for foul and surface waters and be constructed and completed in accordance with the approved scheme before the first dwelling is occupied.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities and street cleansing arrangements;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) delivery, demolition and construction working hours.
 - viii) The routing of construction vehicles.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 11) The development shall be carried out in accordance with the recommendations set out in the Phase 1 Habitat Survey Report (Haycock and Jay Associates) dated 2016
- 12) Unless and until approved in writing by the local planning authority no ground clearance, demolition, changes of level or development or development-related work shall commence until protective fencing, in full accordance with BS 5837 : 2012 has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land as detailed in the Tree Report dated 6th April 2016 and as shown on drawing 15.142 03 D (notwithstanding the position of any dwellings as indicated). 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 be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development related activity of any description, including the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be 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 the 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 by the local planning authority, prior to the commencement of works.

- 13) The layout of the development shall include provisions to enable vehicles to enter and leave the highway in forward gear and such provisions shall be laid out in accordance with the approved plan and the vehicular turning space shall be laid out and be available for use before the development is brought into use and maintained thereafter.
- 14) No development shall take place until details of the standards to which the estate road serving the development is to be constructed in accordance with the Lancashire County Council Specification for the Construction of Estate Roads, and the proposed arrangements for its future management and maintenance, shall have been submitted to and approved in writing by the local planning authority. No houses shall be occupied until the road has been constructed in accordance with the approved details.
- 15) No part of the development shall be commenced unless and until visibility splays measuring 2.4 metres by 43 metres in both directions, measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of Cob Lane, have been provided in accordance with plan No.15.142.04D - Proposed Layout. The land within these splays shall be maintained thereafter, free from obstructions such as walls, fences, trees, hedges, shrubs, ground growth or other structures within the splays in excess of 1.0 metre in height above the height at the centre line of the adjacent carriageway.
- 16) No development shall commence until full engineering drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority.

-----end of conditions -----