



Appeal Decision

Site visit made on 12 February 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2019

Appeal Ref: APP/E2340/W/18/3216976

Land to the East of 372 Gisburn Road, Blacko, Nelson, Lancashire BB9 6LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant part outline and part full planning permission.
 - The appeal is made by Mr P Calvert and Mr Wilds against the decision of Pendle Borough Council.
 - The application Ref 18/0268/OUT, dated 16 April 2018, was refused by notice dated 6 July 2018.
 - The development proposed is Outline: Major: Erection of 20 dwelling houses. Full: Demolition of 372 Gisburn Road and creation of access (access and layout)
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Pendle Borough Council against Mr P Calvert and Mr Wilds. This application is the subject of a separate Decision.

Procedural Matter

3. The application was submitted in outline, with all detailed matters reserved except access and layout. I have therefore dealt with the appeal on that basis, treating all submitted plans and drawings as illustrative unless related to access and layout.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the living conditions of future occupiers with regard to outdoor amenity space;
 - highway safety with regard to access and parking; and
 - the potential risk for flooding.

Reasons

Living conditions

5. The Council raised concerns that the proposed provision of open space within the original site layout submitted is poorly located poorly and does not connect well with other open areas. Furthermore, it argued the open space provided is on land with drainage easements or watercourses and therefore is unsuitable for building or for any meaningful recreational use. The appellant has stated there is no policy

- requirement in any adopted Council document to support the Council's case in this regard. As a result, the Council's reason for refusal is not justified or reasonable.
6. Notwithstanding this, I appreciate the Council's concerns and note that the policies referenced in the Council's evidence and reasons for refusal, amongst other things, seek to ensure development creates a sense of place, reflects local identity and character and is accessible and of a high design quality. Although there is no requirement to comply with Building for Life 12, Policy LIV5 of the Pendle Local Plan Part 1: Core Strategy (PLP) strongly encourages developers to use of these design standards in preparing schemes. From the policies before me, in assessing proposals, I find it reasonable for the Council to consider the content of those policies fully, including Policy LIV5, in determining the acceptability of the proposal.
 7. The Council has also identified that some rear gardens, particularly along the eastern boundary of the site, are shallow and space is restricted by projecting garages. Other concerns about layout relate to driveways and parking spaces which the Council states are not of a standard size to provide the requisite off-street resident parking provision. As a result, it is the Council's view that the layout, as originally proposed, would not reflect the quality of the adjacent open countryside or the character of the of the surrounding area.
 8. I note the layout has been amended during the course of the appeal process and the latest drawing (DWG02B) was dated 2 October 2018, three months after the Council's decision. Notwithstanding these amendments, whilst providing resolutions to some other matters of concern, I note the rear gardens identified by the Council and the areas of proposed open space have not been significantly amended. The appellant maintains there is no policy justification for the Council's arguments or any space standards for garden areas and, in any event, no attention has been paid by the Council to the significant width of the gardens in question.
 9. Whilst there is no specific reference to the nature of garden areas, I find the limited garden areas identified would not accord with the overall aims of relevant policies in this appeal. These include ensuring design quality, reflecting local character and creating a sense of place. In my view, these aims should reasonably be applied in assessing such matters. As such, I find the identified garden areas would not be proportionate to the scale of their associated dwellings shown on the layout plan. I note there is a range of property types and plot sizes in the locality. However, the proposed pattern of development would not be proportionate or sufficiently spacious to reflect nearby similar development, such as at Malkin Close.
 10. From the evidence, including all submissions by the appellant, I find the proposed layout would fail to provide an unacceptable development resulting in poor amenity for future occupiers with regard to outdoor amenity space. This would be due to the proposed areas of open space being unconnected and of limited use due to flooding and drainage issues. In addition, the limited garden areas on certain identified plots would diminish the level of amenity of future residents in terms of failing to provide reasonable, useable private outdoor space.
 11. Consequently, I conclude that the proposed development would result in a cramped layout which would have a significant detrimental impact on the living conditions of future occupiers with regard to outdoor amenity space. It would therefore be contrary to the aims of Policies ENV2 and LIV5 of the PLP.

Highway safety

12. From the submitted details and my observations, the proposed site access from Gisburn Road would appear concealed, particularly when travelling northwards along Gisburn Road towards it. At the time of my visit, a significant number of

- cars were parked on Gisburn Road and I find this would exacerbate the limited visibility for road users not only when approaching the access point but also for those looking to exit the site. Furthermore, whilst only a snapshot, I saw how busy and well-trafficked Gisburn Road is, noting that a range of vehicles of differing sizes use the road, including large commercial and agricultural lorries as well as buses and coaches.
13. This high level of activity was amplified further when I returned to the site later in the day at around 3.30pm. This was around pick up time for the nearby primary school. At that time, I observed a significant increase in vehicle and pedestrian movements and on-street parking in the area around the proposed access. As a result, I find the function of the proposed access would likely be significantly impaired due to the greater number of vehicles using, and parking on, Gisburn Road at such times of the day. Furthermore, this would particularly have an adverse effect on highway safety in terms of limiting visibility for drivers to negotiate the proposed access and junction safely.
 14. The appellant proposes to build out the access into Gisburn Road, widened pavements to provide the required visibility splays for the junction. It is argued this would eliminate the screening effect of parked cars on Gisburn Road for drivers egressing from the site. The proposed build out of the access would reduce the width of the main 'A' road. Whilst the reduced width may be sufficient for two cars to pass, and potentially reduce traffic speeds, the route does carry a significant number of larger vehicles. As a result, for such larger passing traffic on the busy 'A' road to negotiate the stretch of road with a reduced width, other vehicles would be required to give way. In this location, taking account of local circumstances such as existing parked vehicles north and south of the access point, I find this would be harmful to the free flow of traffic along this busy stretch of Gisburn Road.
 15. I acknowledge the presence of parked vehicles may currently have a similar effect in terms of vehicles giving way for large vehicles and the flow of traffic. However, in that circumstance, I find the presence of parked vehicles on the road principally require drivers to have good forward visibility of the road ahead to see oncoming traffic. In terms of the proposed access, when the additional factors are considered, such as vehicles looking to manoeuvre across the main flow of traffic to enter and exit the proposed site and the existing narrowness of Gisburn Road to the north and south of the access due to parked vehicles, I find the proposed building out of the access would only exacerbate the adverse impacts on the flow of traffic, overall visibility for road users and highway safety for all.
 16. In addition, information has been provided on the swept paths for a refuse vehicle, or similar, to turn within the site. However, I note that no details or evidence is before me to indicate that the design and geometry of the proposed access would be able to accommodate similar large vehicles turning into and out of the proposed site adequately.
 17. The appellant has proposed a range of measures to limit or prevent on-street parking on Gisburn Road. Notwithstanding this, I find there is nothing to ensure that such measures would realistically implemented. Whilst signage could be implemented, I find this would not be sufficient to address my substantial concerns regarding highway safety. Moreover, the highway authority does not support the access arrangements proposed.
 18. The appellant has referred to guidance in Manual for Streets 2 MfS2 and I have had due regard to this in considering the merits of this appeal. However, from all I have seen and read, I find the application of measures and the guidance within MfS2 would not appropriately address the highway safety issues identified.

Moreover, based on the evidence, I find the suggested conditions would not address the fundamental highway safety issues raised by the highway authority.

19. In terms of off-street parking within the site, whilst it is proposed to provide this in a combination of garages and driveways, I note the Council's concern that, based on the plans submitted with the application, some arrangements would not meet the required standards. As such, I find it reasonable for the Council to determine these parking spaces as unacceptable. Furthermore, from the Council's evidence, I note 50% of the proposed plots indicated on the submitted site layout plan, as determined at the application stage, would have insufficient parking provision.
20. As noted above, the appellant has subsequently submitted amended versions of the proposed site layout, the latest being 'DWG02B', dated 2 October 2018. I note this is three months after the Council's decision. This plan indicates the site layout could now accommodate the required off-street resident parking spaces to meet relevant standards. However, this parking provision relates to requirements attached to the size and type of dwellings nominated by the appellant at this stage. The details of the dwellings are not confirmed as part of this outline application. As such, I find it reasonable to consider that parking provision and requirements could change, depending on the approved property details. Therefore, whilst the layout submitted has been shown to provide appropriate parking in relation to the dwellings nominated in this appeal, the size and type of properties and the parking provision within the layout could change.
21. This is a fundamental issue in terms of the overall acceptability of the scheme and as such, it is not considered to constitute a minor amendment. Nonetheless, the relevant details would need to be confirmed and approved at reserved matters.
22. Having regard to the above, I find that whilst the appellant has indicated through subsequent submitted plans that the layout of the proposed development could accommodate the requisite off-street resident parking sought by the relevant standards, there are fundamental concerns regarding the proposed access in terms of highway safety. Whilst I acknowledge the appellant's evidence in support of the proposal, based on all before me, I find that such measures would not adequately address the significant harm to highway safety resulting from the proposal.
23. Consequently, I conclude that the proposed development would not provide safe and suitable access to the site. Therefore, it would be contrary to Policy ENV4 of the Pendle Local Plan Part 1: Core Strategy (PLP), Policy 31 of the Replacement Pendle Local Plan (RPLP) and the National Planning Policy Framework.

Flood risk

24. The site lies within Flood Zone 1 and a Flood Risk Assessment (FRA) was submitted with the application. From the evidence, I note that in terms of drainage, the scheme proposes a sustainable drainage system be installed and I acknowledge that the details of this system can be controlled by an appropriate condition at this stage. However, the Lead Local Flood Authority sought further information from the appellant to ensure the submitted FRA is satisfactory.
25. This information has now been provided since the application was determined. Having due regard to this further detail, and noting the Council's response to it, I find that the additional information addresses the concerns raised previously. As such, I note the Council is satisfied that any flood risk and drainage issues can now be controlled by appropriate conditions. As a result, the Council has indicated that it has withdrawn the relevant reason for refusal. Consequently, I conclude that the proposed development would adequately and appropriately address the flood risk issues on the site. Therefore, it would accord with Policy ENV7 of the PLP.

Conclusion

26. The proposal would provide a significant number of new dwellings adjacent to an established settlement and surrounded by residential properties on three sides. Whilst some concerns about the proposal have been address by the appellant, either in submitted evidence or through suggested conditions, there are several others which have not. These relate to outdoor space and highway safety.
27. The Council determined the proposal and issued a refusal based on the evidence available at the time it made its decision. The appellant has since provided updated evidence to address the identified reasons for refusal. Furthermore, it is noted the appellant acknowledges there was a lack of information submitted with the planning application regarding certain matters, including flood risk and the layout of the proposed development.
28. Notwithstanding this, having carefully considered all evidence submitted in this appeal, I find the appellant has not sufficiently demonstrated that the outline proposal for 20 dwellings, including layout and access, would be acceptable in terms of highway safety and residential amenity for future occupiers. As a result, it would not accord with the relevant development plan policies as I have set out.
29. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR

Richborough Estates