
Appeal Decision

Site visit made on 13 September 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 03 October 2016

Appeal Ref: APP/D2320/W/16/3152417

Land adjacent to 75 Towngate, Ecclestone, Lancashire PR7 5QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Sophie Turbfield, Westchurch Homes against the decision of Chorley Borough Council.
 - The application Ref 15/01246/FUL, dated 18 December 2015, was refused by notice dated 19 May 2016.
 - The development proposed is the erection of seven residential dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of seven residential dwellings with associated works at land adjacent to 75 Towngate, Ecclestone, Lancashire PR7 5QU in accordance with the terms of the application, Ref 15/01246/FUL, dated 18 December 2015, subject to conditions in the attached schedule.

Application for costs

2. An application for costs was made by Miss Sophie Turbfield, Westchurch Homes against Chorley Borough Council. This application is the subject of a separate Decision.

Main Issue

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

Reasons

4. The appeal site is located on the edge of the village of Ecclestone. It lies to the rear of No. 75 Towngate and fronts onto Tincklers Lane.
 5. The proposal is for the erection of seven detached two storey 4 and 5 bed dwellings. The proposal would be accessed via a cul de sac off Tincklers Lane with the exception of Plot 7 which would have direct access from the Lane. A new footway would be provided along the site frontage. This would have a width of 2 metres along the boundary of Plots 6 and 7 extending to the site access. It would then continue at 2 metres width to the access to No.75 Towngate. From this point the width would be reduced to 1.2 metres to the
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- junction with Towngate. An existing telegraph pole and street lighting column are located close to the access to No. 75 Towngate.
6. The Council's reason for refusal relates to two highway and pedestrian safety issues. Firstly that the reduced width footway with existing obstructions would result in pedestrian and mobility impaired accessibility issues and secondly that the narrowing of the junction and reduced radii would cause vehicles to overrun the footway with the potential for increased vehicular conflicts.
 7. With regard the footway, I note that Manual for Streets (MfS) and Inclusive Mobility advise that a normal width for a footway should be 2metres. This width allows two wheelchairs to comfortably pass. However the guidance also provides advice on situations where this cannot be achieved. Inclusive Mobility advises that 1.5 metres is an acceptable width for a wheelchair user and a pedestrian however this document also advises that a 1metre width would be the absolute minimum acceptable though this should only be maintained for a distance of 6 metres.
 8. The proposed 1.2 metres width of the footway would be above the minimum recommendation of one metre. However whilst it would be wider, the restricted section would be longer, a distance of 15 metres. Having regard to advice in MfS, this width would accommodate either a single able bodied person (0.75 metres), a wheelchair user (0.9 metres) or an adult with a child walking alongside (1.2 metres). Potential difficulties would occur if for example a wheelchair user and an able bodied person were heading in different directions. One of the users would have to give way and allow the other to pass.
 9. Bearing in mind the scale of the development, seven dwellings, and other properties in the immediate vicinity, the number of pedestrian movements would be low. This is accepted by both parties. The likely occurrence of a pedestrian and a wheelchair user meeting on the footway and having difficulty in passing would therefore be low. In addition, the narrow section of footway would be straight so that intervisibility would be good. I also acknowledge that it would be possible for a pedestrian to cross the road to the opposite footway if necessary, though this would most likely not be the most convenient option for that user. I also note the lack of objection from the local Highway Authority.
 10. The existing telegraph pole and lighting column would be located within the 2 metre wide section of the footway. The Council have expressed concern that these obstructions could result in a pedestrian stepping into the highway if their way was blocked. The appellant states that there would be a space of over 1 metre from the telegraph pole to the footway edge and at least 1.2 metres from the lighting column to the footway edge. The position of the lighting column and the telegraph pole would both maintain a clear footway gap of over 1 metre. This would be in line with the guidance in Inclusive Mobility, the restricted width area only affecting the footway immediately around the obstructions themselves.
 11. Should a pedestrian step into the highway I am mindful that there would be good visibility for a driver of a vehicle and that traffic speeds would be low. Whilst there would be a risk for pedestrian safety, in this case, I consider those risks to be low.

12. I have had regard to the appeal decisions brought to my attention by the appellant where the provision of a narrow footway and pedestrian safety has been an issue. These cases clearly have differences to the appeal case in terms of context, the size of the development and the likely pedestrian flows. I consider that these developments are therefore not directly comparable to the appeal proposal. I have also noted the appellant's comment that the telegraph pole and lighting column could be relocated to ensure the provision of a wider unobstructed footpath. Whilst this could take place, this is not the scheme that I have before me. Accordingly I have considered the appeal scheme on its individual merits.
13. I accept that the proposed footway would be narrow and would be obstructed by street furniture, but this is not uncommon in some urban and rural areas depending on existing constraints. This is clearly recognised in MfS and Inclusive Mobility. Currently there is no footway on the southern side of Tincklers Lane so that the provision would form an improvement for pedestrian users. Having regard to the length of the restricted width footway, the good intervisibility and likely number of pedestrian users, I consider that the footway would provide an acceptable pedestrian route.
14. The Council's second area of concern relates to the reduction of the left turn radii as a result of the provision of the footway which would increase the potential of vehicles to mount the pavement or cross the centre line of Tincklers Lane when turning left.
15. MfS supports the use of small junction radii in order to maintain pedestrian desire lines and reduce vehicle manoeuvring speeds. It also recognises that vehicles may need to use the full carriageway width to turn and that footways may need to be strengthened locally in order to allow large vehicles occasionally over running the corner.
16. The Council has argued that a large vehicle crossing the centre line of Tincklers Lane would potentially increase conflict with another vehicle waiting to turn into Towngate. However it is not unusual for large vehicles such as refuse vehicles to use the other side of the carriageway when turning into a side road. Tincklers Lane has a width of more than 5 metres, parking does not take place close to the junction and speeds would be low. Therefore I consider that the turning of a larger vehicle at this junction would not be unacceptable in terms of highway safety.
17. I acknowledge that a vehicle overrunning the footway could have serious consequences for pedestrian safety. However having regard to the likely occurrence of this, the level of pedestrian use, the traffic speeds involved, I do not consider that in this instance it would be unacceptable.
18. The appellant has argued that these matters should not occur in a new development as appropriate design would eliminate them. However in this case, while this would be a new residential development, it is located in an established urban area with existing highway alignments and junction arrangements where physical constraints affect the highway solutions that can be implemented.
19. I therefore consider that the appeal scheme would comply with paragraph 32 of the National Planning Policy Framework. The residual cumulative impacts of

the development would not be severe and the scheme would provide a safe and suitable access to the site for all people.

Other Matters

20. The appellant has suggested that pedestrian access to the appeal site could be taken from The Hawthorns, a residential cul de sac to the east. It is argued that this would provide a safer route for pedestrians and be more sustainable as it would be a shorter walking distance to the village facilities. Whilst there may be alternative solutions, these do not form part of the appeal scheme. I must determine the acceptability of the scheme before me.

Conditions

21. I have considered the conditions put forward by the Council against the Framework and the Planning Practice Guidance. I have imposed the standard timeframe condition and in the interests of proper planning and for the avoidance of doubt, a condition requiring the scheme be implemented in accordance with the submitted plans. In order to safeguard the character and appearance of the area I consider it necessary to impose conditions regarding materials, the erection of boundary treatment, ground and building slab levels and soft and hard landscaping.
22. In the interests of highway safety conditions regarding the construction details and implementation of the access road, the provision of the footway, the management and maintenance of the proposed streets, wheel washing facilities and the provision of car parking and manoeuvring space are also necessary. I have imposed energy reduction conditions in order to promote sustainable practices as well as conditions to safeguard protected species. I consider that conditions regarding surface water and foul drainage are necessary to ensure sustainable drainage and address flood risk.
23. I have not been made aware of any history of contamination on the site. Therefore, having regard to the sites past use and planning history, I do not consider it necessary to impose a condition requiring further consideration and investigation of this matter. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the guidance.

Conclusion

24. I have found that the appeal scheme would not cause material harm to highway or pedestrian safety.
25. For the reasons given above and having had regard to all other matters raised, I consider that the appeal should succeed.

Helen Hockenhull

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. AL-001 Rev H – Proposed Site Layout, Drawing No. 3005 Rev D - Planning Elevations and Floor Plans Type C Plot 1, Drawing No 1005 Rev B - Planning Elevations and Floor Plans Type A Plot 2, Drawing No. 1005-1 Rev C - Planning Elevations and Floor Plans Type A Plot 3, Drawing No. 2005 Rev A - Planning Elevations and Floor Plans Type B Plot 5, Drawing No. 3005-1 Rev C - Planning Elevations and Floor Plans Type C Plot 6, , Drawing No. 4005-1 Rev A - Planning Elevations and Floor Plans Type D Plots 4 and 7, Drawing No. E-001 Rev A– Proposed Enclosure Details, Drawing No. GAR-001 – Proposed Double Garage, Drawing No. G-101 – Quad Garage Block, Drawing No. AL-003 Proposed Street Scene, Drawing No. AL-004 – Removal Plan.
- 3) Prior to the construction of the superstructure of any of the dwellings or garages details of all external facing and roofing materials (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the local planning authority. All works shall be undertaken strictly in accordance with the details as approved.
- 4) No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot, have been erected in conformity with the approved plans. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.
- 5) The development hereby permitted shall only be carried out in conformity with the proposed ground and building slab levels shown on the approved plan(s) or as may otherwise be submitted to and agreed in writing with the Local Planning Authority before any dwelling is commenced.
- 6) A scheme for the landscaping of the development shall be submitted to the local planning authority for approval in writing prior to the construction of the superstructure of any of the dwellings. The scheme shall include details of any existing trees and hedgerows on the land; show any to be retained, together with measures for their protection in the course of development and show the types and numbers of trees, shrubs and hedges to be planted and their distribution on the site. The scheme shall also specifically include details of how the existing opening within the hedgerow adjacent to the east elevation of Plot 2 will be closed off with hedging species to match the existing hedge, which shall take place in the first planting season following the commencement of the development. All other soft landscape works shall be carried out in accordance with the approved scheme within the first planting and seeding seasons following the occupation of any dwellings or the completion of the development, whichever is the sooner, and any trees, plants or hedges which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 7) At least one of the garage car parking spaces (one half of the double garage) hereby approved on plots 1, 4, 6 and 7 shall be kept freely available for the parking of cars and no works, whether or not permitted by the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order amending or revoking and re-enacting that order, shall be undertaken to alter or convert the space into living or other accommodation.
- 8) Prior to the commencement of the development details shall be submitted to and approved in writing by the local planning authority demonstrating that each dwelling will achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations. The development thereafter shall be completed in accordance with the approved details.
- 9) No dwelling hereby approved shall be occupied until a SAP assessment (Standard Assessment Procedure), or other alternative proof of compliance (which has been previously agreed in writing by the Local Planning Authority) such as an Energy Performance Certificate, has been submitted to and approved in writing by the local planning authority demonstrating that the dwelling has achieved the required Dwelling Emission Rate.
- 10) Before felling, the mature sycamore tree along the boundary with Tincklers Lane should first be inspected by a suitably qualified person for its potential to support bats. Should bats be found then advice shall be sought from a suitably qualified person about how best to proceed, and a scheme for the compensation of lost roosting potential shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 11) No vegetation clearance or tree felling required to facilitate the approved scheme should be undertaken during the optimum period for bird nesting (March to July inclusive) unless nesting birds have been shown to be absent by a suitably qualified person.
- 12) No dwelling hereby permitted shall be occupied until that part of the access road which provides access to it from the adopted highway has been constructed in accordance with the approved plans.
- 13) The external parking for all the plots and at least one of the garage parking spaces on plots 1, 4, 5 and 7 and associated manoeuvring facilities shown on the plans hereby approved for each dwelling shall be surfaced or paved and made available in accordance with the approved plan prior to the occupation of that dwelling; such parking facilities shall thereafter be permanently retained for that purpose (notwithstanding the Town and Country Planning (General Permitted Development) Order 2015).
- 14) Prior to the commencement of the development a scheme for the provision of a footway along the site frontage of Tincklers Lane up to its junction with Towngate shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details and shall be completed prior to the occupation of any of the dwellings.

- 15) Prior to the commencement of any development, other than site investigation and enabling works, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed, maintained and managed in accordance with the approved details.
- 16) Before any development hereby permitted is first commenced, other than site investigation and enabling works, full details of the means of foul water drainage/disposal shall have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the works for foul water drainage/disposal for that dwelling have been completed in accordance with the approved details.
- 17) Prior to the laying of any hard surfacing full details of the colour, form and texture of all hard landscaping (ground surfacing materials) (notwithstanding any such detail shown on previously submitted plans and specification) shall have been submitted to and approved in writing by the local planning authority. All works shall be undertaken strictly in accordance with the details as approved, and shall be completed in all respects before the final completion of the development and thereafter retained.
- 18) No dwelling shall be occupied until details of the proposed arrangements for the future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
- 19) The construction of any road, or part of a road that will be proposed for adoption shall not commence until full engineering, drainage, street lighting and constructional details of the road proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.
- 20) For the full period of construction, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.