

Appeal Decision

Site visit made on 12 January 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 19th January 2017

Appeal Ref: APP/P2365/W/16/3158414

Whitegate Nurseries, 66 Chapel Road, Hesketh Bank, Preston PR4 6RT

- 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 Messrs A & RM Wright against the decision of West Lancashire Borough Council.
 - The application Ref 2014/1127/OUT, dated 8 October 2014, was refused by notice dated 4 August 2016.
 - The development proposed is outline: residential development.
-

Decision

1. The appeal is allowed and planning permission is granted in outline for residential development at Whitegate Nurseries, 66 Chapel Road, Hesketh Bank, Preston PR4 6RT, in accordance with the terms of the application Ref 2014/1127/OUT, dated 8 October 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Notwithstanding the description of development on the outline planning application form, the appellant agreed with the Council on 30 January 2016 that the description of development should be "outline: residential development". I have obtained further clarification from the appellants/Council about this matter, and they have confirmed that the appeal should be determined on this basis and that the description of development should be as per the agreement. The appeal is made in outline with details of access applied for. All other detailed matters would be considered as part of a reserved matters planning application.
3. The appellant has submitted an illustrative layout plan which shows three detached dwellings and a pair of semi-detached dwellings on the appeal site, plus garaging. As layout is a detailed matter reserved for a subsequent reserved matters application, I have considered the illustrative plan only in so far as whether or not it would demonstrate that some form of residential development could be accommodated on the appeal site.

Main Issue

4. The main issue is the effect of the proposal upon the living conditions of the occupiers of No 64 Chapel Road in respect of noise and disturbance.
-

Reasons

5. The appeal site currently includes two relatively large greenhouses and associated outbuildings including timber and brick built sheds. It has been used as a nursery business (it is no longer in use) and is surrounded by existing detached dwellings. The site is accessed from an access road from Chapel Road and which runs alongside No 64 Chapel Road which is a detached dwelling with both front and rear access drives.
6. Access details have already been partly approved in connection with the erection of two pairs of semi-detached dwellings and one detached dwelling which would be built to the west of the access road (Ref 2013/1164/OUT). The appeal proposal includes the widening of the access road, and it would include a verge adjacent to No 64 Chapel Road and a service strip down part of its western section.
7. The Council has indicated that the site falls within a key sustainable village, and Policy RS1 of the West Lancashire Local Plan DPD (2012-2027) states that residential development will be permitted subject to proposals conforming to all other planning policies. The Highway Authority raises no objection to the proposed access details (I have no reason to disagree with their conclusions) and therefore the main issue relates to the effect of the proposal upon the living conditions of the occupiers of No 64 Chapel Road.
8. I note the concerns raised by the Council about the indicative layout submitted as part of this appeal, particularly in respect of the space around the indicative dwellings, separation distances and the potential for adverse impacts upon the occupiers of No 6 Ashbrook Close. However, as this plan is for illustrative purposes only (layout is not being applied for at this stage), and the description of development does not refer to a specified number/type of dwellings, I am only required to consider whether or not the site could accommodate some form of residential development. It is only in this regard that I have considered the submitted illustrative layout plan.
9. I do share the Council's concerns about the illustrative layout plan in terms of both the amount of space that would be around the buildings and also the potential effect that possible two storey dwellings (and other development close to common boundaries) may have on the occupiers of surrounding residential properties. The surrounding dwellings and rear gardens (including the rear gardens of No 6 Ashbrook Close and No 64 Chapel Road) are very close to the appeal site. Consequently, I have my doubts as to whether it would be possible to erect two storey dwellings on the site without harm being caused to the occupiers of neighbouring residential properties (including use of gardens) from an outlook and/or privacy point of view.
10. Given the above, I would therefore envisage that the dwellings on the site would likely be single storey, as is currently the case for built development on the site. However, layout and appearance details are matters which would need to be carefully considered as part of a reserved matters application. I am satisfied that, at the very least, single storey residential development could be accommodated on the site without material harm being caused to the occupiers of neighbouring residential properties. In this regard, I consider that the principle of residential development on the site is acceptable.

11. I acknowledge that the proposed access road would be relatively close to the gable elevation of No 64 Chapel Road, which contains two windows at ground floor (one obscure glazed window serving a bathroom and one secondary window serving a lounge) and two first floor bedroom windows. The site has historically been used as a nursery. Whilst I do not have specific details of past use in terms of vehicular / pedestrian comings and goings, it is nonetheless entirely possible that the site could be used for this purpose again and possibly in quite an intensive manner. This is a matter to which I afford considerable weight when considering the effect of the proposal upon the living conditions of the occupiers of No 64 Chapel Road.
12. Planning permission has already been approved for residential development immediately off the part of the access road which is closest to the gable elevation of No 64 Chapel Road. In some respects, it would be the effects of this development, in terms of the manoeuvring of vehicles onto and off driveways, which would be most apparent to the occupiers of No 64 Chapel Road.
13. No 64 Chapel Road is a large dwelling and whilst some windows do face onto the access road, there are other windows / rooms in the house which do not. I acknowledge that the two first floor gable elevation windows serve bedrooms, but given their height above the road and likely volume and speed of traffic using the access, I do not consider that there would be significant noise and disturbance effects. I reach a similar view in respect of the kitchen window which faces in the direction of the access road: this is set further back from the road when compared to the gable elevation windows.
14. In addition to the above, and notwithstanding the concerns raised by the occupiers of No 64 Chapel Road, I was able to see that this dwelling was positioned within a particularly large plot and that there would continue to be large areas of outside amenity space away from the access road where the occupiers of such property could sit out and therefore continue to enjoy a relatively peaceful environment.
15. In the context of the historic use of the site, the planning permission that has already been allowed for residential development, the re-alignment of the access road further away from the gable elevation of No 64 Chapel Road and the internal configuration of No 64 Chapel Road, I do not consider that the proposal would lead to significant levels of disturbance or noise for the occupiers of this property.
16. Whilst I cannot be certain of the exact number of dwellings which would occupy the appeal site (this would be a matter for a reserved matters application), I have my doubts as to whether the site could acceptably accommodate the amount of built development as shown on the indicative layout plan and still accord with all of the Council's policies. However, for the purposes of considering the main issue, I have considered the effect of up to an additional five dwellings using the access road. In this regard, and notwithstanding the fact that fewer dwellings may possibly be built on site, I conclude that the proposal would not cause significant harm to the occupiers of No 64 Chapel Road in terms of noise and disturbance. Therefore, the proposal would accord with the amenity aims of Policy GN3 of the West Lancashire Local Plan Development Plan Document 2012-2027 (adopted October 2013).

Other Matters

17. I have taken into account representations made by other interested parties.
18. Whilst there may be some disruption caused during construction stage, this would be relatively short lived. It would not be reasonable to withhold planning permission due to construction activity.
19. Whilst comments have been made that the access is not designed to accommodate up to ten dwellings (numbers of dwellings are yet to be determined), this view is not shared by the Highway Authority who raised no objection to the proposal from an access or highway safety point of view. Internal layout matters would need to be considered in detail as part of a reserved matters application. Whilst the access road would narrow in parts, it would widen for significant sections of it and so vehicles would be capable of passing in these areas. I have not received any objective evidence to lead me to depart from the conclusions reached by the Highway Authority.
20. I acknowledge that any street lights would need to be sensitively sited so as to not have an adverse impact upon the living conditions of the occupiers of surrounding residential properties including No 64 Chapel Road. However, this could be suitably addressed by way of a planning condition.
21. In respect of refuse/recycling bins, I can see no reason why they would not be dragged to Chapel Road on bin collection day. Bin collection and storage details would need to be considered as part of the consideration of layout and appearance at reserved matters stage. A planning condition could be imposed to adequately deal with drainage.
22. Comments have been made that there is not a need for spacious family housing in the area. However, the Council's development plan supports all types of housing in this area. It is not necessary for me to consider car parking provision or the location of garages at this stage. These would be considered in connection with layout matters at reserved matters stage.
23. Whilst representations have been made that there are protected species on the site (for example bats), I have not been provided with any evidence to substantiate this claim. The grant of outline planning permission would not, in any event, override bio-diversity obligations in respect of relevant legislation.

Conditions

24. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance (PPG). In particular, I have minimised the number of pre-commencement of development type conditions, unless they are strictly necessary.
25. Planning permission is granted subject to the standard reserved matters conditions. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and to clearly identify the site and access details. I have therefore imposed a condition to this effect.

26. In the interests of the character and appearance of the area, it is necessary to impose planning conditions relating to levels, landscaping and materials. In the interests of highway safety, it is necessary to impose planning conditions relating to wheel washing at construction stage, road construction, visibility splays and the maintenance and management of internal roads. In the interests of the living conditions of occupiers of the proposed dwellings (and surrounding dwellings), planning conditions are necessary relating to contaminated land and drainage.
27. The Council has suggested a planning condition which would remove permitted development rights in respect of house extensions and curtilage buildings. The PPG states that such rights should not be removed unless there are exceptional circumstances for doing so. In this case, layout and appearance details are reserved. Therefore, it is not possible to determine at this stage whether it would be necessary to impose such a condition. This is a matter that could be addressed at reserved matters stage. I have therefore not imposed a permitted development rights planning condition.

Conclusion

28. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 Ordnance Survey red edged site location plan and 1:500 Site Layout Plan (access details only).
- 2) Details of 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.
- 3) 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.
- 4) 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.
- 5) At reserved matters stage details of the finished levels of all parts of the site, including the floor levels of all the buildings, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with approved levels details.
- 6) No building shall be erected on the site until a scheme for the foul and sustainable surface water systems for the drainage of the development, including any necessary attenuation measures, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and maintained as such at all times for the duration of the development.
- 7) No building shall be erected on the site until the visibility splays measuring 2.4m x 43m in both directions has been provided, measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of Chapel Road. 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.
- 8) No building shall be erected on the site until all the highway works within the adopted highway have been constructed in accordance with a scheme that shall be submitted to and approved in writing by the Local Planning Authority.
- 9) No building shall be erected on the site until details of the proposed arrangements for the future management and maintenance of the roads within the development have been submitted to and approved in writing by the Local Planning Authority. The roads shall thereafter be maintained in accordance with the approved management and maintenance details.
- 10) The access road for the residential development shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level up to the entrance of the site compound before any other development takes place within the site and shall be further extended before any development commences fronting the access road.

- 11) For the full period of construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
- 12) At reserved matters stage, a contaminated land investigation shall be carried out in respect of the proposed development site in order to identify whether there are substances in, on or under the land with potential to cause harm to human, ecological, environmental, structural or controlled water receptors, and to assess the degree of risk posed by those substances to each receptor. The investigation shall be carried out by appropriately qualified and experienced consultants. It shall begin with a desk study that adequately characterises the site, including its geography, geology, hydrology and historical use. For this a conceptual site model shall be produced, based on the past and intended use of the site and identifying all potential pollutant linkages.

If the desk study and conceptual site model identify potential pollutant linkages, an intrusive site investigation shall be carried out in accordance with BS10175:2001 'Investigation of Potential Contaminated Sites – Code of Practice' and any other relevant Government guidance at the time. The investigation shall take the form of a sufficient number of sampling points arranged spatially so as to ensure adequate cover of the site, especially those areas intended for use as gardens and landscaped areas, or where concentrations of contaminants are anticipated.

Sufficient samples must be obtained to characterise the soils, and in addition to soil samples, shall include ground and surface water samples where the conceptual model demands. Additionally, monitoring for landfill gas shall be carried out where appropriate and the results assessed against the latest version of the CIRIA report. The samples shall be analysed for a full suite of organic and inorganic contaminants. The analysis must be carried out at a laboratory that is UKAS accredited, and which complies with the Environment Agency's MCERTS standard in respect of each contaminant.

Sample results shall be screened against Government Soil Guideline Values (SGV) where these are available. Where these are not available, the results must be screened using clearance values that have been derived using best available toxicological data using a statistical model acceptable to the Local Planning Authority. In those cases where values are exceeded, more detailed site specific risk assessments must be carried out to decide whether remediation is required. These assessments must be carried out using best toxicological data for the containment concerned, and by means of a statistical model acceptable to the Local Planning Authority. Where the investigation confirms the presence of contamination likely to cause harm to receptors, whether human or otherwise, a remediation scheme shall be devised that will result in the contamination being dealt with so as to remove the risk to receptors and make the site suitable for its intended use.

The results of the desk study and site investigation, together with details of any proposed remediation, shall be approved in writing by the Local Planning Authority before development of the site commences. Any remediation scheme approved shall be carried out as part of the development of the site,

and shall be followed by a validation report sufficient to prove that the remediation has been effective. This report must also be approved by the Local Planning Authority. Where it is evident that a risk to controlled waters may exist, the Environment Agency must be consulted and any requirements made by them must be carried out.

- 13) No development above slab level shall take place until full details and samples of the external wall and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with approved details.
- 14) Within 9 months from the date when any part of the development approved is first brought into use the approved landscaping scheme shall be carried out. All trees and shrubs planted shall comply with BS 3936 (Specification of Nursery Stock) and shall be planted in accordance with BS 4428 (General Landscape Operations). All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the agreed date of planting.