
Appeal Decision

Site visit made on 31 January 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 22 February 2017

Appeal Ref: APP/U2370/W/16/3161432

4 Rosslyn Avenue, Preesall, Lancashire, FY6 0HE

- 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 & Mrs Boone against the decision of Wyre Borough Council.
 - The application Ref 16/00100/OUT, dated 4 February 2016, was refused by notice dated 6 October 2016.
 - The development proposed is an outline application for residential development of up to 9 dwellings with the demolition of existing house to form new access road.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 9 dwellings with the demolition of existing house to form new access road at 4 Rosslyn Avenue, Preesall, Lancashire, FY6 0HE in accordance with the terms of application Ref 16/00100/OUT, dated 4 February 2016, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Boone against Wyre Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The proposal seeks outline planning permission with all matters of detail, other than access, reserved for future consideration. Plans showing the position of the proposed access off Rosslyn Avenue and an indicative site layout were submitted with the application which I have had regard to in the determination of this appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed development on highway safety.
 - Whether sufficient information has been submitted with the application in order to determine the extent to which the site is suitable for development without being at risk from surface water flooding or causing a flood risk elsewhere.
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Reasons

Highway safety

5. The appeal site comprises a rectangular former paddock located to the rear of No 4 Rosslyn Avenue. This property is a semi-detached dwelling located on a straight and level residential street that terminates in a cul-de-sac arrangement and is subject to a 30 mph speed limit.
6. In order to provide access to the site the proposal would involve the demolition of No 4 with the attached property at No 2 remaining as a detached dwelling. An access road extending into the site approximately 5.0m wide with 1.8m wide pedestrian footpaths would be constructed in the position of No 4 and a junction formed with Rosslyn Avenue.
7. At the access point a raised junction table would be formed on Rosslyn Avenue which the appellant indicates would have the effect of slowing vehicular speeds to approximately 20 mph in the vicinity of the junction. Visibility splays of 2m by 25m would be provided at the junction in both directions along Rosslyn Avenue. Both the appellant and the highway authority, Lancashire County Council, agree that the proposed visibility splays would meet the recommended standards as set out in the guidance provided in Manual for Streets (MfS) in circumstances where the vehicular speed is 20 mph.
8. I agree with the highway authority that the provision of a raised junction table would have the effect of reducing vehicular speeds in the vicinity of the proposed junction and I do not consider it unreasonable to suggest that 20 mph would be the likely vehicular speed in proximity of the raised table. In addition, I observed at my site visit that vehicular speeds are already relatively low in the position of the proposed access due to its proximity to the junction of Rosslyn Avenue with Pilling Lane where vehicles are either decreasing or increasing speed on the approach to, and exit of, the existing junction.
9. I have taken into account the Council's view that applying the MfS standards to the 30 mph speeds limit of Rosslyn Avenue would dictate visibility splays of 2.4m ('x' distance) by 43m ('y' distance). Owing to the existing frontage ownership of the adjacent properties these distances cannot be met.
10. MfS advises that an 'x' distance of 2.4m should normally be used as this represents a reasonable maximum distance between the front of the car and the driver's eye. However, it also advises that a minimum of 2m may be considered in some slow speed situations but in such circumstances the front of some vehicles will protrude slightly into the running lane.
11. I have taken into account the relatively straight and flat alignment of the road in the vicinity of the proposed access and although the Council suggests that it serves approximately 110 dwellings, due to its cul-de-sac design and from my observations on site, I do not consider it to be highly trafficked. I have also taken into account the Council's evidence which suggests that there have been no recorded accidents on the road over the last three years.
12. Although MfS does not define what is meant by 'slow speed situations', on the basis of the above circumstances I am satisfied that some relaxation of the 'x' distance is acceptable in this case. The highway authority agrees a relaxation in the 'x' distance to 2m would be appropriate and that the proposed MfS

compliant visibility splays can be met for the likely vehicular speed of 20 mph. I concur with the views of the highway authority.

13. I recognise that a degree of on-street parking occurs on the western side of Rosslyn Avenue in the vicinity of the proposed access. I also recognise that parking within visibility splays is not uncommon in urban environments. In this case I have taken into account the existing horizontal and vertical alignment of the road; the approximate 1.8m width of the existing pedestrian footpath on this side of the road which enables visibility in gaps between parked cars; the relatively lightly trafficked nature of the street and the reduction in vehicular speeds on the approach to the proposed junction table.
14. These factors lead me to find that any parked vehicles would unlikely compromise visibility that is likely to cause harm to highway safety of an extent sufficient to warrant the dismissal of this appeal on those grounds. In any event such parked cars already compromise visibility to some extent for vehicles exiting existing driveways along a considerable length of the street and in circumstances where vehicular speeds can be up to the 30mph limit.
15. Although local residents suggest that the proposed development could give rise to additional vehicles parking on Rosslyn Avenue. The indicative layout suggests that each proposed dwelling would be provided with two car parking spaces. In addition the indicative layout shows that there is sufficient space within the proposed development to provide on-street parking both for visitors and for existing residents on Rosslyn Avenue. As such, I do not consider that the proposed development would result in any significant additional parking on Rosslyn Avenue but it could provide an opportunity to actually reduce on-street parking in the vicinity of the proposed junction.
16. I have also taken into account the Council's concerns that the proposed junction table would create an isolated traffic calming feature that could result in braking related accidents. However, such isolated junction tables are also not uncommon in urban environments. In this case, the proximity of the raised table to the junction with Pilling Lane suggests that vehicles would already be either reducing or accelerating in speed from or to 30 mph. In addition being a cul-de-sac street, residents would become quite aware of its presence and therefore likely adapt their driving habits to safely negotiate the raised table. In these circumstances I agree with the appellant that the proposed junction table would be unlikely to pose a hazard to road safety.
17. Whilst the proposed development would give rise to additional traffic on the local highway network I consider the traffic that would be generated by up to nine dwellings to be modest. Moreover, given my findings above regarding the adequacy of the proposed junction and the existing highway conditions on Rosslyn Avenue, I do not consider that the additional traffic generated would give rise to any demonstrable detrimental impacts to highway safety. As such, I agree with the highway authority that the impact of traffic from the development is not severe.
18. The Council have raised concerns that the submitted plans do not sufficiently show the proposed internal layout of an extent to demonstrate that refuse vehicles will be able to turn within the site. However, I agree with the appellant this issue would be subject to detailed design consideration at the reserved matters stage and given the outline nature of the proposals it would be unreasonable to require such details at this stage.

19. Taking the above matters into account, I conclude that the proposal will not have an adverse effect on the safety of users of the highway in the vicinity of the appeal site. It would not therefore conflict with Saved Policy SP32 of the Wyre Borough Local Plan (1999) (WBLP). This policy, amongst other things, requires that new development enjoy satisfactory access, parking and servicing facilities and that the traffic associated with the development should not have any adverse impact on the local environs nor on the local highway network generally.

Flood risk

20. The appeal site is located in an area of flat low lying land that is within within an area identified by the Environment Agency as Flood Zone 3 which indicates that there is a medium to high risk of the site flooding with the main risk of flooding being from tidal sources. A substantial sea wall runs along the coast from Knotts End to Pilling provides the locality with a degree of protection from tidal surge.
21. Surface water drainage in the area is achieved by a network of ditches and culverted watercourses that eventually flow into Wheel Foot Watercourse approximately 200m to the west of the site and discharge into Morecambe Bay. A ditch forming part of this network runs along the southern boundary of the appeal site.
22. The application included a Flood Risk Assessment (FRA) which identified that the risk of fluvial and surface water flooding on the site was low. Subject to the imposition of a suitable planning condition relating to finished floor levels, the Environment Agency indicated that the proposed development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flooding elsewhere. The Council's Engineering Services (Drainage) Officer also raised no objections to the proposed development subject to surface water discharging into the existing ditch system with flows restricted to 5l/s by use of a hydro brake and appropriate attenuation being provided on site. The FRA indicates that sufficient attenuation can be provided on site for a 1 in 100 year storm plus an additional 30% capacity for climate change based upon a maximum discharge rate of 5l/s using a vortex control.
23. The Council suggest that the existing surface water draining system is in a poor state of repair and relies on a number of riparian owners to maintain the system, including the outfall to Wheel Foot Watercourse. In addition, the Council considers that the discharge rate from the site would be 5.5l/s (comprised of 5l/s from the impermeable part of the proposed development and 0.5l/s from the remaining greenfield runoff). The Council also suggest that in periods of high rainfall pumps would discharge water from the site at a rate of 5l/s into already full watercourses. In addition, a free outfall to convey surface water to Wheel Foot Watercourse is not sufficiently identified.
24. As a consequence of these factors the Council considers that a satisfactory drainage system is not identified and that during periods of heavy rain there will be flooding along the current surface water drainage network.
25. My site visit occurred during a period of heavy rain. The appellant demonstrated the proposed route of the surface water drainage system to its outfall at Wheel Foot Watercourse. Whilst I accept that there were variations

in the degree of maintenance of the ditches along the route, I nonetheless observed that water flowed along the visible parts of the ditches.

26. I agree with the appellant that there is a legal and enforceable requirement for riparian owners to provide maintenance of the ditch and culvert system to allow the passage of water through their land without any obstruction. Consequently, given that there are separate powers outside of the planning system to ensure that the flow of water is not obstructed, I do not consider that the maintenance of the system would be a sufficient reason to dismiss this appeal.
27. The appellant suggests that on smaller sites of less than one hectare where current greenfield runoff is less than 5l/s, as is the case in this appeal, the limiting discharge is set to 5l/s and this was set by the Council's Engineering Services (Drainage) Officer. In addition the proposed system would be gravity fed, would not have any pumps and have sufficient attenuation storage with a non-return valve on the outfall to the ditch along the southern boundary of the site to prevent any water in the ditch from backing up into the proposed drainage system. As such, in the event that the existing network was full, there would be no pumped or gravity fed discharge from the site with sufficient capacity within the proposed attenuation measures to store surface water run off that cannot be discharged.
28. Although there is some dispute between the respective technical advisers of the main parties regarding the adequacy of the proposed drainage scheme, it appears that the technical design of the proposed scheme was considered in some detail by both the Council's Engineering Services (Drainage) Officer and the Environment Agency. These technical consultees both agreed that the proposed scheme would be adequate. I have attached considerable weight to the views of the Environment Agency and the Council's Engineering Services (Drainage) Officer.
29. Whilst I recognise the concerns of the Council regarding the current maintenance of the local drainage network, for the reasons explained above this is a matter that I afford little weight as there are other powers available to ensure the free flow of water through riparian owners land. Therefore, the basis of the evidence before me, and in particular the attenuation measures proposed to be provided on the site, I consider that sufficient information has been submitted with the application that demonstrates that the site is suitable for development without being at risk from surface water flooding or causing a flood risk elsewhere.
30. Taking into account the above factors and in particular the advice of the relevant technical consultees, I conclude that the Council's concerns that the proposed development would exacerbate existing problems and lead to increased flood risk has not been substantiated of an extent to warrant the dismissal of this appeal. Consequently, there would be no conflict with Saved Policy ENV15 of the WBLP. This policy, amongst other things, states that development which will generate increased rates of surface water run-off will not be permitted where it would lead to adverse impacts such as an increased risk of flooding.

Conditions

31. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have deleted some and amended some of them for clarity for the reasons set out below.
32. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters. Although it is an outline scheme, I have imposed a condition regarding the approved plans in the interests of certainty. Although the Council has suggested a condition limiting development to 10 units or less and no more than 1000sq m of floorspace I do not consider that such a condition is necessary as the permission restricts development to up nine units only.
33. In the interests of ensuring that the drainage of the surrounding area is not compromised I agree that a condition is necessary to prevent any material associated with the construction of the development from causing a blockage or flow constriction to the adjacent drain. In order to comply with the provisions of the Wildlife and Countryside Act 1981 and to avoid disturbance of nesting birds conditions are required to reassess the site for roosting bats and avoid tree felling works during March to July.
34. The Council has suggested a condition requiring details of measures to be taken to prevent any possible spread of the invasive plant monbretia. However, I have no evidence to suggest that the site is affected by such invasive plant monbretia and consequently I consider that the imposition of such condition would be unreasonable and unnecessary.
35. Although I have no evidence of the former use of the site, I agree that a condition requiring a desk top evaluation for any possible on-site contamination would be appropriate given that the proposed use is residential and the proximity of the development to drainage watercourses. In order to ensure the adequate drainage of the site and the long term management of the drainage system, I agree that conditions are necessary requiring that the development is undertaken in accordance with the submitted FRA and that design details of the drainage scheme and measures for its long term maintenance are submitted for the approval of the local planning authority.
36. In the interests of highway safety I agree that a condition is necessary requiring the implementation of the junction works prior to the occupation of the development. Given the presence of mature trees on the boundary of the site, conditions are necessary to protect damage to the trees and root zone during the construction period in the interests of maintaining the character and appearance of the area. Also in the interests of maintaining the character and appearance of the surrounding area, I agree that conditions are necessary requiring the submission and implementation of a scheme of landscaping.
37. In the interests of protecting the living conditions of the occupants of adjacent properties, I agree that a condition requiring the submission of a Construction Environmental Management Plan is necessary.

Conclusion

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

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 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: Revised Proposed Elevations & Streetscene and Site access arrangement plan Drawing Number: LF/HB/3101; Refuse Vehicle Movements Drawing Number: LF/HB/3028; Revised Proposed Junction Detail Drawing Number: LF/HB/3028; Proposed Site Plan Drawing Number: LF/HB/3025 with respect to access arrangements only.
- 5) No development, site clearance or earth moving shall take place or material or machinery brought on site until a method statement identifying measures to protect the adjacent drains from accidental spillages, dust and debris has been submitted to and agreed in writing by the Local Planning Authority. The construction of the development shall be undertaken in accordance with the approved method statement for the duration of the construction period.
- 6) If the demolition hereby approved does not commence before 30th April 2017, the buildings shall be reassessed for bat roosting potential by a qualified ecologist and the survey findings, together with any mitigation measures which may be deemed appropriate, submitted to and agreed in writing by the Local Planning Authority prior to any demolition taking place. Any mitigation measures outlined in the approved repeat ecology survey shall be implemented in full in accordance with the timescales specified in the survey.
- 7) No tree felling, tree works and works to hedgerows shall take place during the optimum period for bird nesting (March to July inclusive) unless a report, undertaken by a suitably qualified person, has been submitted in writing to the local planning authority, demonstrating that nesting/breeding birds have been shown to be absent.
- 8) No development shall be commenced until a desk study has been undertaken and agreed in writing by the Local Planning Authority to investigate and produce an assessment of the risk of the potential for on-site contamination. If the desk study identifies potential contamination, a detailed site investigation shall be carried out in accordance with a written methodology, which shall first have been submitted to and agreed in writing by the Local Planning Authority. If remediation measures are then considered necessary, a scheme for decontamination of the site shall be submitted to, and approved by, the Local Planning Authority in writing and the scheme implemented prior to the development of the site. Any changes to the agreed scheme shall

be approved in writing by the Local Planning Authority prior to any works being undertaken.

- 9) Prior to the commencement of the development a drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning Authority and agreed in writing. The drainage management and maintenance plan shall include as a minimum:
- a) The arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a Resident's Management Company; and
 - b) Arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the drainage system (including mechanical components) and will include elements such as ongoing inspections relating to performance and asset condition assessments; operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime; and means of access for maintenance of easements where possible.

The development shall subsequently be completed, maintained and managed in accordance with the approved drainage management and maintenance plan.

- 10) Notwithstanding the details submitted with the application, prior to the commencement of the development hereby approved, a surface water drainage scheme for the site and means of disposal, based on sustainable drainage principles (in particular the principle of discharging to the existing watercourse along the site boundary, as no surface water shall discharge to the public sewerage system either directly or indirectly), 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. These details shall include as a minimum:
- a) The design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of floor levels in AOD;
 - b) The drainage strategy should demonstrate that the surface water runoff must not exceed the predevelopment greenfield runoff rate;
 - c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which

should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);

- d) Flood water exceedance routes, both on and off site;
- e) A timetable for implementation, including phasing as applicable;
- f) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
- g) Details of water quality controls;

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved management and maintenance plan referred to in condition 9.

- 11) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (Ref: 2016-C-059, dated June 2016) and the following mitigation measures detailed within the FRA:

- a) Finished floor levels shall be constructed and completed no lower than 6.16 metres above Ordnance Datum (m AOD) and shall be no lower than 600mm above the external ground level.

The mitigation measures shall be fully implemented prior to occupation of the development or subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

- 12) No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement (namely the provision of a junction table and relocation of the existing lamp post) has been submitted to, and approved in writing by, the Local Planning Authority. No part of the development hereby approved shall be occupied until the site access and the off-site works of highway improvement have been constructed and completed in accordance with the approved scheme details.

- 13) An Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement (AMS) in compliance with "BS 5837(2012) Trees in relation to design, demolition and construction", shall be submitted with any subsequent application for reserved matters. The AMS must include the identification of materials and method of installation of all new surfaces and underground utility services, and all ground disturbance works proposed within root protection areas or within 1m of protective barrier fencing. Onsite arboriculture supervision must be included. The AMS shall include generic details in respect of protection of all on and off site trees that may be affected by the position of the site access and layout, vehicle parking and storage of materials and machinery. The development shall then be carried out in accordance with such agreed detail. The AMS shall be implemented in full in accordance with the approved details and timescales agreed with the Local Planning Authority.

- 14) No development shall take place until full details of both hard and soft landscape works has been submitted to, and approved in writing by, the Local Planning Authority. These details shall include hard surfacing materials; minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, lighting etc.); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.
- 15) All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority and shall thereafter be retained and maintained. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees of similar size and species to those originally required to be planted.
- 16) Prior to the commencement of the development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority to include details of the measures proposed during construction to manage and mitigate the main environmental effects. The following matters shall be addressed:
 - a) The parking and turning of vehicles of site operatives and visitors;
 - b) The method and location of loading and unloading of plant and materials;
 - c) The location of storage of plant and materials used in constructing the development;
 - d) The erection and maintenance of security hoarding;
 - e) Measures to control the emission of dust and dirt during construction in the form of a Dust Management Plan;
 - f) A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - g) Measures to prevent disturbance to occupiers of adjacent dwellings from noise and vibration, including demolition activity, any piling activity and external lighting (in the form of a site specific Noise Management Plan);
 - h) Facilities within the site for cleaning the wheels of vehicles before leaving the site;
 - i) Construction hours and days of working.

The construction of the development hereby approved shall be carried out in accordance with the approved CEMP, Dust Management Plan and Noise Management Plan.