

Appeal Decision

Site visit made on 6 June 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 6 July 2017

Appeal Ref: APP/P2365/W/17/3172352

Bullen's Wood, Beconsall Lane, Hesketh Bank, Lancashire PR4 6RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jason Wright against the decision of West Lancashire Borough Council.
 - The application Ref 2016/1049/FUL, dated 28 September 2016, was refused by a notice dated 2 December 2016.
 - The application sought planning permission for the erection of four detached dwellings with integral garages and demolition of chalet building without complying with conditions attached to planning permission Ref 2012/1327/FUL, dated 3 May 2013.
 - The conditions in dispute are Nos 2 & 9 which states that:
 - 2) The development hereby approved shall be carried out in accordance with details shown on the following plans: Title plan LA854581 received by the Local Planning Authority on 09 January 2013 and plan references SK.01 and SK.32.1 received by the Local Planning Authority on 21 December 2012; and
 - 9) 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; the vehicular turning areas shall be laid out and be available for use before the development is brought into use and maintained thereafter. No dwelling shall be occupied or brought into use until the car parking bays and manoeuvring areas have been constructed to wearing course and marked out. The land within car parking bays and turning areas shall be maintained thereafter and remain free from obstructions such as walls, gates, fences, planting or other structures.
 - The reasons given for the conditions are:
 - 2) For the avoidance of doubt and to ensure compliance with the provisions of Policies GD1, EN1 and EN9 in the West Lancashire Replacement Local Plan and Policies EN2, EN4 and GN3 in the West Lancashire Local Plan (2012-2027) Submission Document; and
 - 9) To allow vehicles visiting the site to be parked clear of the access road, to enable private and service vehicles to enter and leave the site in a forward gear and to ensure that the development complies with the provisions of Policy GD1 in the West Lancashire Replacement Development Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Condition 2 attached to planning permission Ref 2012/1327/FUL required the development to be carried out in accordance with specified plans, including
-

plan reference SK.32.1 received by the Local Planning Authority on 21 December 2012. This plan showed two vehicle turning areas within the site. Condition 9 requires those turning areas to be laid out in accordance with this plan and available for use before the dwellings are occupied, and thereafter to be maintained free from obstructions.

3. The appellant is seeking to vary Condition Nos. 2 and 9 to allow the turning area shown on specified plan reference SK.32.1, to the east of No 102 Becconsall Lane, to be used as a domestic garden, and included within the curtilage of No 102. At the time of my visit this area of land had been enclosed by a fence and included within the curtilage of No 102.

Main Issues

4. The main issue in this case is the effect on highway safety, with particular regard to vehicle turning provision.

Reasons

5. The appeal site is located at the end of Becconsall Lane which, between the site and the Old Church of All Saints, is a private single track lane with a shared surface for pedestrians and vehicles. The track serves six residential properties, four of which have been developed as part of the planning permission the subject of this appeal. It also provides access to the Douglas Boat Yard.
6. Plan reference SK.32.1 clearly shows that the land now proposed as domestic garden is required to be laid out as a turning area for large vehicles, which would include refuse vehicles, fire tenders and other large delivery vehicles. A smaller turning area, designed for the turning and manoeuvring of cars and other small delivery vehicles is also shown on plan reference SK.32.1 and has been laid out in front of Nos. 96 and 98 Bullens Wood. This turning area does not have a pedestrian footway around it, and it is not demarcated by kerbs. The road surface is therefore flush with neighbouring private front gardens and parking areas.
7. It is clear from the swept path analysis¹ of the turning area in front of 96 and 98 Bullens Wood, that it does not meet the required specification for twin-axle vehicles, and is not therefore of sufficient size to allow large vehicles to turn within its confines, without encroaching onto adjoining private land. Consequently, any obstacles within the curtilages of Nos. 96 and 98 abutting this turning area, or indeed parked vehicles obstructing the turning area itself, as was the case when I visited the site, would prevent large vehicles from safely turning. Moreover, in view of the location of this turning area, which is positioned in close proximity to the front elevation of No 98, the turning manoeuvres required by large vehicles within this area, would not in my view, be in the best interests of pedestrian safety.
8. The turning area specified on plan reference SK.32.1, to the east of No 102 Bullens Wood, would provide sufficient space to enable larger vehicles to turn safely, and its location would also provide a convenient and safe space for vehicles to pass. The section of Becconsall Lane between the entrance to the Boat Yard and the appeal site is particularly constrained, not only by its width, but also by its gradient, alignment and unsurfaced finish. Forward visibility

¹ Appendix 3, Refuse Vehicle Turning Movement, Highway Report prepared by VTC, dated 3 October 2016

along this part of the track is poor, and although a passing place along its length has been identified by the appellant², the space is limited in width. Moreover, the condition of the road surface and its gradient would make manoeuvring, including reversing, difficult in this location, and would not be in the best interests of vehicle or pedestrian safety.

9. I understand that refuse vehicles do not currently collect bins from Bullens Wood, due to the nature of the road and because of safety concerns for the driver, pedestrians and the adjoining property. I have also taken into consideration correspondence from SA Estates³ who state that they have no plans to grant access to refuse vehicles in the future.
10. However, there will be occasions when larger vehicles enter the site to make deliveries, or when access is required for emergency vehicles. In the absence of the vehicle turning area and passing space to the east of No 102, they would for the reason set out above, be required to make unsafe manoeuvres. I understand that emergency vehicles have attended Bullens Wood in the past without raising any highway safety concerns; however that is not to say that the same would hold true in the future. Policy GD3 of the West Lancashire Borough Council Local Plan, Development Plan Document, adopted 2013 (DPD) requires, amongst other things, new development to incorporate suitable and safe access and road layout design. The small turning area in front of Nos. 96 and 98 does not meet the required specification for the turning of large service vehicles as set out in Manual for Streets and Lancashire County Council's Policy and Guidance on Creating Civilised Streets, 2010. Moreover, it would not meet the requirements specified by Lancashire Fire and Rescue Service as deemed necessary for use by Fire Service Vehicles.⁴
11. In view of the length of the private section of Becconsall Lane, its narrow width, alignment, gradient and condition, and taking into account the number of properties it serves, I am not persuaded that the variation of Conditions 2 and 9 which would remove the requirement to provide the larger turning area at the entrance to the appeal site, would be in the best interests of highway safety, with particular regard to vehicle turning provision. The absence of any recorded injury accidents along Becconsall Lane over the last five years does not alter my view.
12. I conclude that it is reasonable and necessary to continue to restrict the development to be constructed in accordance with the plan specified in Condition No.2 of planning permission reference Ref 2012/1327/FUL, and to require both the vehicle turning areas shown on plan reference SK.32.1 to be laid out and be available for use and maintained thereafter as required by Condition 9. To allow the appeal proposal would conflict with the development plan, and in particular with Policy GD3 of the DPD, the aims of which are set out above.

Other Matters

13. I have taken into consideration the garage that has been permitted at 96 Becconsall Lane, however the garage does not impede either of the turning

² Appendix 4, Vehicle Passing Places, Highway Report prepared by VTC, dated 3 October 2016

³ Appendix 1 Appellant's Final Comments.

⁴ Appendix X1, Statement of Case, Local Planning Authority.

areas and is not therefore directly comparable to this case, which in any event I have considered on its own merits.

Conclusion

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

Elizabeth Pleasant

INSPECTOR