
Appeal Decision

Site visit made on 30 December 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/E2340/W/19/3238839

Land at Ben Lane, Barnoldswick, Lancashire BB18 6HR

- 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 Liam Green against the decision of Pendle Borough Council.
 - The application Ref 18/0821/RES, dated 16 November 2018, was refused by notice dated 2 July 2019.
 - The development proposed is the construction of 14 No. Houses and Access Road.
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Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 14 No. Houses and Access Road at Land at Ben Lane, Barnoldswick, Lancashire BB18 6HR in accordance with the terms of the application, Ref 18/0821/RES, dated 16 November 2018, subject to the conditions set out in the schedule attached to this decision.

Procedural Matter

2. The application was submitted in outline with access and scale to be determined at this stage. Appearance, landscaping and layout are reserved matters. I have consequently treated the submitted drawings as being for illustrative purposes only in respect of the housing layout they show.

Main Issue

3. The main issue is the effect of the proposed development on highway and pedestrian safety.

Reasons

4. The appeal site is an open area of grassland, forming the larger part of a field accessed from Ben Lane. The area of the field closest to Ben Lane already has outline planning permission for 4 dwellings, with access, layout and scale considered, which was allowed on appeal in 2016¹. The site is located on the north eastern edge of Barnoldswick, outside but immediately adjacent to the settlement boundary. There are schools, major employment sites and some shops nearby, with bus stops a short distance away on Skipton Road. The site is also reasonably close to Barnoldswick town centre.

¹ Appeal reference APP/E2340/W/16/3155958

5. The proposed development would be connected to Ben Lane via the access road approved by the 2016 appeal decision. Ben Lane itself is a minor road with a 20mph speed limit, and for the most part it is narrow and winding, particularly to the south east of the appeal site. Technical matters relating to the access onto Ben Lane were considered by the Inspector determining the previous appeal, who concluded it was satisfactory and complied with advice in the 2007 Manual for Streets (MfS), including in relation to its visibility splays.
6. While the parties disagree about the extent to which Ben Lane is used as a through route serving parts of the Coates estate to the south, both accept that it does not accommodate significant traffic flows. This was borne out by my observations at the time of my site visit, although I recognise that this was a snapshot in time during the Christmas holiday period. The proposed development would be expected to result in around 66 additional vehicle movements daily, although there would still be likely to be fewer than 400 vehicles using the road each day. It would therefore remain a lightly-trafficked route. Given the site layout and the arrangement of the surrounding roads, it seems likely to me that most people entering or leaving the proposed development by car would head to or from Skipton Road some 65m to the north west of the site entrance.
7. For most of Ben Lane's length there is neither a footway nor street lighting. The Council has indicated that Ben Lane is a minimum of 4.8m wide between the site entrance and Skipton Road, which would be adequate for vehicles to pass one another. The Council and other parties have raised concern about the impact of the proposal on the safety of people using Ben Lane as a pedestrian route, including people accessing the bus stops close to the junction with Skipton Road, and pupils walking to Coates Lane Primary School via a bridleway from Ben Lane to Kirkstall Drive a short distance to the south of the appeal site. Although there is a slight ridge in Ben Lane between the proposed site entrance and Skipton Road, the position of the site access on the outside of a bend would allow drivers leaving the appeal site a clear view along Ben Lane in both directions.
8. I accept that the highway layout adjacent to the site is not what would be designed today were the road being built from scratch. Furthermore, as Ben Lane is an existing semi-rural lane it does not have either the differentiated surface or provision for disabled people which the MfS considers optimal for shared surfaces. However, the road has a 20mph speed limit, carries a low volume of traffic, parking takes place within private drives, and the distance between Skipton Road and the appeal site entrance is short. While it is not a decisive factor in its own right, I also note that Lancashire County Council, as highway authority, did not object to the scheme subject to the imposition of a condition requiring the installation of street lighting on Ben Lane between the appeal site entrance and Skipton Road. I agree that street lighting is necessary, in order to facilitate access to the bus stops and other services on and via Skipton Road for pedestrians and cyclists leaving the proposed new dwellings, as well as in the interests of highway safety. Taking these points together, I consider that the proposed development would not be significantly detrimental to highway safety on this part of Ben Lane.
9. Moving away from the appeal site, Ben Lane joins Skipton Road on the outside of a bend, at a point where Skipton Road falls away gently from Ben Lane in both directions. I entered and left Ben Lane by car at the time of my site visit,

and observed that the highway layout generally offered good visibility down Skipton Road and when entering Ben Lane, although the tight turn into Ben Lane when heading south west along Skipton Road necessitates some caution.

10. The Council and other interested parties have brought to my attention four accidents at or close to this location in the last five years which resulted in two slight injuries, two serious injuries and, sadly, one fatality. The information before me indicates that the two slight injuries (in two separate incidents) related to vehicles emerging from Coates Lane on the other side of Skipton Road which is on the inside of the bend and which consequently has much worse visibility than Ben Lane. The accident which resulted in serious injuries involved an unlicensed motorbike with a 15-year-old rider as well as a pillion passenger. While the information about the most recent accident which tragically resulted in the death of a man is limited, the Council's evidence includes a newspaper extract which refers to a subsequent arrest for dangerous driving. It is therefore not clear from any of this evidence either that Ben Lane itself is inherently unsafe in its current condition, nor that the limited additional traffic which would be generated by the proposed development would lead to a significantly unacceptable effect on highway or pedestrian safety.
11. I therefore conclude that the proposal would comply with Policy ENV4 of the 2015 Pendle Local Plan Core Strategy (PLPCS) which, among other things, seeks to ensure that development proposals have regard to potential impacts on the highways network, particularly in terms of safety. It would also comply with the guidance in paragraph 109 of the National Planning Policy Framework (the Framework), which indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other matters

12. It is not in dispute that the Council is currently unable to demonstrate a 5-year supply of deliverable housing land. Consequently, the most important policies for determining the application are out-of-date by the operation of paragraph 11d of the Framework, having regard to footnote 7. However, I have not found that the proposal would be at odds with the development plan or the Framework on the main issue. Accordingly, this is not a determinative matter in the appeal.
13. PLPCS Policy LIV1 states proposals for new housing development will be supported where they accord with other policies of the Core Strategy and are on sustainable sites outside of the settlement boundary. Because the site would support the delivery of housing in the borough and is in an accessible location, I concur with the Inspector in the previous appeal that the site is suitable in principle for housing development and complies with the development plan in this regard.
14. I acknowledge that the drawing submitted is illustrative only insofar as it relates to the proposed layout of the housing development. However, it shows that the development could provide adequate separation distances to the existing houses adjacent to the site on Skipton Road, and the four houses already permitted within the same field by Ben Lane, and I note that the Council did not raise any objections in this regard. While the details of layout and design, including the arrangement of windows on the proposed dwellings,

will be dealt with as part of the reserved matters, on the basis of the information before me I am satisfied that the development would be acceptable in terms of its effects on the living conditions of neighbouring residents.

15. Interested parties have expressed concern about the effect of the development of the site on protected trees which stand just outside the site boundary as well as wildlife using the site. While landscaping is a reserved matter, the planning application included an ecological appraisal. Although the ecological appraisal did not find evidence of protected species using the site, it sets out mitigation measures which by which the mature trees around the site and any wildlife could be protected. In view of the protected status of the trees, I consider it appropriate to require the development to comply with the measures proposed.
16. Concern has also been raised about how the site will be drained and the potential risk of flooding. The appellant has provided evidence that the site is at low risk of flooding, which the Council has not disputed. From the information before me I also note that the Council and Lead Local Flood Authority do not object to the proposed development on flood risk or drainage grounds, subject to the imposition of appropriate conditions to ensure that drainage and surface water run off are managed both during the construction phase and once the development is complete.

Conditions

17. I have considered the conditions suggested by the Council having regard to the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. Where necessary I have altered the proposed wording in the interests of clarity and effectiveness.
18. I have imposed a condition stipulating the approved plan so as to provide certainty (4). In the interests of highway safety and to protect the living conditions of nearby residents, conditions requiring an approved Construction Method Statement and scheme for construction site access are required (5 and 6). A condition requiring the submission of a scheme covering off-site highway works, and to include the installation of street lighting on Ben Lane between the appeal site and Skipton Road, is necessary in the interests of both highway safety and providing acceptable walking and cycle connections to bus services and other local facilities (7). Conditions requiring the internal roads and parking areas within the development to be approved and maintained in accordance with adoptable standards are necessary in the interests of highway safety and to ensure adequate living conditions for future residents (8-11).
19. Conditions relating to drainage and requiring the submission and implementation of an approved drainage scheme are required to protect living conditions of future residents and of surrounding occupiers (12-14). A condition requiring compliance with the submitted mitigation measures is necessary to protect trees adjacent to the site and wildlife which may use the site (15).
20. A condition requiring each dwelling to be provided with an electric vehicle charging point is necessary to provide for more sustainable modes of travel in line with the aims of the development plan (16), while a condition requiring that waste containers are provided for each dwelling is necessary to ensure that adequate provision is made for the storage and disposal of waste and recyclable materials (17).

Conclusion

21. For the reasons given above the appeal is allowed.

M Cryan

Inspector

Schedule of Conditions

- 1) 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.
- 2) Details of the appearance, landscaping, and layout, (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) 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 plan: 2604.5.
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) details of wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a construction waste minimisation and management strategy;
 - viii) delivery and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) Prior to the commencement of development a scheme for construction site access on Ben Lane shall be submitted to and approved in writing by the Local Planning Authority and implemented prior to the first use of the site.

- 7) Prior to the commencement of development a scheme for the off-site highway works shall be submitted to and approved by the Local Planning Authority. The works shall include the details of street lighting on Ben Lane between Skipton Road and the site access, and shall be implemented prior to the first occupation of any dwelling.
- 8) No development shall be commenced until full engineering, drainage, street lighting and constructional details to adoptable standards (Lancashire County Council specification) of the internal estate roads have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in full accordance with the approved details.
- 9) Prior to the first occupation of any dwelling, details of the proposed arrangements for future management and maintenance of the estate road within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details.
- 10) The internal estate roads shall be constructed in accordance with the approved engineering details and to at least base course level prior to first occupation of any dwelling.
- 11) Prior to the first occupation of each dwelling the driveways and parking areas serving that dwelling shall be constructed in a bound porous material and made available for use. The parking areas shall thereafter be retained for that purpose.
- 12) Foul and surface water shall be drained on separate systems.
- 13) As part of any reserved matters application the following details shall be submitted to and approved in writing by the local planning authority:
 - i) Information about design storm period and intensity, temporary surface water storage facilities, details of the methods employed to delay and control surface water discharged from the site, details of any measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;
 - ii) Evidence to demonstrate that surface water run-off will not exceed the existing pre-development runoff rate for the corresponding rainfall event;
 - iii) A site layout plan showing flood water exceedance routes, both on and off site;
 - iv) A site layout plan showing surface water catchment areas within the site (i.e. areas that will contribute to the proposed surface water drainage network);
 - v) A timetable for implementation, including phasing where applicable;
 - vi) Site investigation and test results to confirm infiltration rates. If infiltration is shown to be a viable option for the disposal of surface water, then this should then be used as the primary method for disposing of surface water from the site;
 - vii) Details of water quality controls, where applicable; and
 - viii) Details of an appropriate management and maintenance plan for the surface water drainage scheme for the lifetime of the development.

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 details.

- 14) No development shall commence until details of how surface water and pollution prevention will be managed during construction have been submitted to and approved in writing by the local authority.
- 15) The development hereby approved shall be carried out in full accordance with all the mitigation measures detailed in Section 7 Mitigation/Recommendations of the Ecological Appraisal dated January 2019.
- 16) Prior to first occupation each dwelling shall have an electric vehicle charging point, in accordance with details that shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.
- 17) Containers for waste and recycling shall be provided to each dwelling prior to its first occupation, in accordance with details that shall have been submitted to and approved in writing by the local planning authority. The waste and recycling provision shall be implemented in accordance with the approved details and retained as such thereafter.

--End of schedule of conditions--