



Appeal Decision

Site visit made on 21 May 2020

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2020

Appeal Ref: APP/E2340/W/20/3244719

Junction of Greenberfield Lane and Gisburn Road, Barnoldswick BB18 5LJ

- 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 MJF Pension Trustees Ltd against the decision of Pendle Borough Council.
 - The application Ref 19/0025/FUL, dated 20 December 2018, was refused by notice dated 29 August 2019.
 - The development proposed is the construction of a new access and the erection of 17 houses.
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Procedural matter

1. The application submitted to the Council was for 20 houses, but this was amended to 17 before the Council's decision. I have dealt with the appeal on that basis.

Decision

2. The appeal is allowed and planning permission is granted for the construction of a new access and the erection of 17 houses on land at the junction of Greenberfield Land and Gisburn Road, Barnoldswick BB18 5LJ in accordance with the terms of the application, Ref 19/0025/FUL, dated 20 December 2018, subject to the conditions set out in the Schedule to this decision.

Application for costs

3. An application for costs was made by MJF Pension Trustees Ltd against Pendle Borough Council. This application is the subject of a separate Decision.

Main issues

4. There are two main issues in this case:
 - The effect of the proposal on highway safety in relation to the proposed junction onto Greenberfield Lane
 - The effect of the proposal on the character and appearance of the area

Reasons

Background

5. The site is an irregularly shaped area of maintained grassland some 0.5 hectares in extent. It is bounded by (mainly residential) development on three

sides, with open fields to the east. It is located at the edge of Barnoldswick and is just outside the settlement boundary. The appellant has given details of distances to various services, which have not been contested. Nor does either main party suggest that the location is unsustainable.

6. The most important element of the planning history is the grant of outline planning permission on appeal in July 2017¹ for 20 houses on the current appeal site. This permission remains extant. Amongst other matters there is agreement between the main parties that this decision sets the principle for residential development on the site.
7. The current proposal has considerable similarities to the permitted scheme – bearing in mind that the former was in outline and did not include details of matters such as appearance. However one difference is that the approved access has been relocated some way to the east in the current proposal².
8. The relevant parts of the development plan are agreed to be the Pendle Local Plan Part 1 - Core Strategy (2011-2030) (adopted 2015) (LP) and the saved policies of the Replacement Pendle Local Plan 2001- 2016, in relation to parking policy.

The effect on highway safety

9. Greenberfield Lane is limited (by a TRO) to access to certain properties, including an agricultural machinery sales/repair business, farms, a number of dwellings, a football ground, an allotment, a small caravan site and a waste water treatment plant. The lane also provides a turning facility for buses and a bus stop adjacent to the eastern boundary of the appeal site. The proposed access would be on the corner where the Lane converges with a number of other junctions and the bus turning area – whereas the previous scheme had its access further west along the Lane.
10. The Council's concern in highway terms is that the proposed site access, on the existing junction, would be confusing and therefore dangerous. I do not accept this unsupported assertion, especially as the traffic flows along each of the limbs would be likely to be very limited (aside from occasional football club events). I should note that in the 30 minutes I was at the site, which I appreciate was a snapshot in time, no vehicles used Greenberfield Lane. I have noted the appellant's uncontested estimate in the Highway Statement of the limited traffic flow (8 additional vehicles during the peak hour periods) and I have no evidence to suggest that this would be hazardous – or even particularly noticeable.
11. The speed estimate by the Highway Authority of 20m.p.h. as a reasonable speed for traffic in Greenberfield Lane was accepted in the context of the previous appeal. I am not aware of any reason why this should have significantly changed and although no evidence has been submitted as part of this appeal, this speed does not seem unreasonable given the nature of the roadway. In addition the evidence is that there have been no recorded personal injury accidents in the past 5 years in this vicinity. Visibility is good and I am aware that the Highway Authority has not objected to the proposal.

¹ APP/E2340/W/17/3173356

² The Council states 16 metres and the appellant 10 metres. However the locations are clear and nothing turns on this discrepancy.

12. Overall I do not agree that this junction is, or would be, hazardous or 'confusing' to drivers, or to pedestrians/horse riders.
13. Although not raised by the Council, some residents have expressed concern in relation to the width of Greenberfield Lane between Gisburn Road and the site access at the junction. Generally this is of sufficient width to accommodate the two way flow of most traffic, including passing pedestrians, cyclists and horses. It is possible that larger vehicles might have difficulty, but this would be a rare occurrence, and certainly not sufficiently frequent as to justify dismissal of the appeal.
14. I am aware that a new footpath would be provided from the pavement in Greenberfield Lane into the site and to the junction. This would be a benefit for occupiers of the new development and other pedestrians and adds some limited weight in favour of the proposal.
15. Overall, the proposal would not harm highway safety and the residual cumulative impacts of the development would not be so severe such that permission should be refused. The scheme therefore complies with LP policy ENV4.

The character and appearance of the area

16. The local policy approach is set out at LP policy ENV2 which seeks to deliver the highest possible standards of design, which should (amongst other matters) be attractive to look at. This is supported by LP policy LIV5, which encourages innovative design and supports ENV2.
17. In this case the Council has expressed particular concern with the siting and design of plots 2 and 3, immediately to the south of Greenberfield Lane. The Council describes these as two houses with narrow vertical emphasis linked by single storey garages. Even leaving aside the fact that the elevation of no.3 is a flank elevation, which could not be regarded as narrow, no evidence has been produced to indicate how this would be harmful. The officer's report referred to these properties as reflecting the character of the Gisburn Road frontage.
18. In more general terms it is certainly the case that many of the properties in the area are in a terraced form, but equally there are other different configurations. The appeal site is in a transitional location between the urban area and the countryside beyond – and in this setting I see no reason why the terraced form should be reflected into this site. This transitional role would be amplified by the proposed open space on the site, which would soften the visual impact from the countryside.
19. A second area of concern by the Council relates to the layout of the carparking within the development, which is said to dominate the layout. However the proposed car parking arrangement is unexceptional and, though I agree that at the southern end of the new road there would be a significant amount of parking, this would not equate to poor design. In coming to this view I am conscious that it has not been suggested that the parking provision is other than in accordance with the Council's standard, and I also bear in mind that the extant permission is for 3 additional dwellings.
20. Overall, I do not consider the proposal would harm the character and appearance of the area. It would not conflict with the policies summarised above.

Other matters

21. One reason for refusal states that the loss of three protected trees would result in an unacceptable impact on the visual amenity of the area. However consent has subsequently been granted for the removal of the trees (November 2019), on safety grounds, and the trees have been removed. This consent required replacement planting. The Council's appeal statement has now changed the position and alleges that the replacement planting is inadequate – although no reference was made to this aspect of the appeal proposal in the refusal notice.
22. In particular the authority notes that the area of tree planting is further from Gisburn Road to the west, and would not compensate for the lost trees³. However the submitted plans show substantial areas of planting, which would be clearly visible within the site and from the public footpath to the east. It would more than compensate for the lost trees and no objection was raised by the Council to the proposed tree planting when it considered the application. The proposal would not conflict with LP policy ENV1 in this respect.
23. Local residents raised a number of other concerns. There is no technical evidence to suggest that there would be a flooding and drainage issue, and I note that the utility companies raise no objections to the proposal. There is nothing before me to substantiate any alleged loss of light, and inspection of the plans shows that adequate separation distances are achieved. Neither these matters, or other comments made, come close to justifying a refusal of permission.

Conditions

24. The Council has put forward conditions, without prejudice to its case, which might be imposed if permission is granted. I have amended some in line with national guidance and for clarity.
25. In the interest of certainty a condition is necessary to confirm the approved plans (2).
26. Some details of the scheme need to be submitted for approval in the interests of the appearance of the development (3). Some other details, such as window reveals and open space details and maintenance, need to be conditioned in the interests of the appearance of the development (4, 12). For the same reason, the approved landscaping scheme needs to be implemented and replacement planting ensured (5) and fencing erected around retained trees (6).
27. Conditions are necessary in the interests of minimising flood risk and pollution (7, 8). In order to protect the environment, a Construction Management Plan needs to be submitted for approval (9).
28. In the interests of highway safety a scheme for site access needs to be approved by the Council and visibility splays and footpaths need to be provided (10, 11).
29. The Council suggested a condition related to the parking and turning provision for plots 5 and 16. However no detailed explanation of this condition was put forward and I am not convinced of its necessity.

³ The Council's statement refers to replacement trees being 7 metres from the south elevation of plot 3. This is not understood, and the submitted plans clearly show the location of the proposed trees.

Planning balance and conclusion

30. The proposal is acceptable in terms of the main issues and other matters. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

Schedule of conditions

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: A3006/SP01 Rev E, A3006/SP02 Rev C, A3006/SP03, A3006/SP04, A3006/SP05, 01 (landscape), 01 (planting).
3. Prior to the commencement of above ground works involved in the erection of the external walls of the development samples of the external materials and finishes of the walls, roofs, windows, doors and paving shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.
4. The window openings shall be set back from the external face of the wall to a depth of at least 70mm.
5. The landscaping scheme 'General Landscape Proposals', 'General Landscape Proposals Planting Plan' and 'General Landscape Specification' received 03/07/2019 shall be implemented within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size during the first available planting season following the date of loss or damage.
6. No ground clearance, changes of level or development or development related work shall commence until protective fencing in full accordance with BS 5837:2012 'Trees in relation to design, demolition and construction. Recommendations' has been erected around each tree/tree group or hedge to be retained on the site or on immediately adjoining land. No work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. Within the areas so fenced, the existing ground level shall neither be raised nor lowered. Roots with a diameter of more than 25 millimetres shall not be severed. There shall be no construction work, development or development-related activity of any description, including service runs, the deposit of spoil or the storage of materials, within the fenced areas. The protective fencing shall thereafter be retained and maintained during the period of construction. All works involving excavation

of soil, including foundations and the laying of services within the recommended distance calculated under BS 5837:2012 of the trees to be retained on the site, shall be dug by hand and in accordance with a scheme of works which has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of works.

7. No development shall commence unless and until final details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include, as a minimum:

- a) Information about the lifetime of the development, design storm period and intensity, temporary storage facilities, methods employed to delay and control surface water discharged from the site, measures taken to prevent flooding and pollution of the receiving watercourse and details of flood levels in AOD;
- b) Evidence to confirm that the post development surface water run-off rate will not exceed 5l/s;
- c) A site plan that shows all surface water catchment areas within the site (i.e. areas that will contribute to the proposed surface water drainage network);
- d) A site plan that shows any overland flow routes and/or flood water exceedance routes, both on and off site;
- e) A timetable for implementation, including phasing as applicable;
- f) Details of water quality controls, where applicable; and
- g) Details of how the surface water drainage system (including the receiving ordinary watercourse) will be managed and maintained over 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.

8. No development shall commence unless and until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority. These details shall be implemented thereafter.

9. The development shall be carried out in strict accordance with the submitted Construction Method Statement 'Construction Plan' dated December 2018 or an alternative Construction Method Statement submitted to and approved in writing by the Local Planning Authority.

10. No other part of the development shall be commenced until all the highway works to facilitate construction traffic access have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority.

11. No dwelling hereby permitted shall be occupied unless and until a scheme for all highway works to facilitate access to the site from Greenberfield Lane, including visibility splays of 2.4m x 25m in both directions and the creation of

new pedestrian footways to Greenberfield Lane and pedestrian crossing point on Gisburn Road, has been submitted to and approved in writing by the Local Planning Authority. The new access, visibility splays, footways and associated works shall be constructed in accordance with the approved details before any dwelling hereby approved is first occupied. Thereafter land within the visibility splays shall be permanently maintained free from obstructions within the splays in excess of 1 metre in height above the height at the centre line of the adjacent carriageway.

12. No dwelling hereby approved shall be occupied unless and until details of a maintenance plan for the future management and maintenance of the public open space and bus shelter as shown on approved drawing No. A3006/SP01 Rev E have been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the timescales and work required to be carried out on the site. The open space shall then be provided in its entirety prior to the occupation of any dwelling hereby approved and maintained in accordance with the agreed plan thereafter.

.....End of conditions.....