



Appeal Decision

Site visit made on 21 September 2021

by Helen Hockenhull BA (Hons) B. PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2021

Appeal Ref: APP/E2340/W/21/3273932

Land to the North West of Laneshawbridge Methodist Church, Keighley Road, Laneshawbridge, Colne, BB8 7JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr John Kay against the decision of Pendle Borough Council.
 - The application Ref 20/0485/REM, dated 15 July 2020, sought approval of details pursuant to condition No. 2 of planning permission Ref 18/0199/OUT granted on 9 July 2018.
 - The application was refused by notice dated 10 March 2021.
 - The development proposed is residential development of land 0.25ha for ten dwellinghouses.
 - The details for which approval is sought are the reserved matters comprising appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed, and the approval of the reserved matters is refused, namely: appearance, landscaping, layout and scale, details submitted in pursuance of condition No. 2 attached to planning permission Ref 18/0199/OUT dated 9 July 2018.

Main Issues

2. The main issues in this case are:
 - the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy, outlook and daylight;
 - the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is located to the north west of Laneshawbridge Methodist Church to the north of Keighley Road. To the north of the site is a playground and to the north east and south are terraced properties. The site rises significantly to the north. Outline planning permission was granted in 2018 for the erection of 10 dwellings on the site, with only the matter of access being approved at that time. The appeal relates to the consideration of the details of appearance, landscaping, scale and layout.

Living conditions

4. The appeal scheme comprises the provision of one pair of semi-detached properties (Plots 1 and 2), two rows of three cottages (Plots 3-5 and 6-8) and one pair of bungalows (Plots 9 and 10).
5. Plots 1 and 2 are located approximately 9 metres from the rear elevation of the single storey Church building. The proposed 1.8-metre-high side boundary fence would prevent any overlooking from ground floor windows into the Church. There is an acceptable separation distance from the rear of the proposed dwellings to existing residential properties on Emmett Lane to the north. This ensures that there is no impact on the living conditions of the occupiers of these properties.
6. The rear elevations of Plots 3-5 overlook the neighbouring playground. This northern site boundary comprises a random stone wall of around one and a half metres in height. The relationship of the proposed dwellings to the playground is acceptable. The floor levels of Plots 3-5 are higher than that of Nos. 1-6 Keighley Road. However, there is an adequate separation distance from the front elevation of the proposed dwellings to the rear of these neighbouring properties to maintain privacy.
7. Turning to Plots 6 and 7, a separation distance more than 21 metres is achieved with neighbouring properties to the south. Whilst the proposed floor level of the dwellings would be approximately 2.27 metres higher than Nos 4-6 Keighley Road, I consider the interface distances to be adequate to prevent overlooking leading to loss of privacy. Proposed planting to the southern boundary of the site would to an extent provide additional mitigation in this regard.
8. With regard to Plot 8, at ground floor the potential for loss of privacy to the rear facing windows of Nos. 3 and 4 Keighley Road would be mitigated by the separation distance and the presence of a proposed 2-metre-high close boarded fence near to the site boundary. However, the main front bedroom window in Plot 8 has a separation distance of around 21.15 metres from the large first floor bedroom window in No. 4 Keighley Road. The distance between the smaller front bedroom window in Plot 4 and the first-floor window in the proposed dwelling would be slightly less, at approximately 20.92 metres.
9. Taking account of the floor level differences, more than 2 metres, the interface of the proposed smaller bedroom window and the bedroom window in No 4, would not be acceptable to overcome the potential for overlooking. The appellant has suggested that the smaller window could be obscure glazed to mitigate any loss of privacy. Bearing in mind that the separation distance is only marginally short of what would be acceptable, I consider this would be an appropriate solution to mitigate overlooking in this instance.
10. Plots 9 and 10 are semi-detached bungalows. Plot 9 faces the rear of Nos 2 and 3 Keighley Road. I accept that the proposed 2-metre-high boundary fence would prevent overlooking into ground floor windows of the existing cottages. Whilst this would overcome the issue of privacy, the fence would form an unattractive feature having a negative impact on the outlook from the rear windows of the existing properties to the south. This would have an adverse effect on the living conditions of the occupiers.

11. At first floor, the separation distance to the first-floor rear bedroom windows of Nos 2 and 3, would both be below 21 metres. Due to the difference in floor levels, the 2-metre-high fence would only partially block views.
12. Turning to Plot 10, the interface distance with No.1 Keighley Road would be approximately 15 metres. Taking account of the level difference, around 2.5 metres, this siting would have an unacceptable impact on the living conditions of the occupiers of the neighbouring dwelling. To overcome this impact, a single storey garage is proposed to be sited in front of Plot 10. Whilst this would prevent any loss of privacy, the garage would result in a wall of around 2.3 metres high and 6.4 metres long, just over 5 metres from the rear extensions at No.1. These compromise a kitchen with no rear facing window and a utility room which does have a rear window. The proposed garage would also be just over 7 metres from the patio doors in the rear elevation.
13. The impact on the utility, a non-habitable room, raises no concerns about the living conditions of the occupiers. The kitchen with no rear facing window would also be unaffected. Turning to the rear patio doors, due to the separation distance and level difference, the garage would have an enclosing effect, impacting negatively on outlook. The Council have raised concern about the loss of light. However, having regard to orientation, the rear elevation of No.1 being north facing, I do not consider there would be any appreciable loss of light to the rear windows.
14. Given the above, the appeal scheme would cause harm to the living conditions of the occupiers of neighbouring dwellings through loss of privacy and outlook. It would therefore fail to comply with Policies ENV2 and LIV5 of the Pendle Local Plan Part 1: Core Strategy 2011-2030 which, amongst other things, seeks to achieve quality in design. It would also conflict with the aims of section 12 of the Framework to achieve well designed places with a high standard of amenity for existing and future users.

Character and appearance

15. The Council's second reason for refusal concerns the cramped nature of the layout with limited depth of rear gardens to the proposed dwellings. Plot 8 has the shortest rear garden at around 4 metres with Plots 6 and 7 under 5 metres and the remainder of the dwellings around 6 metres.
16. I have not been made aware of any guidance that the Council has to advise on the minimum length of rear gardens. However, except for the two bungalows, the scheme proposes three-bedroom family properties where reasonable size garden areas should be provided to ensure a high standard of amenity. I recognise that the proposed properties are bounded by a low stone wall and back onto the playground to the rear. This would provide an open aspect and whilst not private, this area of open space would also provide a place for children to play. However, this does not provide a substitute for private amenity space.
17. The fact that a two-metre-high fence and a garage form part of the scheme, aimed at maintaining the privacy of the occupiers of neighbouring dwellings, points to the cramped nature of the development. This represents poor design.
18. Whilst not forming part of the reasons for refusal, the Council Officer report has raised concern about the proposed landscaping. Planting is proposed at the site

entrance and to the rear of properties on Keighley Road. There is however very little landscaping to the frontages of the proposed dwellings with the car parking spaces dominating the street scene. This impacts negatively on the visual amenity of the proposed development resulting in a poor internal environment.

19. The Council describes the site as being in a semi-rural area where large mature trees form part of the landscape character. Whilst I agree that Laneshawbridge is semi-rural with open fields on the opposite side of Keighley Road, the site itself is within the village and bounded by built form to the south, east and west. In this context, within a small residential development with a tight layout, large mature trees would not be appropriate. Nevertheless, the landscaping scheme proposed is minimal and below the standard expected of a high-quality development.
20. Given the above, I consider that the proposed layout results in a cramped poorly designed scheme adversely affecting the character and appearance of the area. The proposal conflicts with Policies ENV2 and LIV5 of the Pendle Local Plan Part 1: Core Strategy 2011-2030 which, amongst other things, seek to achieve quality in the design of new development.
21. These policies are consistent with the design objectives of the Framework. Paragraph 130 states that planning decisions should ensure developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. The Government's objective is reinforced in the recently published National Design Guide which sets out broad principles to achieve well designed places. The Framework goes on to state that development that is not well designed should be refused.

Other Matters

22. It has been pointed out to me that the erection of a 2-metre-high fence along the whole length of the southern site boundary would form permitted development. This therefore forms a viable fallback position. A smaller fence is proposed to the rear of Nos 1-3 and part of No. 4 Keighley Road, positioned between 1.3 metres and 3 metres away from the shared boundary and softened with planting. Notwithstanding the above, I must consider the scheme before me, its resultant impacts and any harm caused. If the appeal were to be allowed, a condition could be imposed to remove permitted development rights to maintain the amenity of nearby dwellings.
23. I acknowledge that the development is acceptable in terms of highway matters, drainage and the proposed design and materials of the dwellings. Whilst this weighs in favour of the scheme, it does not outweigh the harm I have identified above.

Conclusion

24. I have found that the appeal scheme would cause harm to the living conditions of the occupants of neighbouring dwellings and to the character and appearance of the area. For the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

Helen Hockenfull

INSPECTOR