



Appeal Decision

Site visit made on 12 October 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2021

Appeal Ref: APP/P2365/W/21/3275199

Land to rear of 25-27 Brookfield Lane, Aughton, L39 6SN

- 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 Mr Andrew Berry of Brookfield (NW) Ltd against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0938/FUL, dated 5 October 2020, was refused by notice dated 27 April 2021.
 - The development proposed is 2 No detached dwellinghouses.
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Decision

1. The appeal is allowed and planning permission is granted for 2 No detached dwellinghouses at land to rear of 25-27 Brookfield Lane, Aughton, L39 6SN in accordance with the terms of the application, Ref 2020/0938/FUL, dated 5 October 2020, subject to the conditions set out in the attached schedule.

Procedural Matter

2. A pre-commencement condition is attached to this Decision. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to this condition in writing.

Main Issue

3. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework').

Reasons

4. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is 'limited infilling in villages'.
5. The appeal site comprises a small plot of land that is surrounded by existing residential properties on 3 sides. It is highly enclosed by existing built form and has only a limited relationship with open land to the east. In this regard, the development would infill a small gap and would round off the built up area in this location. It also proposes only 2 dwellings and would clearly be 'limited' in scale. Whilst the appeal site is outside of the designated settlement boundary, given its position and relationship to existing dwellings, I consider it to be within the village having regard to the situation on the ground.

6. The development would therefore constitute 'limited infilling in villages'. There is no requirement for proposals under this exception to preserve the openness of the Green Belt. Moreover, as it meets this exception, the development is highly unlikely to set an undesirable precedent in the area.
7. For the above reasons, I conclude that the proposal would not be inappropriate development in the Green Belt. It would therefore accord with guidance in the Framework relating to Green Belts.

Other Matters

8. A Phase 2 - Foul & Surface Water Drainage Philosophy (Ref D3078-L-02, dated 8 January 2021) has been provided that sets out a drainage scheme for the development. This illustrates that there would be no net increase in run-off rates from the site as a result of the development, and this could be secured by condition. Accordingly, it would not exacerbate any existing issues in the locality. Moreover, United Utilities and the Council's drainage team have confirmed that they do not object to the development on these grounds.
9. The proposed dwellings would be 1.5 stories in height and would be of a relatively low dormer design. The northernmost dwelling would be set in from the boundary and its roof would mostly slope away from properties fronting Beech Road. It would also be in excess of the minimum separation distances from those properties, as set out in the Council's Design Guide SPD (2008). This arrangement would not result in any significant overbearing impact or loss of privacy to existing occupiers in my view.
10. The distance between the proposed dwellings and existing properties fronting Brookfield Lane would also be significantly in excess of the Council's minimum separation distances. Accordingly, I do not consider that there would be any harmful loss of outlook to those properties.
11. The appeal site is located near to the edge of the Holt Green Conservation Area, which encompasses a historic part of the village. However, the development would have only limited visibility from within the conservation area, and any glimpsed views would be between modern properties. As the appeal site is relatively small and enclosed by existing built development, there would be no harm to the open setting of the conservation area in my view.
12. The proposed access route runs along the side of Mews Cottage and would be shared with the 2 recently constructed dwellings to the south. The junction onto Brookfield Lane has adequate visibility, and the traffic associated with the provision of 2 additional dwellings would be modest. The Highway Authority has also confirmed that it has no objection to the development on highway safety grounds.
13. It is asserted that the development does not have a right of access over the existing route leading to Brookfield Lane, which is privately owned. However, rights of access are a civil matter that fall outside of the planning regime.
14. An Ecological Appraisal (November 2020) and an Ecological Enhancement Plan (16 April 2021) have been submitted with the appeal. These provide an assessment of the ecological value of the site and recommend mitigation measures, which are capable of being secured by condition.

Conditions

15. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A further condition requiring the submission and approval of a Method Statement relating to Great Crested Newts is necessary in order to implement the recommendations of the submitted Ecological Appraisal. It is pre-commencement in nature as it will affect the entirety of the construction process. A condition relating to bat sensitive lighting is also necessary in order to implement the recommendations of the Ecological Appraisal.
16. Conditions relating to obscure glazing, construction working hours, and withdrawing permitted development rights relating to new windows and openings, are necessary to protect the living conditions of neighbouring occupiers. Further conditions relating to drainage and trees are necessary to ensure that the site is appropriately drained, and that existing trees are protected during the construction process. A condition requiring the installation of electronic charging points is also necessary in the interests of air quality and in order to comply with Paragraph 112 of the Framework.
17. A condition relating to the proposed external materials is necessary in order to protect the character and appearance of the area. Another condition relating to the proposed car parking areas is necessary in order to ensure that these facilities are available to future occupiers. Finally, a landscaping condition is necessary in order to ensure an acceptable appearance and to implement the recommendations of the submitted Ecological Enhancement Plan.
18. Separately, I consider that a suggested condition requiring the submission of a detailed site compound layout is unnecessary for a relatively small development such as this.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1646/01 B; 1646/02 A; 1646/03 A; 1646/04 A; 1646/05 A; 1646/06.

Pre-commencement conditions

- 3) No development shall take place until a detailed working Method Statement, setting out reasonable avoidance measures for Great Crested Newts during the construction process, has been submitted to and approved in writing by the Local Planning Authority. The Method Statement shall be adhered to throughout the proposed works.

Pre-occupation conditions

- 4) Prior to the first occupation of the development, a bat sensitive lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate how the external lighting shall avoid negative impacts to any bats using the surrounding trees. All external lighting shall be installed in accordance with the approved details and shall thereafter be retained as such.
- 5) Prior to the first occupation of the development, a scheme for the provision of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point shall be installed in accordance with the approved details prior to the first occupation of a dwelling.
- 6) Prior to the first occupation of a dwelling, the north and south facing dormer windows and rooflights shall be obscurely glazed to a specification of no less than level 4 of the Pilkington Glass Scale. These windows shall thereafter be retained as such with no less than level 4 obscure glazing.
- 7) Prior to the first occupation of the development, a validation report demonstrating that the foul and surface water drainage works have been completed in accordance with the Phase 2 Foul and Surface Water Drainage Philosophy by PSA Design (Ref D3078-L-02) shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall thereafter be retained as such.
- 8) All hard and soft landscape works shall be carried out in accordance with the details shown on plan 1646/06 and within the Biodiversity Enhancement Plan (Tyrer Ecological Consultants, dated 16 April 2021). The works shall be carried out prior to the first occupation of the development or in accordance with a programme submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Other conditions

- 9) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of

external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 10) The car parking indicated on the approved plans shall be hard surfaced and made available for use prior to the first occupation of the development hereby approved, and shall thereafter be retained.
- 11) The development hereby permitted shall be implemented in accordance with the submitted Arboricultural Method Statement by Mulberry (Ref TRE/25-27BL, dated 7 November 2020).
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no window or opening, as permitted by Class A of Part 1 of Schedule 2 of that order, shall be added to the northern or southern elevation of either dwelling.
- 13) No construction shall take place other than between the hours of 0800 to 1800 Monday to Friday, 0900 to 1400 on Saturdays, and not at all on Sundays or Bank / Public Holidays.