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# Appeal Decision

Site visit made on 15 February 2022

**by F Wilkinson BSc (Hons), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 March 2022**

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**Appeal Ref: APP/E2340/W/21/3282007**

**Oakfield, Skipton Old Road, Colne BB8 7AE**

- 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 Peter Cunningham against the decision of Pendle Borough Council.
  - The application Ref 20/0493/FUL, dated 28 July 2020, was refused by notice dated 24 March 2021.
  - The development proposed is the erection of 2 no. 3 bed dwellings and associated garages, parking and gardens.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr Peter Cunningham against the Council. This application is the subject of a separate decision.

## Preliminary Matters

3. The description in the banner heading is taken from the Council's decision notice and it is also the description used on the appeal form. It differs from the description shown on the application form. The Council publicised the application on the basis of this description, and it describes the scheme on which the Council based its decision. I have proceeded on the basis that no party would be prejudiced by the use of this description in my decision.
4. I have referred to the National Planning Policy Framework 2021 (the Framework) in my decision. Whilst specific paragraph numbers have changed, the substantive elements of the new Framework have not insofar as they relate to the substance of this appeal.

## Main Issue

5. The main issue is the effect of the proposed development on the safe use of the highway.

## Reasons

6. The appeal site is part of the garden of Oakfield, a two-storey detached dwelling. The proposed development would comprise two stone-built dwellings with detached garages, parking areas and gardens. The dwellings would have a slate roof and timber doors and windows. Boundary treatments would comprise hedgerows and walls.

7. Access to the site would be via a predominantly privately owned track which is unsurfaced and unlit and currently serves a small number of dwellings. This access track is only of sufficient width to allow one vehicle to pass along it at any given time. There is a low stone wall along much of its northern side and parts of its southern side.
8. The access track is not wide enough for two vehicles to pass. During the course of the application, a number of sections that could act as passing places were identified. The Highway Authority initially had concerns with these areas as they are private land rather than part of the adopted highway<sup>1</sup>. A conveyance extract, Deed of Easement and rights of access confirmation was subsequently submitted. The Highway Authority confirmed that this additional information alleviated its concerns to an acceptable degree<sup>2</sup>. A subsequent email<sup>3</sup> further clarifies that evidence was provided that the passing places on the private track have been legally secured as easements and so the proposed development would have the benefit of the passing areas.
9. Information presented by an interested party identifies that the submitted conveyance extract relates to their property rather than the site or appellant. The Deed of Easement shows the right of access along the access track, and this is further confirmed in the rights of access confirmation<sup>4</sup>. However, due to the quality of the plan submitted with the Deed of Easement, I cannot be satisfied that it includes the passing places identified by the appellant. The rights of access confirmation refers to rights of access along the access track but no mention is made of other areas of land. As such, I cannot be certain that these areas identified by the appellant would be retained as passing places.
10. Whilst the additional vehicle movements generated by the proposed development would be small, an absence of passing places would give rise to the potential for vehicles that meet on the access track having to undertake reversing manoeuvres, including onto the highway at Bents/Bent Lane. This could necessitate vehicles on the highway having to stop, thus affecting the free flow of traffic, which could present a risk to highway safety given the proximity of the 90 degree bend on Bent Lane. Whilst vehicle speeds negotiating this bend are likely to be slow, there is nevertheless restricted visibility of the oncoming highway at this point when travelling on Bent Lane from the south towards Bents.
11. I acknowledge that the access track will already be used by vehicles associated with the existing properties. I also acknowledge the appellant's submissions about vehicle speeds on the access track, Bent Lane and Bents and the lack of recorded personal injury accidents. However, the characteristics of the access track are such that, without confirmation of the passing places, the proposed development would represent a risk to highway safety for road users, given the nature of the manoeuvring that would be required to avoid conflict between vehicles. I note that the Highway Authority concerns about the proposed development were alleviated on the basis of the identification of passing places, and that these would be available to occupiers of the proposed dwellings.

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<sup>1</sup> Lancashire County Council letter dated 12 October 2020

<sup>2</sup> Lancashire County Council letter dated 17 December 2020

<sup>3</sup> Email from Highways Development Support Engineer, Lancashire County Council dated 27 January 2021

<sup>4</sup> email from the appellant's solicitor to the Council and Lancashire County Council dated 11 December 2020

12. The access track forms part of the route of footpath 122, a Public Right of Way (PRoW). Given the nature of the access track, vehicles would travel along it at slow speeds. The proposal would generate only a limited number of additional vehicles. The proposed development would not therefore give rise to an unacceptable risk of conflict arising from the shared use of the access track.
13. The access track meets the public highway at the point where Bent Lane meets Bents. The appellant's information indicates that there is a reasonable visibility at the junction where the access track meets the highway. From what I observed, I would concur that visibility to the north west towards Skipton Old Road is reasonable. The presence of parked cars on Bents would not restrict this to an unacceptable degree. Visibility to the north east is more restricted due to the sharp bend. Notwithstanding my view set out above, if passing places were available on the access track such that reversing manoeuvres onto Bents/Bent Lane would not be required, then the visibility would be appropriate given the speed that vehicles would use to reasonably negotiate the bend.
14. I observed the parking situation in the vicinity of the site during my site visit on a weekday afternoon, which is only a snapshot in time. On-street parking is a feature of Bents. The appellant's Transport Statement (TS) identified four or five vehicles parked on Bents during the day, which tallies with my observations, with this increasing to eight vehicles during the evening. The TS calculates that Bents provides on-street parking capacity for around 10 vehicles. Whilst parked vehicles do reduce the width of Bents, given the traffic volumes and speed of vehicles, this would not result in an unacceptable impact on highway safety.
15. During the construction phase, access to the site could be gained from Skipton Old Road using the drive of Oakfield. This could be controlled through a condition. A construction management plan could also be secured by condition. Subject to these conditions, highway impacts during the construction phase could be adequately controlled.
16. The other access point onto Skipton Old Road is along a narrow unsurfaced track referred to as Bent Lane (unmade section) in the TS. This track has a steep gradient at the point where it meets Skipton Old Road and there is a stone wall on its southern side where it joins this main road. These factors hinder visibility when exiting the track. I would tend to agree with the position in the TS that there are other more convenient accesses on to the highway network and it is very unlikely that this track would be used by future occupiers of the proposed dwellings.
17. The appellant has referred to an appeal decision from 1991 where the Inspector concluded that while there are extra vehicular movements attributable to two new houses it would have no noticeable effect on highway safety given the number of other dwellings that use the accesses onto Keighley Road and Skipton Old Road. It dates from around 30 years ago, and I do not have the full details of this case or the evidence that was presented. I have therefore determined this appeal scheme on its own merits.
18. The access arrangements to the site are not ideal given the nature of the roads in the vicinity. I am mindful that the Highway Authority has given close scrutiny to the highway safety implications and does not object to the proposed development, subject to certain conditions as well as passing places on the access track being available to future occupiers of the proposed dwellings.

19. Whilst I generally agree with the Highway Authority view, I do have a concern about the lack of detailed evidence on the right of access to the passing places on the access track identified by the appellant. Consequently, my view is that the proposed development would have inadequate access arrangements, and notwithstanding the speed of vehicles on the access track, Bent Lane and Bents, the lack of recorded personal injury accidents in the vicinity and the number of vehicle movements, this would present an unacceptable risk to the safety of road users.
20. The proposed development would therefore conflict with Policy ENV4 of the Local Plan for Pendle Core Strategy 2011-2030, adopted 2015. This policy requires proposals for new development to have regard to the potential impacts they may cause to the highways network, particularly in terms of safety and the potential to restrict free flowing traffic, causing congestion. The policy also states that where the residual cumulative impacts of the development are severe, planning permission should be refused.
21. The proposed development would also conflict with paragraph 111 of the Framework which states 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**

22. The site is within the Lidgett and Bents Conservation Area (the Conservation Area). The significance of the Conservation Area is in part due to its history, architecture and its contrasting rural appearance and character. Given the elevated position of the site, the proposed dwellings would be prominent in views from Skipton Old Road. They would also be visible from PRoWs in the vicinity. The staggered frontage and roof lines and landscaping along the boundary would, however, break up the form of the dwellings. Furthermore, the staggered nature of the layout would tie the proposed dwellings in with how the existing properties on this side of Skipton Old Road are viewed and would generally maintain the urban grain of the area. The proposed materials would reflect the predominant building materials. The proposed development would not prevent an understanding of the history of the area.
23. Overall, the proposed development would not harm, and would therefore preserve, the character or appearance of the Conservation Area and its significance as a designated heritage asset. In reaching this conclusion, I have given special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
24. The Council confirms that it has a five year housing land supply and has significantly exceeded its housing delivery test requirements. Given the housing land supply position, policies for the supply of housing are therefore up to date and the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.
25. I note that the appellant also refers to various development plan policies which relate to the principle of development, design, ecology, trees and residential amenity, which they contend the proposal would accord with. Be that as it may, even were the development proposed acceptable in all other respects, that would be neutral in my determination of the scheme rather than weighing

positively in favour of allowing the appeal. Thus, the scheme would conflict with the approach in relevant elements of the development plan, and there are no other material considerations sufficient to justify allowing the scheme.

### **Conclusion**

26. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*F Wilkinson*

INSPECTOR