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## Appeal Decision

Site visit made on 30 March 2022

**by M L Milliken BA(Hons) MPlan MRTPI**

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

**Decision date: 29 April 2022**

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**Appeal Ref: APP/E2340/W/21/3287075**

**Fields to the west of Foster Road, Barnoldswick BB18 5LW (Easting 387223, Northing 447492)**

- 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 McDermott Homes against the decision of Pendle Borough Council.
  - The application Ref 21/0564/FUL, dated 30 June 2021, was refused by notice dated 6 September 2021.
  - The development proposed is described as '*Erection of 67no. dwellings with associated works including carparking and landscaping*'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I note that there are some minor adjustments to the site address provided by the appellant on the application form, when compared to that of the appeal form and the Council's decision notice. I am satisfied that the adjustments made provide clarity as to the location of the appeal site, as reflected in the banner heading, and I am therefore proceeding to determine the appeal on that basis.
3. A Statement of Common Ground (SoCG) has been submitted in evidence. Whilst not signed by the Council, I note direct references to it in recent correspondence regarding this appeal on the part of the Council and I am therefore content to accept the document as evidence. The document covers matters including, but not limited to, site history, a timeline of the planning application and consultation process, pre-application correspondence between the Council and the appellant and a list of suggested planning conditions.

### Application for costs

4. An application for costs was made by McDermott Homes against Pendle Borough Council. This application is the subject of a separate Decision.

### Main Issues

5. The main issues are:
  - (i) The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the landscape;

- (ii) The effect of the proposed development on the free and safe movement of vehicles and pedestrians in the vicinity of the site, with particular regard to existing parking and visibility issues on Foster Road/Gisburn Road; and
- (iii) Whether the proposed development would occupy an acceptable location, with regard to possible flood risk.

## **Reasons**

### *Character and Appearance*

- 6. The appeal site is located adjacent to the settlement of Barnoldswick. Although not subject to a specific local landscape designation, the parties agree that the site forms part of a wider landscape context, located within National Character Area (NCA) 33 - Bowland Fringe & Pendle Hill, as defined by Natural England. In the Statements of Environmental Opportunity contained within the NCA profile, it is advised that development be managed (especially around the fringes of the NCA), in order to maintain the rural character of the landscape, tranquillity and sense of remoteness, and to protect the area from development on ridgelines and hilltops, to maintain the predominantly open character of the landscape.
- 7. The site also comprises Landscape Character Type 13 Drumlin Field and falls within the Landscape Character Area 13a Gargrave, as set out in Lancashire County Council's document A Landscape Strategy for Lancashire – Landscape Character Assessment (2000).
- 8. A summary of the Council's Supplementary Planning Guidance, Development in the Open Countryside (2002) has been provided in evidence by the appellant. In brief, the site is described as being located within the Landscape Character Area 'Drumlin Field and Rolling Upland Farmland' and characterised by rolling farmland areas comprising traditional farm buildings and stone walls, with some clusters of buildings and no significant settlements. The description provided goes on to add that the zone includes the Barnoldswick drumlins, a low-lying area in the broad valley at the northern end of the Borough, and that in the drumlins the landscape is completely dominated by pasture and trees, with a lack of field walls, contrasting with most other areas in the Borough of Pendle.
- 9. Both the Council and the appellant also make note that the SPG states development should consist of the rounding off an existing settlement and should be defined by settlement form, natural landform and established planting.
- 10. The appeal site itself currently comprises land used for grazing, with local topography rising sharply to the north west. Residential development is located beyond the site boundary to the south and east, with open countryside located to the north and west. Trees, together with some remnants of hedgerows, are present to the north, west and southern boundaries of the site, a number of which are subject to Tree Preservation Order (TPO), and which provide some filtering of views beyond the site boundary.
- 11. A Landscape and Visual Impact Appraisal (LVIA), dated October 2021, has been submitted in evidence by the appellant. In regard to changes to the perceptual qualities of the landscape and settlement pattern, the appellant opines that there would be an overall effect of 'no change' on the basis that, although the

loss of open land may be perceived to have a negative effect on the landscape, the proposed development would be located within the context of existing residential areas and there is an opportunity to create a well-defined and positive edge to Barnoldswick which does not exist at present.

12. I consider that, due to its distinct topography and agricultural nature, the appeal site makes a positive contribution to the local landscape. For the same reason, due to the natural landform present I do not accept that there would be no change to the perceptual qualities of the landscape and settlement pattern, but rather I find that the proposed development would appear as a visual interruption in the landscape, particularly when viewed from the north of the site, resulting in the edge of the settlement appearing to project into open countryside.
13. I do not consider that the proposed site boundary would effectively constitute a rounding off of the existing settlement to form a more logical boundary as the appellant suggests. I find instead that the development, in its immediate context, would be viewed as a discordant intrusion into the local landscape, and I therefore find significant harm in this regard.
14. Established vegetation already exists to the north and western boundaries of the site, which would be retained. Whilst I note that a comprehensive landscape mitigation scheme is proposed, including a landscaped parcel of land to the north of the site, such planting would take time to reach maturity and would not, in my view, render the overall effect on the surrounding landscape to be acceptable, particularly with regards to long views from the north.
15. For residential occupiers adjacent to the site, the character of the area would change from open countryside to housing, diminishing the quality of views available from those properties that look onto the site. I note that the LVIA contains a viewpoints assessment which concludes that, with regard to principal public views towards the site from the east and south, the overall impact of the residual effects on views would be Medium - High Adverse. The appeal site also contributes positively to the visual amenity of those using the Public Right of Way (PRoW) that crosses the site, in addition to views from the wider footpath network. Overall, I find that the proposed development would serve to harm the open character of the countryside for PRoW users.
16. I note, from the evidence before me and from what I saw during my site visit, that the built form of the town has changed over time, with some modern housing development present, including a small number of dwellings along Foster Road, beyond the north eastern boundary of the appeal site. I do not, however, accept that existing development within the vicinity of the appeal site has had such an adverse impact on local landscape character, or an overarching urbanising effect, so as to render the proposed development acceptable on that basis.
17. For the reasons provided, and notwithstanding the suite of landscape mitigation measures proposed, the proposed development would have an unacceptable effect on the character and appearance of the area, with particular regard to the landscape.
18. It would conflict with the overarching strategic advice contained within the NCA profile, principally with regards to managing development in order to maintain the predominantly open character of the landscape.

19. It would be contrary to Policies ENV1 and ENV2 of the Pendle Local Plan Part 1: Core Strategy 2011-2030 (PLPCS) (adopted 2015), which, in part, relate to the protection and enhancement of the landscape and state that development proposals should, wherever possible, aim to safeguard or enhance the landscape character of the area and show how they respond to the particular landscape character type they are located within. For the same reasons, the proposed development would conflict with the relevant paragraphs contained within Section 12 of the National Planning Policy Framework (the Framework).

#### *Highway Safety*

20. The proposed development would be located on land adjacent to the existing settlement, and, for reasons cited and accepted by the parties, would comprise development within a sustainable location. Access to the development would be taken from Foster Road, which connects to Gisburn Road to the east. Gisburn Road is identified as a key distributor and bus route within the Transport Assessment dated May 2021, as submitted in evidence by the appellant.
21. I note evidence from both the appellant and the Council regarding the visibility of the Foster Road / Gisburn Road junction, particularly with regards to the lack of off-street parking, accident history and an assessment of the junction in light of modern design standards. The parties agree that junction visibility falls short of modern standards and my attention has been drawn to *Manual for Streets* (MfS1) and *Manual for Streets 2- Wider Application of Principles* (MfS2) in this regard. However, I note from a number of appeal decisions elsewhere, that this issue is not uncommon and, at junctions where visibility is limited by buildings or parked cars, it is clear that well established driver behaviour such as 'edging out' is likely to occur. In such situations, vehicles emerging from minor roads are accommodated onto major roads in a safe manner. With regards to the appeal proposal, I have no reason to conclude that such an arrangement would not occur at the junction in question.
22. I have had regard to the accident data provided in evidence by the parties, in particular concerning a recent collision at the Foster Road / Gisburn Road junction. However, some details regarding the accident in question are unclear, including vehicle speeds, obstructions and the directional approach of the vehicles with regards to the junction. Notwithstanding this, I note that the accident in question comprised one of two incidents within a 23-year period, the other of which was classified as 'slight', which would suggest that the junction in question is relatively safe.
23. A number of off-site mitigation measures are proposed, as suggested by the local highway authority. The measures include enhanced speed compliance measures along Gisburn Road and Foster Road, dropped crossing points with tactile paving and the upgrading of two bus stops on Gisburn Road. I consider that the proposed package of measures, which would be secured through the use of planning condition, would serve to reduce the impact of the proposed development and that, subject to the mitigation proposed, the additional vehicular and pedestrian movements generated by the proposed development would be safely accommodated and the overall effect on the local highway network would be acceptable.
24. For the reasons provided, I find that the proposed development would allow for the free and safe movement of vehicles and pedestrians in the vicinity of the site, with particular regard to existing parking and visibility issues on Foster

Road / Gisburn Road. The proposed development therefore accords with Policy ENV4 of the PLPCS (2015), which seeks to ensure that proposals for new development have regard to the potential impacts they may cause to the highways network, and, where an adverse impact is identified, mitigation measures are put in place. The proposed development would also accord with Section 9 of the Framework, for the reasons given.

### *Flood Risk*

25. The appeal site lies wholly within Flood Zone 1, as identified on the Environment Agency Flood Map for Planning, which equates to a very low risk of flooding. The proposed drainage strategy would involve the discharge of surface water to a watercourse at the northern end of the site, as outlined within the appellant's Flood Risk Assessment dated April 2021 and supplemented by a letter provided in support of the appeal dated 10<sup>th</sup> March 2022. The drainage design would be designed in accordance with the appropriate standards and include an allowance for climate change.
26. The Council asserts that, taking into account local topographical fall patterns, it appears likely that surface water from parts of the southern end of the site will continue to flow unattenuated into a watercourse that flows under the site via a culvert adjacent to the southern boundary. I note references in evidence to existing local flood issues downstream in this regard, including a number of objections.
27. The letter provided by the appellant offers some clarification regarding the current drainage pattern and the proposed drainage strategy and I find that, when compared to the existing run-off situation, the proposed earthworks and drainage design will serve to reduce the areas of catchment that contribute to the southern watercourse to approximately 5% of the overall site, which is a reduction of approximately 21% of the site area. I consider this to constitute a betterment when compared with the current run-off situation, with regards to flows into the southern watercourse.
28. Furthermore, in the absence of the Council substantiating the matter further I find there is little to suggest that the southern watercourse would be adversely affected by the proposed development. I therefore consider the proposed drainage strategy and accompanying mitigation measures, the details of which would be secured by planning condition, to be acceptable, for the reasons given.
29. Overall, I consider that the proposed development would occupy an acceptable location with regards to possible flood risk and would accord with Policy ENV7 of the PLPCS (2015), which states, amongst other things, that new developments must consider the risk they may pose to areas downstream, and not increase the greenfield run-off rate. The proposed development would also accord with Section 14 of the Framework.

### **Other Matters**

#### *Affordable Housing*

30. The proposal includes the provision of 3 affordable homes, which would meet the requirement set out by Policy LIV4 of the PLPCS (2015). I afford some weight to the delivery of affordable housing to meet both national and local requirements.

### *Housing Land Supply*

31. The Council has provided me with a copy of its Five-Year Housing Land Supply Statement, dated January 2022. Based on the evidence before me, I find nothing to doubt that the Council can demonstrate a housing land supply equivalent in excess of five years, and I note that the appellant does not seek to challenge the Council's position on this matter.
32. Notwithstanding this, the proposed development would however provide a modest number of dwellings to meet local need, which would also contribute positively towards the overarching Government agenda of boosting housing supply. I consider this factor to be a benefit in support of the appeal, albeit the weight is tempered somewhat by the Council's latest figures as presented in evidence, cited as the equivalent of 7.46 years housing land supply.

### *Emerging Plan Status*

33. The appellant asserts that the site is identified as a proposed Reserve Site for Housing in the Pendle Local Plan Part 2 Preferred Options Consultation Document, under site reference P055. Whilst limited evidence regarding this matter has been provided, from the evidence it would appear that the emerging plan is at the early stages of plan-making. I therefore attribute little weight to this matter in consideration of the appeal and, moreover, it does not affect my starting position in determining the appeal in accordance with the adopted development plan policies as presented.

### *Other considerations*

34. I note the appellant's evidence regarding pre-application advice received from the Council, including favourable comments regarding the principle of the development. Whilst I understand the appellant's frustrations in this regard, pre-application advice is not legally binding and does not prejudice determination of a planning application. It is therefore not a matter for consideration further in the determination of this appeal.
35. I note that the appeal site lies within proximity to the Grade II listed Fosters Arms Public House, the significance of which relates to, in part, the materials used in its construction. I have considered the effect of the proposed development in relation to this heritage asset and overall, I concur with the conclusions of the Council. I am satisfied that the location of the proposed development would be sufficiently distant and would not interrupt or distract views of the property from the street, or negatively affect how the building is appreciated. I am therefore satisfied that the listed building's significance would be preserved. In reaching this decision, I have discharged my statutory duty under the 1990 Act.
36. Whilst I have had regard to other benefits proposed by the appellant, including enhancements to biodiversity and the potential for an increase in economic activity within the local area, these matters do not outweigh my findings in relation to the main issue of character and appearance, with specific regard to the landscape.

**Conclusion**

37. For the reasons given and with reference to the development plan as a whole, the appeal is dismissed.

*ML Milliken*

INSPECTOR