
Appeal Decision

Site visit made on 24 May 2022

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2022

Appeal Ref: APP/E2340/W/22/3291422

Land at 30 Dixon Street, Barrowford, Nelson, Lancs, BB9 8PL

- 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 MFH Projects against the decision of Pendle Borough Council.
 - The application Ref 21/0154/FUL, dated 10 March 2021, was refused by notice dated 26 August 2021.
 - The development proposed is the erection of 2no. semi-detached bungalows and 2no. semi-detached two storey dwellings, with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no. semi-detached bungalows and 2no. semi-detached two storey dwellings, with associated parking and landscaping at Land adjacent 30 Dixon Street, Nelson, BB9 8PL in accordance with the terms of the application, Ref 21/0154/FUL, dated 10 March 2021, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by MFH Projects against Pendle Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this case is the effect of the proposal on highway safety.

Reasons

4. The site forms an undeveloped piece of land located to the north west of No. 30 Dixon Street within the settlement of Barrowford. It is agreed between the parties that the principle of the development on the site is acceptable and that the site is in a sustainable location with good access to services and facilities.
5. It is proposed that the development be accessed from Dixon Street. Dixon Street forms a relatively narrow residential street of predominantly terraced houses with footways on both sides. The upper section of the street adjacent to the appeal site forms an unadopted cul de sac with a stoned surface.
6. I observed on my site visit that there is a significant amount of on street car parking as the majority of properties have no driveways. Most vehicles park half on the road and half on the footway to ensure that other vehicles can pass. There is also limited turning and manoeuvring space.
7. The appeal scheme proposes to widen the road opposite No's 55-59 Dixon

Street to 5.5 metres and provide off road car parking for two vehicles for Plots 1,2 and 3 and three spaces and an attached garage for Plot 4. This complies with the parking standards set out in saved Policy 31 of the Replacement Pendle Local Plan. The development would therefore be self-sufficient in terms of off road parking provision and would not add to the existing on street car parking. The proposed widening of the road would also assist parking and manoeuvring for adjacent residents.

8. The Council argues that the proposal would lead to a loss of on street car parking. However, no explanation is given. The upper section of Dixon Street is not currently wide enough for two vehicles to park opposite each other on either side of the road. I noted on my site visit that vehicles were parked in front of No's 55 – 63 and not adjacent to the appeal site. This provision would not be lost should the appeal scheme proceed.
9. The Council's concern relates to the increase in traffic from the development having to pass through the already heavily parked street with limited space for passing and repassing. It is notable that Dixon Street does not have through traffic and vehicle speeds are low. There are areas where manoeuvring and turning is possible, such as the ends of the terraced blocks. Local residents will be aware of where they can turn, and it appeared to me on my site visit that these areas were kept free for this purpose.
10. The appellant has brought to my attention the fact that planning permission was granted in December 2021 for one detached bungalow and two semi-detached dwellings on the appeal site. This clearly forms a fallback position. The appeal scheme provides one further dwelling. I am not persuaded that the traffic generated from one additional dwelling would have a significant impact on the overall level of traffic on Dixon Street or the surrounding area. I also note that the Highway Authority has raised no objection to the scheme.
11. Concerns raised by local residents with regard to construction traffic and deliveries can be controlled through the imposition of appropriate planning conditions. With regard to visitor parking, this is likely to be occasional and such vehicles could park on the curtilage of the proposed dwellings or alternatively on street.
12. Given the above, I conclude that the appeal scheme would not cause harm to highway safety. It would comply with paragraphs 110 and 111 of the National Planning Policy Framework (the Framework), in that a safe and suitable access can be achieved for all users and the residual cumulative impact on the road network would not be severe. It would also comply with Policy ENV4 of the Pendle Local Plan: Part 1 Core Strategy 2011-2030 which seeks to promote sustainable travel and ensure new development has regard to the potential impacts on the highways network.

Conditions

13. The Council have suggested several conditions should the appeal be allowed. I have had regard to the conditions suggested in light of the Framework and Planning Practice Guidance. I have amended the wording of conditions where I consider it to be necessary. In addition to the standard timeframe condition, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans for the avoidance of doubt (conditions 1 and 2).

14. In the interests of the character and appearance of the area, a condition regarding the materials to be used is necessary (condition 3). The Council suggested a condition requiring that the materials shown on the submitted plan and application form be utilised in the scheme. However, there is no information on the plans and whilst the application form does include some details regarding materials it is incomplete. In light of this I have amended the condition to require materials to be submitted for approval. Condition 5 is required to ensure windows are recessed, again to maintain the character and appearance of the area.
15. To ensure the site is properly drained, condition 4 is necessary to ensure a satisfactory surface water drainage scheme. In order to protect the health of occupants of the scheme, and in light of the lack of information regarding on site contamination, condition 6 is required.
16. Conditions regarding the provision of on site car parking, the use of the garage, sightlines and the construction of the site access are necessary in the interests of highway safety (conditions 7,8,10 and 11). The Council suggested two very similar conditions with regard to the parking spaces for the dwellings. I have amalgamated these into one condition. Condition 10 as originally suggested by the Council, concerned the site access and required the upgrading and resurfacing of part of the unadopted section of Dixon Street along the site boundary up to the western edge of No. 59 Dixon Street. I have removed this requirement as it would be unenforceable; the applicant does not have control over this section of the road. It is not owned by the applicant or the highway authority and there is no permission in place by the landowners to undertake the work.
17. In order to promote sustainable travel, condition 9 requires the details of the provision of cycle facilities to be provided for approval by the Council and condition 12 requires the provision of electric vehicle charging points. Condition 13 is necessary to require a construction method statement to safeguard the amenity of nearby residents and also to maintain highway safety.
18. In order for the Council to have control over any further development on the site, condition 14 is necessary to remove permitted development rights for the provision of porches to ensure there is no impact on the size of the car parking spaces to the front of the dwelling.
19. In order to ensure adequate provision for waste storage and disposal, condition 15 is required.

Conclusion

20. I have found that the proposed development would cause no harm to highway safety and would therefore comply with the development plan. The material considerations in this case do not indicate the scheme should be determined otherwise.
21. For the reasons given above and having had regard to all other matters raised, the appeal is allowed, and planning permission granted.

Helen Hockenhull

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby approved 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: Existing Site Plan Drawing No. 5131-001, Proposed Site Plan Drawing No. 5131-005 H, Proposed Floorplans Drawing No. 5131-006 E, Proposed Elevations Drawing No. 5131-007 F, Proposed Elevations (Cont) Drawing No. 5131-009, Section Through rear of Unit 2 Drawing No 5131-010.
3. No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension 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.
4. The dwelling shall not be occupied unless and until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority and has been fully installed and completed in accordance with the approved details.

The drainage scheme must include:

- i. An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water.
- ii. A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations).
- iii. A timetable for its implementation.
- iv. Details of how foul and surface water will be disposed of.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The scheme hereby approved shall be carried out only in accordance with the approved drainage scheme.

5. All windows shall be set back from the external face of the walls by a minimum of 70mm.
6. Prior to the commencement of development, the applicant shall have submitted to and have agreed in writing by the local planning authority, a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site.

The method statement shall detail how:-

- i. an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments

which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the local planning authority; and

- ii. A comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the local planning authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the local planning authority.

In addition, prior to commencing construction of any building, the developer shall first submit to and obtain written approval from the local planning authority, a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-remediation sampling and monitoring and including future monitoring proposals for the site.

7. The proposed development should not be occupied unless and until the parking spaces associated with each dwelling as shown on the approved plans have been constructed, laid out and surfaced in materials to be first submitted and agreed in writing with the local planning authority. The parking spaces shall thereafter always remain available for the parking of domestic vehicles associated with the dwellings.
8. Before the development hereby permitted becomes operative, the existing boundary to the east and west of the site shall be reduced to and be permanently maintained henceforth at a height no greater than 900mm above the crown level of the adjacent carriageway / Public Footpath, and shall include any new, internal boundaries in the front section of the site, in accordance with the approved plan, before the first occupation of any dwelling.
9. Cycling facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any dwelling.
10. The garage shown on the approved plan shall be maintained as such and shall not be converted to ancillary accommodation or used for storage.
11. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvements has been submitted to, and approved in writing by, the local planning authority. The scheme shall thereafter be completed in accordance with the approved details. The works shall include the re-surfacing and kerbing of the footway from the end of the adopted section to the western edge of No 59 Dixon Street, ensuring a minimum carriageway width of 5.5m is maintained from the kerb edge.
12. Electric vehicle charging points to be provided in accordance with a scheme to be approved by the local planning authority and the vehicle charging points to be provided in accordance with the approved plan, prior to first occupation of any residential unit.

13. Prior to the commencement of development on site, a method statement shall be submitted to the local planning authority for written approval which shall include the following:
- i. the parking of vehicles of site-operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoardings including decorative displays, where appropriate
 - v. wheel-washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. details of working hours
14. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no porches shall be constructed outside an external door of any dwellinghouse.
15. Before any dwelling unit is occupied waste containers shall be provided.