



Appeal Decision

Site visit made on 18 October 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2022

Appeal Ref: APP/E2340/W/22/3296035

Land opposite The Barn, Ben Lane, Barnoldswick, Lancashire BB18 6HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval of details required by a condition of an outline planning permission.
 - The appeal is made by Simpson Homes Ltd against the decision of Pendle Borough Council.
 - The application Ref 21/0676/REM, dated 6 August 2021, sought approval of details pursuant to condition No 2 of outline planning permission Ref 18/0821/RES, granted on 16 March 2020.
 - The application was refused by notice dated 21 January 2022.
 - The development proposed is 'Reserved Matters: Major: Erection of 14 No. Dwellinghouses (Appearance, Landscaping and Layout) for Outline Permission 18/0821/RES'.
 - The details for which approval is sought are: appearance, landscaping and layout.
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Decision

1. The appeal is dismissed.

Application for costs

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

Background and Main Issues

3. Outline planning permission Ref 18/0821/RES was granted on 16 March 2020 for the erection of 14 houses and an access road on the site. The permission was subject to a requirement to seek approval of the outstanding detailed matters of appearance, landscaping and layout. I have considered the proposals on that basis.
4. The main issues are the effect of the development on:
 - the living conditions of neighbouring residents
 - the character and appearance of the locality
 - flood and pollution risks arising from foul water disposal from the site.

Reasons

Living conditions

5. The development of the site for housing would result in new residential properties backing on to the rear garden areas of existing houses fronting on to

- Skipton Road. Some would also side on to parking and access areas associated with recently developed properties fronting on to Ben Lane.
6. Policy ENV2 of the Local Plan Pendle Core Strategy 2011-2030 [2015] (the CS) seeks to secure quality in design and conservation. The introduction to the policy indicates that it should be read in conjunction with the Council's Design Principles SPD [2009]. Whilst worded in relation to householder developments, the document provides recommendations to limit the effects of new development on existing or prospective residents. This includes guidelines with regard to building spacing and the protection of privacy and outlook, amongst other matters. Although the SPD precedes the policy, it remains consistent with its aims and those of the National Planning Policy Framework (the Framework) to secure good standards of design that achieve sustainable forms of development.
 7. The positions of the proposed buildings and habitable room windows would be in general accordance with, or exceed, the guideline interface distances specified in the SPD. This would provide adequate spacing between the existing and proposed dwellings. However, due to the skewed alignment of the road, the plot depths on plots 13 and 14 are shorter than others within the site, or the depth of rear gardens typically found in the locality. Accordingly, the distance from the rear elevations of those units to the site boundaries with 152 and 154 Skipton Road would be uncharacteristically limited when backing on to other residential development.
 8. The SPD highlights that windows in extensions should normally be located in rear elevations to avoid overlooking of garden areas. However, house type D is proposed as 2-storey accommodation. It would have first floor windows providing a principal outlook over the neighbouring private amenity spaces at uncharacteristically close quarters. The degree of overlooking of the adjacent rear amenity spaces would be significant and imposing. It would unduly affect the ability of those existing residents to enjoy their garden areas.
 9. Furthermore, the elevation of the bedroom windows and restricted distance to the boundary would limit the ability to provide effective mitigation screening. A requirement to obscure glaze the first-floor windows to avoid overlooking would not provide a suitable standard of living accommodation in the proposed bedrooms.
 10. I note the appellant's reference to the Inspector's decision in granting outline planning permission¹. It found that the indicative scheme provided at that time demonstrated a development could be designed to meet the relevant interface distances and could be acceptable in terms of effects on living conditions. However, the decision clearly states that the detailed matters of 'layout and design, including the arrangement of windows on the proposed dwellings, will be dealt with as part of the reserved matters'. Moreover, the indicative layout on which those comments were made has been altered in the interim. This is particularly notable in relation to the position of development opposing the rear boundaries of Nos 152 and 154. I am not therefore persuaded that it would be appropriate to superimpose those comments on the detailed scheme before me, or afford them any considerable weight.

¹ Appeal Decision APP/E2340/W/19/3238839

11. For the above reasons, I find the arrangement and scale of the development would result in an undue loss of privacy to neighbouring occupiers and cause significant harm to their living conditions as a result of the proposed detailed layout and design of the development. It would conflict with Policy ENV2 of the CS as it seeks high standards of sustainable and inclusive design and the SPD which, amongst other things, seeks that design should avoid the undue loss of privacy for neighbours.

Character and appearance

12. The site consists of a gently inclined field bordered by residential development on 2 sides. The north-eastern boundary is delineated by a high mesh fence and line of established trees where it meets a sportsground. To the southeast lies an open grazing field beyond a drystone wall.
13. The effect on the settlement pattern was established by the outline permission for the residential development of the site. The proposed layout would inevitably urbanise the character of the site, however, it would retain the existing outer boundary treatments where it abuts the playing field and the open field to the south-east. The existing boundary trees are also shown for retention.
14. The visible edge of the existing settlement area varies in the locality. This includes numerous examples of rear garden boundaries abutting roadways or the open countryside. The rear boundaries of the existing properties fronting Skipton Road consist of various hedges, fences and walls.
15. The rural interface provided by the retention of the existing drystone wall, mesh fencing and trees backed by open landscaped areas would provide a similar edge of settlement appearance. A limited green buffer between the well-defined and established boundaries of the site and the buildings, which would be finished in a manner consistent with other buildings nearby, would provide a comparable interface with the countryside as the existing development limits. Moreover, as an area of development combined with other buildings it would provide a consolidated edge and natural expansion to this part of the settlement.
16. For those reasons, I find the proposal would reflect the character and appearance of the existing urban fringe. It would comply with Policy ENV 2 of the CS and the Design Principles SPD as they seek to protect and enhance the local identity and character and contribute to the sense of place.

Flood and pollution risks

17. Under the terms of the outline planning permission, Condition 13 required a significant level of detail in relation to the management of surface water arising and discharging from the site. Additionally, the permission required that the site be drained on separate foul and surface water systems.
18. There is no dispute between the main parties that the matter of surface water has been adequately addressed for the purposes of the reserved matters application, or that any residual detailed requirements in that regard could not be dealt with by way of further planning condition/s.
19. An indicative plan provided at outline stage indicated foul water would be pumped to a connection in Ben Lane. I note the Council's concerns that an

alternative location for connection would drain the site into a separate system to that envisaged at the outline stage. However, there is little before me to indicate that an alternative connection would lead to capacity concerns in relation to either system. As the statutory undertaker responsible for foul water disposal, United Utilities indicated to the Council (on their request) that sufficient capacity exists within the system to accommodate the 'negligible' foul flow arising from the development.

20. I recognise that the locality has been subject to surface water flooding in the recent past. This included surcharging from a combined sewer running north of the site. However, the Council have detailed a number of measures which have been carried out to limit the likelihood of similar further events. Whilst I acknowledge the concerns in relation to potential syphoning or pressurising of the proposed foul system which could cause surcharging downstream of the likely connection point, there is little before me to demonstrate that that would be a likely outcome. Furthermore, there is little evidence to demonstrate that the existing sewerage system would be overloaded, or that remaining capacity is reserved for other development.
21. For the above reasons, I find that the proposal to direct foul water arisings from the development to the existing sewer would provide a sustainable means of foul drainage for the site. It would thereby be consistent with the requirements of Policy ENV 7 of the CS and the Framework as they require development sites to be sustainably drained.

Other Matters

22. I note the concerns of neighbouring residents in relation to their loss of view over the third-party land. However, this is not a planning matter in the particular circumstances of the case.

Conclusion

23. Although I have found in favour of the appellant in relation to the matters of foul drainage and the effect on the character of the rural fringe, I do not consider these matters outweigh the identified harm to the living conditions of neighbouring residents. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR