
Appeal Decision

Site visit made on 8 August 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/E2340/W/22/3311209

Whitehough Grange, Barley New Road, Barley BB12 9LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Nick Stevenson against Pendle Borough Council.
 - The application Ref: 22/0302/OUT, is dated 3 May 2022.
 - The development proposed is the construction of 5 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with all matters reserved for future consideration apart from access. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only. The site address details in the banner heading above are taken from the planning application form.
3. The proposal has been considered by the Secretary of State in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017). A screening direction has been issued which states that the proposal is not Environmental Impact Assessment development.
4. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted an appeal statement. As this includes the matters of dispute with the appellant, it forms the basis of the main issues in this case.

Main Issues

5. The main issues are (i) the effect of the proposal on the significance of the Whitehough Conservation Area with regard to its setting; (ii) the effect on the safety of users by way of the proposed access arrangements; (iii) whether the proposal would conserve and enhance the natural beauty of the Forest of Bowland Area of Outstanding Natural Beauty (AONB); and (iv) whether it would make adequate provision for affordable housing.

Reasons

Conservation Area

6. The appeal site for the most part comprises an area of rough grassland. It also contains parts of the grounds of the neighbouring Whitehough Grange, including a stables building and a further outbuilding. The two parts of the site are currently separated by fencing and vegetation. The site is also bounded by a wooded bank to the north and a Public Right of Way (PRoW) to the south, which runs alongside a watercourse. To the east the boundary is undefined with the rest of the area of grassland.
7. To the west lies the hamlet of Whitehough, which is designated as a conservation area. It consists of an attractive arrangement of stone built rural properties that are set out in an irregular layout and separated by narrow lanes. Their form and clustering contributes appreciably to their significance, including both the historic and more recent buildings, as does their setting within the valley bottom, by way of the adjacent woodland and open land. This setting includes the site, with its proximity to the conservation area boundary. There are also a number of pleasing views into the conservation area, including over a nearby stone built bridge and along a number of PRoWs which converge on the hamlet.
8. The proposal would result in the loss of part of the open setting of the conservation area because it would involve residential development close to the boundary which contributes favourably to its significance. It would notably diminish from the original rural origins of the hamlet by divorcing it from the immediate surrounding countryside in this direction. As the hamlet is small and 5 dwellings are proposed, the extent of the loss of the setting would be significant. It would therefore not have a small peripheral impact because of the loss of the open character of the setting that would occur. Whether or not there is a core to the conservation area, and the distance to it, does not satisfactorily address this adverse impact. My concerns do not extend to the land which is currently within the fenced boundary of Whitehough Grange but this would not account for the loss of the land outside of it.
9. The proposal would also dilute the clustered form of the conservation area as a further aspect of its significance because it would extend development out from the current extent of built development along the valley floor. This would be most evident as the bridge is approached down the access lane as this is where views open up from this PRoW of both the conservation area and the part of the site where there would be new residential development on open land. In this regard, the views of the open setting of the conservation area from this PRoW would be significantly reduced.
10. Furthermore, the alteration to the setting would be much in evidence from the PRoWs that run on either side of the watercourse from an easterly direction. At present, these provide important open approaches along the valley floor until the conservation area is reached. With the proposal extending out in this direction, this element of the significance would be considerably weakened, especially with the PRoW that would be on the same side of the watercourse as the proposal because it would be directly adjacent to it.
11. The indicative design details do not form part of the permission which is sought at this stage and so have a limited bearing. However, nor can it be assumed

that reserved matters details would maintain the significance. Indeed, as the proposal would result in the loss of open land that contributes to the setting of the asset, then relying on reserved matters would effectively nullify a permission because this part of the character could not be maintained. The proposal would thus cause harm to a heritage asset. In coming to this view, I have considered the totality of the evidence before me, including the appellant's Heritage Statement.

12. I conclude that the proposal would have an unacceptable effect on the significance of the Whitehough Conservation Area with regard to its setting. As such, it would not comply in this regard with Policies ENV1 and ENV2 of the Council's Pendle Local Plan Part 1: Core Strategy 2011-2030 (2015) (LPP1) where they state, amongst other matters, that development should make a positive contribution to the protection, enhancement, conservation and interpretation of the historic environment; the significance of any heritage asset (including its setting) is not harmed or lost without clear and convincing justification; and high standards of design, including contributing to the sense of place and make a positive contribution to the historic environment and local identity and character.
13. For the purposes of paragraph 202 of the National Planning Policy Framework (Framework), less than substantial harm would arise to the significance of a designated heritage asset. I am also mindful that under paragraph 199 great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance and that under paragraph 200 any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
14. In relation to the public benefits, the proposal would make a moderate contribution to the housing stock in accordance with Central Government's objectives of significantly boosting the supply of housing, even with the Council being able to demonstrate a 5 year housing land supply of deliverable sites, as well as providing one affordable housing unit. It would also provide for housing in rural areas, albeit such support through the Framework and LPP1 is qualified in relation to the effect on a designated heritage asset. There would also be limited social benefits to Whitehough by way of supporting rural housing choice and provision through its growth, as well as some economic benefits from employment and economic activity associated with its construction and occupation.
15. I have also been informed there would be a betterment for an outdoor centre which lies beyond Whitehough and is accessed via the bridge, including for related wheelchair users, as well as for access by emergency services. This is due to intended improvements to the bridge. However, the information I have on this matter is of a limited nature, including on the likely effect on the significance of the conservation area itself, especially as the bridge lies within the boundary of this asset, and so there is a need to give special attention to the desirability of preserving or enhancing the character or appearance of that area. On this basis, it attracts moderate weight as a public benefit.
16. In taking these considerations together, the less than substantial harm to the designated heritage asset would not be outweighed by the public benefits of

the proposal. It would not therefore comply with paragraph 202 of the Framework, as well as with paragraphs 199 and 200.

Safety of Users

17. Access to the proposal would be taken over the bridge and then utilising a steep fairly narrow lane which joins Barley New Road at a widened splay around 100 metres from the site. The bridge is of single width, as is much of the lane. As well as providing access for vehicles, the bridge and the lane are also a PRow and link to a number of other such routes in the hamlet. The bridge is also the subject of a weight restriction. Both are in private ownership up to the public highway on Barley New Road.
18. Due to the narrow nature of the bridge in particular, it would be difficult for both vehicles and pedestrians to cross the bridge at the same time without an increased risk of conflict. The proposal would have the potential to exacerbate this risk because of the additional vehicular movements that would be associated with 5 additional dwellings. The bridge also provides the only practical crossing point for vehicles and the users of the PRow that converge around it. A ford which is found a short distance from the bridge is not a reasonably practical option, in particular at times of spate.
19. The appellant provided additional information during the course of the planning application which included the predicted trip generation arising from the proposal. However, the concern arises by way of the pedestrian users of the PRows as they cross the bridge and more broadly use the access lane itself. It was evident from my site visit that for the most part these routes are well used with the bridge as the means of connecting these routes. The bridge is also an attractive feature in its own right to take in during a walk. The observed usage is also unsurprising given the pleasing countryside location. Hence, the evidence that I have does not adequately demonstrate there would not be a significant and an unacceptable risk to pedestrians crossing the bridge in particular, when recreational users of the PRow are also considered.
20. While the bridge is already used by traffic associated with the hamlet and the outdoor centre, this does not account for the additional traffic movements that would be associated with the proposal and this is where my concerns arise with regard to the potential for conflict. All users clearly have to use their judgement when crossing the bridge but this does not justify placing potential additional risk on pedestrians caused by an increase of vehicular traffic, based on the evidence before me.
21. The weight restriction on the bridge places a limitation on the vehicles that can use it. The Council has set out that as a consequence adequate safe access for emergency and service vehicles would not be provided for the proposal. In response, the appellant has provided works and cost estimates to either repair or to form a new bridge. Based on this information, this would seem to be a significant undertaking but the details before me are preliminary, not subject to detailed design and nor does it appear that consultees have had the opportunity to comment on the indicated works in the estimates. It does not therefore satisfactorily address the safety concerns that arise.
22. With regard to entering into an agreement in relation to the works to the bridge, and/or agreed highway conditions with the Council and the Highway Authority following discussions, this would need to be resolved prior to the

issuing of my decision. I have not been made aware that this is the case. The Council has maintained its objection, including why a planning condition would not be feasible, and irrespective of the schedule of conditions that it provided because this is a requirement of the appeal process and made without prejudice.

23. I conclude that the proposal would have an unacceptable effect on the safety of users by way of the proposed access arrangements. Therefore, it would not comply with Policy ENV4 of the LPP1 where it concerns safety matters and with paragraphs 110 and 111 of the Framework where they concern safe, and suitable access for all users, mitigation to an acceptable degree and an unacceptable impact on highway safety, amidst other considerations.

AONB

24. Under the Forest of Bowland AONB Landscape Character Assessment (2009) that the appellant has referred to, the site lies within Landscape Character Area M Forestry and Reservoir and Landscape Character Type M2 Barley. It is said to be a landscape dominated by a pattern of small reservoirs and regular-edge blocks of coniferous plantation woodland; field boundaries delineated by low to medium hedges, often containing hedgerow trees; a network of minor road corridors often lined with stone walls; the small villages of Roughlee and Barley containing traditional gritstone buildings; open views towards Pendle Hill to the north; and distinctive landscape features within views from elevated ground including reservoirs and woodland blocks.
25. Within this context, the proposal would lie in a fairly secluded valley floor position. It would be largely contained by the topography, the buildings in Whitehough and areas of woodland and trees. It would not detract from the AONB landscape character attributes and the same applies by way of the guidelines for managing landscape change that I have been referred to. As it would be found principally on open land, or land that is located within the grounds of Whitehough Grange, it would not conflict with conserving and enhancing woodland or repairing landscape elements such as stone walls where these are in decline. Nor are there open views to surrounding landscape character types to maintain because of its valley floor location.
26. The Council has stated that the proposal would introduce development where there was previously none, in this attractive rural setting of the hamlet. While this is undoubtably true, the effect on landscape character needs to be considered in broader terms and which in this case would not be unacceptable. Development in the valley floor is by no means a rare feature of this part of the AONB, as is reflected by Whitehough as well as nearby Roughlee.
27. The valley location would also restrict longer distance views of the proposal. The viewpoint photographs contained within the appellant's Landscape and Visual Appraisal Report from beyond the valley floor ably demonstrate this. It would not be readily visible from wider vantage points in the AONB, including from elevated land. From close viewpoints in the valley floor itself, it would clearly be visible but such views in relation to the AONB would be contained and the same applies as regards PRoWs. This would not result in an unacceptable visual effect in relation to the scenic beauty of the AONB.
28. I conclude that the proposal would conserve and enhance the natural beauty of the AONB. As a result, it would comply with Policies ENV1 and ENV2 in this

regard where they concern the natural environment, that proposals should aim to safeguard or enhance the landscape character of the area, that great weight should be given to conserving its landscape and scenic beauty, and proposals not detracting from the natural beauty of AONBs, amidst other considerations. For similar reasons, it would also accord with paragraph 176 of the Framework.

Affordable Housing

29. Policy LIV4 of LPP1 sets out that in Rural Pendle sites of 5-9 dwellings are to provide 20% affordable housing. Accordingly, the proposal would have to provide one unit of affordable housing in order to accord with Policy LIV4, preferably on site or else through a financial contribution. Based on the evidence before me, it is not in dispute that there is a need for affordable housing and nor a necessity to adjust the amount to be provided under the policy based on viability.
30. The appellant would be happy to provide affordable housing on or off site, according to the submissions. Notwithstanding that the Planning Practice Guidance: Use of Planning Conditions cautions against the use of a condition concerning affordable housing in most circumstances, Policy LIV4 refers to this mechanism, or a planning obligation. On this basis, if I was minded to allow the appeal, it is an issue which could be dealt with through the imposition of a planning condition.
31. As a consequence, I conclude that the proposal would make adequate provision for affordable housing and so it would comply with Policy LIV4 which sets out that proposals for new (general market) housing which meet the relevant thresholds will be required to contribute towards the provision of affordable housing, and with the arrangements that the policy sets out in this regard.

Other Matters

32. Whitehough Grange, named as Whitehough House, Farmhouse and Outbuildings, is grade II listed. There would still be some separation between the listed building and the proposal by way of the intervening grounds that would remain. On this basis, the proposal would preserve the building or its setting or any features of special architectural or historic interest which it possesses.
33. The appellant has set out that the proposal would be accessible to local services and while the Highway Authority raised concerns on this matter in its planning application response, it is not in dispute with the Council based on its appeal statement. A footway along Barley New Road provides access to bus stops and the nearby settlements of Barley and Roughlee provide local services which are typical for a rural area, while Barrowford provides a broader range of day to day services. Hence it would be policy compliance in this regard. This is a neutral matter and similarly in respect of that the proposal would not be unacceptable with regard to flood risk and living conditions matters.
34. Interested parties raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Overall Planning Balance and Conclusion

35. Whilst I consider the proposal to be not unacceptable with regard to the AONB and affordable housing provision, the unacceptable effect on both the significance of the conservation area with regard to its setting and the safety of users by way of the proposed access arrangements are decisive. In coming to this view, I am mindful of the strong level of protection that is afforded to a heritage asset and the need for access to be safe.
36. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. For these reasons, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR