
Appeal Decision

Site visit made on 4 September 2023

by Edwin Maund BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 September 2023

Appeal Ref: APP/R4408/W/23/3315741

Land off Lowfield Road Bolton Upon Dearne South Yorkshire S63 8JF.

- 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 Gleeson Developments Ltd. against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2019/0623, dated 14 May 2019, was refused by notice dated 26 October 2022.
 - The development proposed is: The erection of 97 houses with garages and/or parking spaces, together with the provision of open space and associated roads and sewers.
-

Decision

1. The appeal is dismissed.

Main Issue

2. From the evidence before me I consider the main issue to be:
 - The effect of the proposed development on highway safety with particular regard to the road bridge on Lowfield Road and at the junction of Angel Street and Station Road.

Reasons

Background

3. This is the third phase of residential development proposed, following the permission for and development of the first two phases by the Appellant. As the Appellant sets out in their evidence, at the time of the permission being granted for Phase 2. (LPA Ref 2013/0960), highway improvements to the railway bridge were to be undertaken.
4. This appeal proposes a further 97 two storey houses consisting of 28 two bed, 60 three bed and 9 four bed properties, on a field of 2.65ha located to the east of dwellings served off Prior Croft, an existing estate road linking to Lowfield Road.
5. The appeal site has been the subject of a previous applications refused by the Council in 2015 and 2018. Both were the subject of appeals dismissed in 2017 and 2019, all be it for different reasons than the current scheme.
6. The site is now allocated in the Barnsley Local Plan (BLP) (2019) for residential development under Policy HS42.

Highway Safety at the road bridge on Lowfield Road

7. The key area of dispute between the main parties orientates around part of Policy HS42 of the BLP that relates to this appeal, which states:

"The development will be expected to:

Provide traffic signals at the railway bridge on Lowfield Road..."

8. From the evidence before me and the site visit that I undertook. I was able to see the current arrangements for the road bridge over the railway line, and the adjacent footbridge which serves the railway. I was also able to observe that the details for highway improvements expected to be delivered consequent to phase 2 have not yet been carried out.
9. I read with interest the arguments presented by the Appellant as to whether a signalised junction is in fact justified in highway terms, and the perceived inconsistency in the Council's approach.
10. The previous appeal decision APP/R4408/W/17/3170851 referred to me, however, indicates at that point in time a commuted sum of £210,000 for the provision of traffic signals and signage had been agreed. In these circumstances it does not appear to me that there is an inconsistency, and the main parties had previously agreed road improvements were appropriate, prior to the development of this phase.
11. Irrespective of this history, it is not for me to consider whether the policy is justified. That would have been a matter for the Local Plan examination. From my reading of the policy, the allocation of this site for residential development relies upon the provision of traffic signals at the railway bridge on Lowfield Road.
12. It is self-evident that these works should result in safe access for all, to meet the requirements of both Policy T4 of the BLP, but also paragraph 111 of the National Planning Policy Framework (NPPF) and good planning.
13. The road bridge, being a humped back bridge limits the forward visibility for users, while the current footways on the bridge are below modern standards. The surveys undertaken by the Appellant, however, indicate that this route is used by the majority of pedestrians rather than the alternative pedestrian railway bridge.
14. This pedestrian bridge has been designed to modern standards and allows a step free access away from the road, providing a safer route for pedestrians. Even if I were to accept the Appellants argument that this achieves appropriate safe access across the railway bridge, it does not resolve the obvious shortcomings associated with the footway across the road bridge.
15. This route, being shorter is still being used by the majority of pedestrians, the increase that the development would create, would be likely to generate an increase in usage of both routes without addressing the problem. I do not regard this as satisfactory.
16. Either side of the bridge are two access roads. To the west on the southern side is Calder Road, a residential street which runs parallel to the B6098 (Angel Street) before turning west to connect through to the B6098. While to the east

of the road bridge on the northern side, is an unnamed road providing access to a range of businesses including a salvage yard.

17. Both junctions currently have restricted visibility due to their proximity to and the vertical alignment of the bridge. The Appellant's Transport Assessment indicates that *"forward visibility at the railway bridge falls short of the new construction standard of 43m for a road subject to a 30 mph speed limit."*
18. While the speed survey data also provided indicates that the 85th percentile would equate to a design speed of 40 kph, it does not conclude that this can be achieved.
19. In addition, the swept path analysis provided by the Appellant showing the turning movements, indicates that there is the potential for conflict if either a panel van, or larger vehicle were to meet another panel van, or another larger vehicle.
20. The Council also argue that there would be the potential for conflict in the event of a vehicle leaving the side road, but there not being space to be clear of the main carriageway.
21. I regard both shortcomings as unsatisfactory and agree with the Council's assessment that it has the potential to create unsafe conditions.
22. While the traffic survey data shows that even during peak hours the road usage does not generate large quantities of traffic, there remains a potential for conflict.

Suitability of a condition

23. The Appellant also suggests that irrespective of the findings in respect of the current proposed signalisation scheme, the appeal could be allowed with a Grampian condition in place. The suggested wording would allow for the construction and occupation of up to 50 dwellings.
24. I am not persuaded this is an appropriate approach. At present there is not an agreed scheme in place, and this would allow for a further increase of the pedestrian crossing of the footway on the road bridge at a time when the current standard of footway is shown to be below standard.
25. This does not meet either that part of policy HS42 of the BLP I referred to earlier or meet the broader test in the NPPF. Where at paragraph 110 (b) it states:

"In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

b) safe and suitable access to the site can be achieved for all users"

26. In conclusion, while the pedestrian footbridge offers an alternative route, it is a moot point whether this is available in perpetuity for the public to use, even if I were persuaded this was an appropriate solution, it does not resolve the visibility issue or the ongoing risk to users of the narrow footways on the road bridge.
27. It is in my view reasonable to expect improvements when there is a policy requiring a signalised junction. The increase in traffic and pedestrian flows

across this bridge will only be likely to exacerbate the identified shortcomings of the present arrangements.

28. Policy T4 of the Local Plan seeks to ensure that developments are designed to provide all transport users within and surrounding the development with safe, secure and convenient access and movement. The scheme as proposed I conclude does not satisfy this policy test.
29. The supporting text to the policy makes plain that if a development is not suitably served by the existing highway or would create or add to highway safety problems or would adversely affect the efficiency of the highway applications would be refused *"unless the developer agrees to take full responsibility for any necessary improvements or measures to upgrade the highway network to a suitable standard"*.

Consequently, I conclude that the proposed development could result in an adverse effect on pedestrian and highway safety and thereby conflict with both policies HS42 and T4 of the BLP and paragraph 111 of the NPPF.

Angel Street/Station Road junction

30. The initial Transport Assessment (TA) provided by the Appellant indicated that the appeal development could result in over capacity at this junction. Having identified this potential problem, no mitigation was proposed while the application was being processed by the Council.
31. I, also note that no issues at this junction were previously identified when allocating the site or in considering the prior applications, and there is nothing within policy HS42 that indicated that any improvements to this junction were anticipated to be necessary.
32. Having said that the Council in having received the Appellant's TA should be able to rely upon it.
33. As the Appellant acknowledges, time has moved on since the original surveys, and in support of this appeal, further work has been undertaken to assess the suitability of the current junction arrangements. While the Council maintain that the approach, they took during the application was justified, they do not provide evidence which challenges the new findings and conclusions presented by the Appellant.
34. There, is nothing before me that disputes that the current arrangements, including ghost island are operating well below capacity during both the morning and evening peak hours or that the maximum RFC of 0.50 is incorrect. As such I am not persuaded that there is evidence that would warrant alterations or modifications to this junction and that the current arrangements would be satisfactory to serve the proposed development and accord with policy T4 of the BLP.
35. In these circumstances I do not consider that the second reason for refusal can be sustained and do not conclude there would be a conflict with policy T4 of the BLP.

Other Matters

36. Several interested parties made reference to the proximity of the appeal site to the sewage works, the potential for reduced water pressure, and the potential

for additional pressure on on-street parking particularly in Lowfield Road. In light of my findings on the main issues, I have not addressed these matters further.

37. In setting out their case the Council made reference to a number of matters which they considered appropriate to be delivered by way of a planning obligation agreement under s106 of the Town and Country Planning Act. This is not disputed, and the Appellant referenced in their submission the heads of terms that such an agreement should cover. No such agreement, however, was submitted prior to the deadline for submissions in this case, and the heads of terms detailed by the Appellant do not correspond with what the Council set out in their committee report. This inconsistency would have needed to be resolved, had I found in favour of the proposal.

Conclusion

38. For the reasons given the appeal is dismissed.

Edwin Maund

INSPECTOR