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# Appeal Decision

Site visit made on 25 March 2024

**by L Wilson BA (Hons) MA MRTPI**

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

**Decision date: 25<sup>th</sup> April 2024**

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**Appeal Ref: APP/E2340/W/23/3333395**

**425 Gisburn Road, Blacko, Lancashire BB9 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mrs J Cox against the decision of Pendle Borough Council.
  - The application Ref is 22/0573/OUT.
  - The development proposed is erection of 9 residential dwellings with attached/detached garages.
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## Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 9 residential dwellings with attached/detached garages at 425 Gisburn Road, Blacko, Lancashire BB9 6LS in accordance with the terms of the application Ref 22/0573/OUT, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration except for means of access. Appearance, landscaping, layout, and scale are reserved matters for future approval. I will proceed on the basis that details shown on the submitted drawings in respect of matters that are reserved for future approval are for illustrative purposes only.
3. Since the application was determined, a revised version of the National Planning Policy Framework (the Framework) has been published. In relation to this appeal the relevant parts of the Framework are similar. Consequently, I have not gone back to the parties for comments. Whilst I have had regard to the Framework in reaching my decision, no party would be prejudiced or caused any injustice by me taking this approach. In any event, the main parties were able to deal with this matter within their submissions.
4. The main parties were given the opportunity to comment on the schedule of conditions, and the appellant confirmed that they agreed to the conditions.

## Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

## Reasons

6. The appeal site comprises a plot of land adjoining 425 Gisburn Road and adjacent to the settlement boundary. It sits notably lower than Gisburn Road and the surrounding area is characterised by Gisburn Road (the A682),

residential properties and countryside. The site is located within the Moorland Fringe landscape character type. Towards the west of the site are open fields and there are attractive views towards Blacko Water, Pendle Water and the wider National Landscape.

7. The majority of built form is situated to the eastern side of Gisburn Road and has a predominantly linear pattern. Nonetheless, the western side contains a notable amount of built development and there are examples of built form that does not follow the linear pattern, including structures to the west of the site.
8. The site has a rural backdrop but has a close relationship with the built form of Blacko. The development would alter and urbanise the character and appearance of the site and area. It would be visible from nearby public rights of way which form important public access and view points within the National Landscape. However, the development would not be prominent when viewed from these viewpoints and Gisburn Road. This is due to the topography of the area and there are trees and hedges to the site boundaries. Future landscape proposals, which could be conditioned, could provide new planting to enhance the existing boundaries.
9. Given the proximity of the site to the existing built development, the scheme would be read in the context of the village. The development would not be an incongruous addition and would not have an adverse impact on the National Landscape. This is because it would be limited in scale, would closely relate to the existing built form, and would not appear dominant. The proposal would be respectful of the established pattern of development, as well as the rural character and visual amenity of the area. Accordingly, it would protect the natural environment and would safeguard the landscape character of the area.
10. For these reasons, the proposed development would have an acceptable impact on the character and appearance of the surrounding area. Consequently, it would comply with Policy ENV1 of the Local Plan for Pendle: Core Strategy 2011-2030 (2015). This states, amongst other things, that development proposals should, wherever possible, aim to safeguard or enhance the landscape character of the area.

## **Other Matters**

### *Objection Comments*

11. I have considered the objection comments which relate to a range of matters. Concerns have been raised in relation to highway safety, including construction traffic, and it has been highlighted that there have been fatalities and major incidents along Gisburn Road. My attention has also been drawn to a withdrawn application<sup>1</sup> which I understand highways and United Utilities objected to. Gisburn Road is a strategic route, carrying a high volume of traffic. Many of the nearby dwellings do not benefit from off-street parking which results in parked vehicles along Gisburn Road. There is also a hairdressers close to the proposed access, and the Rising Sun public house and Blacko primary school are within walking distance.
12. The development would not result in a significant increase in traffic given the number of dwellings proposed. In addition, taking into account the nearby applications granted planning permission, the use of the track and context of

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<sup>1</sup> 22/0045/OUT

the appeal site, the proposed access would be acceptable, including to accommodate agricultural vehicles. Considering the consultation responses, and subject to conditions, the development would have an acceptable impact on highway safety, including on the adjacent public right of way, pedestrians and would not have a detrimental impact on nearby residents. Furthermore, any damage, if that were to occur, is essentially a private matter and there is no evidence that the proposal would intrinsically result in adverse effects in this regard.

13. Details of the appearance, landscaping, layout, and scale of the development would be considered at reserved matters stage, including on-site parking. Subject to conditions, I am satisfied that an acceptable scheme is capable of being devised at the reserved matters stage.
14. Residents have raised concerns in relation to flooding, drainage and sewerage. Taking into account consultation responses, and subject to conditions, the development would be acceptable in this regard.
15. A Preliminary Ecological Appraisal Report and a Preliminary Roost Assessment (Bats) have been provided. Subject to conditions, the development would have an acceptable impact on wildlife and existing habitats.
16. Residents highlight that the development would put pressure on local services, including schools and the doctors surgery. Additionally, they consider that the area does not need new housing, highlight there are other developments ongoing in the local area, and raise concerns relating to climate change and air quality. Considering the scale of the development, distance to Barrowford, and planning policies, these matters would not justify withholding planning permission. Each development proposal must be considered on its own merits. Whilst I have found this scheme to be acceptable, it would not set a precedent and it does not follow that other schemes would be permitted elsewhere in the local area. The appeal site is not located within the Green Belt and there is no right to a view.
17. The Council did not refuse the planning application on the other matters raised within the objection comments. Subject to appropriate planning conditions, there is no credible evidence before me that would lead me to an alternative conclusion to the Council on the other matters raised, or that could justify the dismissal of the appeal on these grounds.

### *Benefits*

18. The development would contribute to housing land supply and the local economy. Whilst these benefits would be limited due to the scale of the development, they weigh in favour of the proposal.

### **Conditions**

19. I have assessed the Council's suggested conditions and taken into account those recommended in consultation responses. In light of guidance found in the Planning Practice Guidance, where necessary I have amended the wording in the interests of clarity, precision, conciseness or enforceability.
20. In addition to the standard implementation condition, a condition specifying the reserved matters is required to provide certainty regarding the timescales for the implementation of the development and to provide clarification regarding

the scope of future reserved matters applications. It is necessary to attach a condition specifying the approved plans. In the interest of precision, and given the outline nature of the proposal, I have amended the wording of this condition as drawing CAL 2022 001 001 Rev E shows an indicative layout which does not form part of this outline application.

21. Conditions relating to drainage are necessary to promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To ensure the ecology of the site is enhanced and protected species are not harmed by the development, conditions relating to the Preliminary Ecological Appraisal Report and Preliminary Roost Assessment (Bats) are necessary. Given the date of these reports, it is necessary to ensure that the surveys are fit for purpose and updated if the development has not taken place by May 2024.
22. In the interests of highway safety, conditions relating to the site access and the off-site works as well as visibility splays are necessary. Traffic Regulation Orders (TRO) are legal orders made by traffic authorities that are needed to change a road's use or its design. The appellant would need to apply for a TRO to carry out the highway works, and that is subject to a consultation exercise outside of the planning process. Thus, the developer would have no control over the success of the TRO. Therefore, I have removed reference to the TRO in condition 7 as such reference would not be enforceable or necessary. Highways have also confirmed that the provision of 14 car parking spaces is no longer required so I have removed this from condition 7.
23. To safeguard the living conditions of existing occupiers and in the interests of highway safety, a construction method statement condition is necessary. Furthermore, in the interests of protecting the character and appearance of the area and to protect existing trees, conditions relating to a scheme of landscaping and retained trees are necessary.

## **Conclusion**

24. I realise that this decision will be disappointing to those who objected against the proposed development. However, taking everything into account, there is no compelling reason to withhold planning permission in this case. Consequently, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal succeeds.

*L Wilson*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. Access to the development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan (1:1250); and
  - Drawing titled 'planning application, proposed site layout, highways swept path analysis plan, agricultural vehicle access' (CAL 2022 001 001 Rev E).
5. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the local planning authority. The drainage schemes shall include:
  - i. An investigation of the hierarchy of drainage options set out 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 in accordance with BRE365;
  - 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). In the event of surface water discharging to the public combined sewer, the rate of discharge shall be restricted to 5 l/s;
  - iii. Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
  - iv. Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
  - v. Foul and surface water shall drain on separate systems.The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage.

Prior to occupation of the development hereby permitted, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.
6. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted

to and approved in writing by the local planning authority. The sustainable drainage management and maintenance plan shall include:

- i. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- ii. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be implemented and thereafter maintained and managed in accordance with the approved plan.

7. No part of the development hereby permitted shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation has been submitted to and approved in writing by the local planning authority in consultation with the Highway Authority. Works shall include:
- i. the construction of the access, including a minimum width of 6.5m and radius kerbs;
  - ii. buff coloured tactile paved dropped pedestrian crossings both sides of the access;
  - iii. construction of 2m wide footways into the site on both sides of the new access;
  - iv. re-location of any highway gullies;
  - v. Give Way carriageway markings on Gisburn Road at amended access;
  - vi. re-instatement of footway to the South of the access including full height kerbs, approximately 5.5m in length;
  - vii. a street lighting assessment.

The works shall be completed prior to the first occupation of any dwelling and retained thereafter.

8. The development hereby permitted shall not commence until the highway works to facilitate construction traffic access to the development site have been constructed in accordance with a scheme which shall be submitted to and approved in writing by the local planning authority.
9. No development shall take place, including any works of clearance, until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
- i. The parking of vehicles of site operatives and visitors;
  - ii. The loading and unloading of plant and materials;
  - iii. The storage of plant and materials used in constructing the development;
  - iv. The erection and maintenance of security hoarding;
  - v. Wheel washing facilities;
  - vi. Measures to control the emission of dust and dirt during construction;

- vii. Measures to control noise and vibration during construction;
- viii. A scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix. Delivery, demolition and construction working hours;
- x. Measures to ensure that construction and delivery vehicles do not impede access to neighbouring properties.

10. The development hereby permitted shall not commence until visibility splays measuring 2.4m back from the centre line of the access and extending 43m on the nearside carriageway edge in both directions on Gisburn Road have been provided at the amended access, as shown on the approved plans. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.9m above the nearside carriageway level which would obstruct the visibility splay. The visibility splays shall be maintained free from obstruction at all times thereafter for the lifetime of the development.

11. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal Report (produced by Ecology Services Ltd, dated May 2022). If development has not commenced by May 2024 an updated Preliminary Ecological Appraisal Report, based on the same methodology, shall be submitted to and approved in writing by the local planning authority. All ecological measures and/or works shall then proceed in accordance with the approved measures.

12. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Preliminary Roost Assessment (Bats) (produced by Ecology Services Ltd, dated May 2022). If development has not commenced by May 2024 an updated Preliminary Roost Assessment (Bats), based on the same methodology, shall be submitted to and approved in writing by the local planning authority. All measures and/or works shall then proceed in accordance with the approved measures.

13. A scheme of landscaping shall be submitted to the local planning authority for approval as part of the reserved matters application. The scheme shall include:

- i. the location and species of all existing trees and other planting to be retained;
- ii. all proposals for new planting (including replacement hedgerow and tree planting), and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
- iii. an outline specification for ground preparation;
- iv. boundary treatments;
- v. hard surfacing materials;
- vi. implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be

managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

14. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. [In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]