



Appeal Decision

Site visit made on 4 April 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 29th April 2024

Appeal Ref: APP/Z2315/W/23/3332295

East Barn Holt Hill, Halifax Road, Briercliffe, Lancashire BB10 3QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nick Rumboll against the decision of Burnley Borough Council.
 - The application Ref is FUL/2023/0299.
 - The development proposed is creation of vehicular access from the classified road, construction of access track and domestic parking area within a field and subsequent change of use of land from agricultural to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission has previously been granted¹ for a new access and track. There are no details of this in the submitted evidence.
3. The appellant's have confirmed that the proposed site plan on which the Council determined the application was drawing 100 Rev C.

Main Issues

4. The main issues are the effect of the development proposal on:
 - the character and appearance of the area;
 - highway safety;
 - the public rights of way; and
 - the living conditions of the occupiers of Holt Hill Farm with regard to privacy and noise and disturbance.

Reasons

Character and appearance

5. East Barn is in the middle of a terrace of three dwellings, attached to Holt Hill Farm on one side. At the front of the dwelling is a stone boundary wall and an area for the parking of cars. To the rear is a garden, also with a stone boundary wall. Beyond this are agricultural fields which had sheep grazing at the time I visited the site. The area is characterised by traditional stone walls and expansive views of the surrounding countryside.

¹ APP/2006/0125

6. The proposed access would be created in a field between the boundary of Holt Hill Farm, and an electricity sub-station and three garages, located close to the entrance of the settlement. The proposed development would remove a significant amount of the existing stone boundary wall, although new walls would be built at the entrance, and the rest of the walling would be repaired. The stone walls are an essential part of the traditional character of the area.
7. The track would be 3 metres wide with a gravel finish and a central grass strip. Whilst the access and track would be located close to existing properties, it is an open, pleasant, agricultural field with views up to the brow of the hill and the surrounding countryside. It provides an important green gap between the garages and sub-station and the row of housing, contributing significantly to the rural setting of the site and its environs.
8. Whilst agricultural tracks are found throughout the countryside, a track close to the boundary of a residential dwelling in this way would appear incongruous. This is particularly because of the gradient of the site and the fact that it would be highly visible both from the road and from people passing through the field using the two public rights of way. The combination of the track and the parking and turning area within the field would appear discordant and urbanise the rural setting. Moreover, the movement of vehicles along the track, whilst likely intermittent, would erode the character of the area.
9. Therefore, to conclude, the proposal would cause significant harm to the character and appearance of the area.
10. It would not accord with Policy SP4 of Burnley's Local Plan, 2018 (LP) which requires sites in the open countryside, outside the development boundary to be strictly controlled, and to only be permitted where it is of an appropriate scale and type. It would also not accord with LP Policy NE3 which, amongst other things requires development to relate well to the local topography and built form and to minimise the impact on the landscape character of the site and its surroundings.

Highway safety

11. The site adjoins Halifax Road which has a speed limit of 30mph where the access would be constructed. A pavement is located on the opposite side of the road to the proposed access.
12. Whilst the road leading up to the appeal site from the east is relatively straight, it has steep grass banks with high stone boundary walls. The road slopes slightly downwards to where the 30mph speed limit begins, a short distance from the site. There is a bend in the road between the garages and the proposed access.
13. The access would be constructed on a level site. However, the position of the garages and the bend in the road would mean that visibility would be impaired. Based on what I saw regarding the speed of vehicles travelling along this road, which can only represent a brief snapshot in time, I cannot be assured that the creation of the access would be safe for users of the highway. Moreover, without a speed survey it is not known whether the proposed visibility splay, despite the proposed reduction in wall height adjacent to the access, would be adequate. Furthermore, the visibility splays cross third-party land and so would not be achievable.

14. Although the appellant wishes to provide parking at the rear of the property, East Barn has a parking area at the front which I saw was adequate for the parking of two vehicles. Whilst there may be limited room for manoeuvring within the site, and there may be parking issues along this stretch of road, this is not a reason to allow the creation of a new access and parking area when there are significant concerns regarding highway safety.
15. Therefore, to conclude, the evidence does not lead me to believe that the access is suitable and that it would not unacceptably harm the safety of the users of the highway in this location. It would not accord with LP Policy IC1 which requires safe pedestrian, cycle and vehicular access to, from and within development, including providing adequate visibility splays.

Public rights of way

16. Two footpaths, designated as public rights of way², cross the proposed access track. However, the submitted drawing shows the footpaths in a different location to that on the Council's plan. On the ground, the signage for the footpath from Halifax Road directs users to travel within the grounds of Holt Hill Farm and then access the field and follow the boundary fence for the initial part.
17. Where the proposed track reaches the point on the ground where the gradient of the land rises, the submitted plan shows the footpath narrowing to a width of 1500mm, rather than the minimum requirement of 2000mm.
18. The Council's Rights of Way officer had no objection to the proposal, subject to conditions, which the appellant considers would be appropriate. However, amendments would be required to the submitted plans, as well as further details as to how the differing levels within the site and drainage would be dealt with. Therefore, whilst the appellant is prepared to amend the proposal, including widening the footpath, and to apply for the necessary consents, I am not satisfied that a suitably worded planning condition could address some of these matters.
19. To conclude, based on the evidence before me, the proposed development would affect access to the public rights of way footpaths that cross the site. It would not accord with LP Policy IC1 which seeks to ensure that existing public rights of way are retained and where appropriate improved or rerouted.

Living conditions of neighbouring properties

20. Holt Hill Farm is separated from the adjoining agricultural field by vertical wooden fencing, supplemented by a hedge growing along the rear. The proposed track would in effect surround the rear garden of Holt Hill Farm, with the parking area located adjacent to their boundary. Whilst the track would only be visible in part from the garden, it would encircle the property and would affect the privacy that the occupiers of the property currently enjoy. Moreover, whilst it is unlikely to be continuous, vehicles would be driving along the track to and from the parking area. This would result in noise and disturbance to the occupiers of the property when using their garden and the rear of their house.

² FP 1203089 and FP 1203090

21. Therefore, to conclude, the proposal would harm the living conditions of the occupiers of Holt Hill Farm with regards to privacy and noise and disturbance. It would not accord with LP Policy NP5 which amongst other things, requires that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users.

Other Matters

22. The appellant has stated that the proposal is required for the maintenance of the rear of their property. No evidence has been provided, however, to show that constructing a permanent access and track is the only way of achieving this.
23. Whilst I understand the Council's pre-application response did not request details of a speed survey, this advice is not binding on any formal consultation as part of a future planning application. It is clear to me, however, that because of the location of the site and the position of the existing speed sign, that a survey is required.
24. Whilst the appellant contends that agricultural work in the field would have a greater impact on residential amenity than the proposed development, the application is for a proposal associated with a residential dwelling.
25. Objections to the application were reputed to have been unavailable on the Council's website, although the officer report refers to objections, and copies of these were provided for the appeal. This is, however, a matter between the parties and does not affect my determination of this appeal.
26. I could see when I visited the site that the large tree in the grounds of Holt Hill Farm does not conflict with visibility splays, and that a photograph showing parking on the pavement only represents a particular snapshot in time.
27. Whilst the appellant considers that the levels at the entrance area could be adjusted to improve visibility and that appropriate drainage would ensure that water does not escape onto the highway, the appeal is determined based on the evidence before me.

Conclusion

28. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.
29. For the reasons given above, I conclude that the appeal should be dismissed.

M J Francis

INSPECTOR