



Appeal Decision

Site visit made on 10 December 2024

by **R Jones BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 December 2024

Appeal Ref: APP/N4205/W/24/3351229

Land adjacent Electricity Sub Station, Tarbet Drive, Bolton BL2 6LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Zulfiquar Ali against the decision of Bolton Council.
 - The application Ref is 16469/23.
 - The development proposed is development of existing vacant land to comprise 2no. family houses each separately accessed from Tarbet Road via existing private driveways.
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Decision

1. The appeal is allowed and planning permission is granted for development of existing vacant land to comprise 2no. family houses each separately accessed from Tarbet Road via existing private driveways at land adjacent Electricity Sub Station, Tarbet Road, Bolton BL2 6LT in accordance with the terms of the application, Ref 16469/23, and the plan submitted with it, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Zulfiquar Ali against Bolton Council and this is the subject of a separate Decision.

Preliminary Matters

3. The appeal scheme relates to an outline proposal, with access to be considered at this stage and matters relating to appearance, landscaping, layout and scale reserved for future consideration. I have considered the appeal on this basis and treated the submitted plans as indicative with regards to the outstanding matters.
4. A revised plan was submitted with the appeal (as an Appendix to the appellant's evidence) which shows measurements of the width of each access and visibility splays, based on a topographical site survey. *The Procedural Guide: Planning Appeals – England* advises that if an appeal it made the appeal process should not be used to evolve a scheme. Consequently, in most cases, appeals are determined on the basis of the scheme and the plans which were before the local planning authority when it made its decision. In this case, however, each point of access is existing and the revised plan clarifies the measurements, rather than altering or amending the proposal that is before me. I am therefore satisfied that no parties would be prejudiced should this plan be accepted, and accordingly I have assessed the proposal on the basis of the revised plan.

5. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The Framework is only relevant to this case in so far as it relates to planning conditions and because the guidance in this regard has not changed (from the December 2023 version) it has not been necessary to seek the views of the parties on this matter.

Main Issues

6. The main issues in this case are whether the proposed access is adequate in width (western access only) and whether adequate visibility splays can be achieved.

Reasons

Access width

7. The appeal site comprises an area of open land between existing dwellings fronting Tarbet Street to the south and west, Morven Grove to the north and Torridan Road to the east. I observed that Tarbet Street is a quiet residential road, very lightly-trafficked and subject to a 20mph speed limit.
8. The appeal proposal is for the development of 2no. dwellings which would each be accessed separately from Tarbet Drive, to the south and west. The Council's first reason for refusal alleges that the existing western access to the site would be of a substandard width, contrary to Policy JP-C8 of the Places for Everyone Joint Development Plan Document (2024) (PfE) and guidance in 'Manual for Streets.'
9. The Council, in their Statement of Case, have stated that: *'following further consideration of reason for refusal no.1 in light of the appellant's statement, the LPA does not wish to contest this reason.'* Whilst I note this, the Council do not go so far as to suggest they now find the width of the western access acceptable. It is also clear from objections from neighbours and the transcript of the Council's Planning Committee meeting, that the points of access were of particular concern. Accordingly, despite the Council's statement, I have dealt with the width of the western access as a main issue.
10. The Council's Highways Officer did not object to the planning application, rather referred to the Council's design guide and specifically that the access width for a single property should be a minimum of 3.0m. I have not been provided with a copy of this design guide, but I note an extract from the Council's 'Roads for Adoption' document (2003) is provided in the appellant's evidence (referring to paragraph 2.10). This states that private drives should be *'a) sufficiently wide to permit the vehicle to be serviced from both sides and allow pedestrian access to the property along the side of the parked vehicle, i.e. 3.0m minimum width.'* The more recent guidance in Manual for Streets 1 (2007) (MfS1) is that the design of new streets or the improvement of existing ones should take into account the functions of the street, and the type, density and character of the development. It recognises that in lightly-trafficked streets, carriageways may be narrowed over short lengths and, in particular circumstances, this may be reduced to a minimum value of 2.75m.
11. None of the plans submitted with the planning application provided a measurement for the width of the western access along its full length. The 'Junction Visibility and Access Width Plan' (drawing ref. 3829-01-D01) now submitted as an Appendix to the appellant's Statement of Case annotates the width of both points of access along their length. It shows that the width of the western access would be between

2.53m, a pinch point at the entrance, and 2.66m. So it falls short of both the Council's design guide and MfS1 minimum widths.

12. The appellant has referred me to the guidance at paragraph 6.7.3 of MfS1 which refers to the requirements for emergency vehicles and specifically states that *'simply to reach a fire, the access route could be reduced to 2.75m over short distances, provided the pump appliance can get within 45m of dwelling entrances.'* The western access would conflict with this guidance, but I am mindful that the guidance is just that, and requirements for vehicle access (including width) in respect of fire safety are covered by separate legislation, in the Building Regulations. The Swept Path Assessment Plan submitted in the appellant's evidence shows that the western access could accommodate a car and a small delivery vehicle (a 3.5t Panel Van), albeit that for the delivery van in particular, it would be tight at the pinch point at the entrance.
13. I accept that there may be issues for larger delivery vans for items such as furniture, but I share the view of the Council's Case Officer that these will likely be few and far between and deliveries could be made on Tarbet Road (as with other dwellings). On balance, therefore, I conclude that, despite the conflict with the MfS1 guidance, the western access is adequate for a single residential dwelling. Consequently, it would not conflict with PfE Policy JP-C8 which prioritises safe and convenient access to the site and buildings for all users.

Visibility splays

14. The differences between the parties relates to the interpretation of the guidance relating to visibility splays at junctions contained in MfS1. First, this guidance explains that the purpose of a visibility splay at a junction is to ensure that there is adequate inter-visibility between vehicles on the major and minor arms of a highway. The calculation of a visibility splay is based on an X distance, generally measured back from a 'give way' line along a minor arm, and a Y distance which is the distance a driver can see in either direction on exiting the minor arm. The Council's case is that both points of access should have a visibility splay of 2.4m (X) by 25m (Y) and these dimensions were shown (in part) on the plan submitted with the planning application. However, the plan failed to show the full Y distance and, in order to achieve the visibility splays, land outside the control of the appellant would have been required; the splays intersect land owned by neighbours either side of the point of access.
15. The appellant has drawn my attention to paragraph 7.7.7 of MfS1 which states that a minimum figure of 2m (so the X distance) may be considered in some very lightly-trafficked and slow-speed situations, recognising that using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. As I have described, I observed Tarbet Drive to be a quiet, very lightly trafficked residential road where cars were moving slowly, with caution. I therefore consider an X distance of 2m appropriate in this location.
16. MfS1 advises that the Y distance should be based on values for Stopping Sight Distance (SSD) set out in Table 7.1 – in this case for a speed of 20 miles per hour. The Council have adjusted this figure (from 22m to 25m) to account for the bonnet length of a vehicle, but have been provided no detailed explanation for this adjustment. I concur with the appellant that this adjustment is applicable only to forward visibility splays where it would be reasonable to take account of the position

of the driver (relative to the vehicle length), as opposed to at a junction where a vehicle will typically be in a stationary position and perpendicular to the road it is entering.

17. Despite the appellant's case that a X distance of 2m is appropriate, the 'Junction Visibility and Access Width Plan' (drawing ref. 3829-01-D01) submitted in the appellant's evidence shows visibility splays of 2.4m x 22m, drawn with accurate AutoCad software and based on a topographical site survey. I am therefore satisfied that the MfS1 guidance can be met. I further observed on my site visit that the visibility from the western access, in both directions, is good. I recognise that cars will approach the southern access from the west uphill and around the bend in Tarbet Drive. I did not, however, find this bend to be 'blind' and given the slow speed of vehicle movement and very low level of traffic I found the visibility to the right (and indeed in both directions) when exiting the southern access to be adequate, particularly given drivers would typically leave a residential driveway with care.
18. I therefore conclude on the second main issue that there is sufficient evidence to demonstrate that adequate visibility splays can be achieved. The appeal proposal would comply with the guidance in MfS1 and, by providing a safe access, would accord with PfE Policy JP-C8.

Other Matters

19. I acknowledge that concerns have been raised by third parties both in terms of the aesthetics of the proposed development and its effect on the living conditions of neighbours, particularly in respect of privacy, noise and pollution. Such matters would, however, be dealt with at reserved matters stage. In respect of the potential harm to wildlife, a Preliminary Ecological Appraisal was submitted with the planning application which identified that there were no protected species or habitats on, or close to, the site. Further, in order to meet the requirements of PfE Policy JP-G8, the Council have proposed a condition which would require that the development achieve a 10% Biodiversity Net Gain.
20. Finally, whilst I acknowledge concerns raised by third parties, I have no substantive evidence before me regarding the previous use of the site, or public access to it, and I am mindful of the Council's assessment that the land is privately owned and access to it is at the owner's discretion.

Conditions

21. Having regard to the advice in the Framework and the supporting advice in the Planning Practice Guidance, I have considered the conditions suggested by the Council, in the event I allow the appeal. The appellant has had an opportunity to comment on these conditions, but has not done so. I have amended some of the wording of the suggested conditions to be more precise and consistent.
22. Conditions regarding the submission and approval of reserved matters as well as compliance with the Junction Visibility and Access Width Plan is required in the interests of certainty. I have also imposed the standard timeframe for commencement of development set out in Section 92(2) of the Town and Country Planning Act 1990 (as amended), rather than the five years suggested by the Council, as there was no explanation for this deviation.

23. A Construction Management Plan, to be submitted and approved before works commence, is necessary to ensure that potential disturbances to neighbours during the construction period are minimised.
24. The Preliminary Risk Assessment (Earth Environmental & Geotechnical) submitted with the planning application recommends that an intrusive investigation is undertaken including soil samples around the area of the offsite electricity sub-station. Therefore, in accordance with this, and the interests of minimising risks from potentially contaminated land, I have imposed a condition requiring a comprehensive site investigation and risk assessment.
25. The Council have suggested a condition that prior to commencement of development an Arboricultural Impact Assessment is submitted to ensure that the development will be constructed without causing harm or damage to the retained trees. Whilst I find this necessary, I have amended the condition such that this information forms part of the reserved matters submission so that any impact of the proposal on trees can be fully assessed, alongside landscaping details.
26. A condition requiring the submission and approval of full details of the proposed sustainable drainage scheme prior to commencement of the development is also necessary in the interests of providing a satisfactory surface water drainage scheme.
27. A condition has been suggested by the Council that no vegetation clearance shall take place between the months of March and August inclusive in order to protect breeding birds. Because nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended), I do not find this condition to be necessary. In the interests of highway safety and the effective operation of the site, I have imposed a condition requiring, as part of the reserved matters submission, a scheme for the parking and manoeuvring of vehicles within the curtilage of the dwellings.
28. The Council have suggested that before a plot is first occupied a scheme of external lighting and floodlighting to that dwelling shall be submitted and approved, implemented in full and thereafter retained. Save to prevent light pollution, I have no explanation before me as to why this is necessary in this case given that the appeal site is within an established residential area where external lighting (of various types) is prevalent. I have therefore omitted this condition.
29. Because the appeal site is surrounded by existing dwellings, it is necessary, in the interests of privacy, to require the details of boundary treatments as part of the reserved matters application. PpE Policy JP-G8 expects development to achieve a measurable net gain in biodiversity of no less than 10% and a condition has been imposed to secure this. The condition has, however, omitted the requirement for submission of existing and proposed planting because this naturally falls within the scope of the reserved matters submissions for landscaping.

Conclusions

30. For the reasons given above, I conclude that the appeal should be allowed.

R. Jones

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) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (drawing ref. PP_12298395v1); and 'Junction Visibility and Access Width Plan' (drawing ref. 3829-01-D01), in so far as it relates to the approved means of access.
- 5) Notwithstanding the submitted plans, prior to the commencement of development, including demolition, ground works or vegetation clearance a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details:
 - a) Hours of construction and deliveries;
 - b) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway;
 - c) Dust suppression measures;
 - d) Noise emission suppression measures;
 - e) Construction routes in and around the site;
 - f) Compound locations together with details of the storage facilities for any plant and materials including off-site consolidation if appropriate, the siting of any site huts and other temporary structures, including site hoardings and details of the proposed security arrangements for the site;
 - g) Parking of vehicles associated with construction, deliveries, site personnel, operatives and visitors;
 - h) Sheeting over of construction vehicles.Development of each phase or plot shall be carried out in accordance with the approved CMP.
- 6) In accordance with the Preliminary Risk Assessment: Tarbet Drive, dated August 2023 (ref: A5568/23/FDS) by Earth Environmental & Geotechnical prior to commencement and before any physical site investigation, a comprehensive site investigation and risk assessment shall be submitted to and approved by the Local Planning Authority. This shall include an assessment to determine the nature and extent of any contamination affecting the site and the potential for off-site migration.

Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment shall be approved by the Local Planning Authority prior to commencement. Any additional or unforeseen contamination encountered during development shall be notified

to the Local Planning Authority as soon as practicably possible and a remedial scheme to deal with this approved by the Local Planning Authority.

Upon completion of any approved remediation schemes, and prior to occupation, a completion report demonstrating that the scheme has been appropriately implemented and the site is suitable for its intended end use shall be approved in writing by the Local Planning Authority.

The discharge of this planning condition will be given in writing by the Local Planning Authority on completion of the development and once all information specified within this condition and other requested information have been provided to the satisfaction of the Local Planning Authority and occupation/use of the development shall not commence until this time, unless otherwise agreed by the Local Planning Authority.

- 7) Any Reserved Matters application shall be supported by the submission of an Arboricultural Report in the format of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations'. This shall include an up-to-date Arboricultural Impact Assessment, tree protection plans and appropriate method statements (as per section 5 & 6 of BS5837:2012).
- 8) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in full and thereafter retained, managed and maintained in accordance with the approved details. Those details shall include: i) a timetable for its implementation, and ii) a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 9) As part of the Reserved Matters application, a scheme shall be submitted to and approved in writing by the Local Planning Authority for the parking/turning/loading/unloading of vehicles within the curtilage of the site [to enable vehicles to enter and leave the site in forward gear]. The approved scheme shall be implemented in full before the development is first brought into use and retained thereafter and not to be used for any purpose except the parking/turning/loading/unloading of vehicles.
- 10) As part of the Reserved Matters application, details (including materials, height and colour) of the treatment to boundaries shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented to each plot prior to occupation of the dwelling on that plot and retained thereafter.
- 11) No dwelling shall be occupied until a scheme to provide a biodiversity net gain of at least 10% has been submitted to and approved in writing by the Local Planning Authority.