



Appeal Decision

Site visit made on 13 August 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2025

Appeal Ref: APP/E2340/W/25/3365324

Land to the West of Sheridan Road, Colne, Lancashire BB8 7HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Mr Roberts, Mr Ian Baxter, Mr Harry Dee and Ms Joan Whittaker against Pendle Borough Council.
 - The application Ref is 25/0035/OUT.
 - The development proposed is application for outline planning permission for the erection of 18 no. dwellings [Use Class C3] with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr H Roberts, Mr Ian Baxter and Ms Joan Whittaker, the appellant. An application for costs has also been made by Pendle Borough Council. This matter is subject to a separate decision.

Preliminary Matters

3. The application is submitted in outline with the details of access provided for consideration. All other matters of appearance, landscaping, layout and scale are reserved for future approval. I have treated all plans, other than those relating to access as illustrative.
4. The appeal stems from the failure of the Council to determine the planning application within the prescribed period. From my analysis of the evidence, the application was deferred after its consideration at the Colne and District Committee meeting. Subsequently, the appeal was lodged following the failure of the Council to determine the planning application within the prescribed period, in consideration of the development proposed.
5. In response to this appeal, the Council note that had the appellant not filed for non-determination, it would have approved the application. However, whilst this is noted, as the appellant has filed for non-determination, the decision-making responsibility is transferred to me as an Inspector appointed by the Secretary of State. I am therefore required and permitted to arrive at my own conclusions in my assessment of this case.
6. The Council also noted the provision of the Unilateral Undertaking which was provided by the appellant. It contends that elements of the Unilateral Undertaking would not provide the appropriate contributions. Therefore, this is reflected in the main issues as set out below.

Main Issues

7. The main issues are:

- whether the proposed access point of the development would have an unacceptable impact upon highway safety, or a severe impact on the operational efficiency on the road network; and,
- whether the submitted planning obligation is necessary and would provide an appropriate contribution in respect of matters relating to Biodiversity Net Gain and monitoring.

Reasons

Access

8. The proposed development would provide up to 18 dwellings within the appeal site. Access to the proposed development would be via Sheridan Road. Sheridan Road is a long, straight thoroughfare connected by Kingsley Road and Vernon Road through a one-way system. To facilitate the access from Sheridan Road and to assist in mitigating the effect of the development upon the highway network, several off-site works are proposed. Most significantly in relation to the matter of the proposed access is the widening of Sheridan Road from Vernon Road and the widening of its southern side footpath.
9. The National Planning Policy Framework (the Framework) stipulates at Paragraph 116 that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.
10. The Highways Supporting Statement (prepared by AMA, June 2024) details the likely traffic generation of the scheme. It predicts that the proposal would generate 4 arrivals and 8 departures in the morning, with 6 arrivals and 4 departures in the evening during peak time. This equates to an additional movement approximately every 5 minutes in the morning peak period and one vehicle movement every 6 minutes in the evening peak period. This would provide a modest increase in movements to and from the appeal site.
11. Whilst only providing a single snapshot in time, my site visit was undertaken during a peak period. During my site visit, it was observed that Sheridan Road is lined with blocks of terraced residential properties, most of which lack dedicated off-street parking facilities. Off-highway parallel parking bays are provided along the northern side of the road. However, this provision is limited and does not appear to provide enough spaces to support the high number of dwellings without parking provision along Sheridan Road. Vehicles were also parked directly on the carriageway opposite these designated parking areas for a significant length of vehicles. It is therefore reasonable to assume that this is a consequence of the oversubscription of the off-highway parallel parking provision.
12. It is important to consider all reasonable future scenarios which may occur post construction of the scheme and following its mitigation. While the widening of the carriageway may offer some improvement to accessibility, the persistent lack of off-street parking along Sheridan Road would continue to result in extensive on-highway parking. As such, vehicles of varying sizes, including vans, would form

continuous lines along the highway. This would constrain the road space available along Sheridan Road, despite the enlargement of its width. As such, my attention is drawn to the effect of this on the flow of traffic in this location.

13. Should a vehicle approach from Sheridan Road while another travels in the opposite direction from appeal site, when vehicles are parked within the highway, the limited carriageway width would necessitate one vehicle reversing with vehicles parked on both sides, for a notable distance. For the vehicle approaching from Sheridan Road, this would also include the reversing of a vehicle close to this junction with Vernon Road, and the one-way system further back along Sheridan Road. Other vehicles may also be waiting to enter this location or leave the Sheridan Road area.
14. It is reasonable to expect that additional vehicles would also seek to enter or exit the appeal site and the wider Sheridan Road area, particularly during peak periods, whilst this manoeuvre is taking place. This would further intensify the operational strain on an already constrained highway environment and make movement increasingly difficult, through the presence of more vehicles waiting to access the wider highway network from Sheridan Road.
15. Furthermore, the anticipated highway impact would not be limited to the previously described scenario. It is reasonable to expect that additional vehicles may arrive at Sheridan Road seeking to park either along the highway or within the designated off-highway parallel bays, where available. This influx would introduce further manoeuvring demands within a constrained vehicular environment. Such conditions would likely coincide with vehicles attempting to access or exit both the appeal site and Sheridan Road itself, compounding the potential for congestion and vehicular conflict.
16. This would have a severe impact on its functionality, operational efficiency and would reduce its capacity to accommodate safe and fluid movement. This would be experienced particularly during busy periods when traffic volumes and parking pressures are at their highest. In my assessment of the proposed development, it has not been adequately demonstrated that vehicles could safely pass each other, whilst vehicles are parked within the highway, post mitigation. As such, the residual impact of further vehicle movements in this area of Sheridan Road would be severe.
17. It is important to acknowledge that the current configuration of this section of Sheridan Road comprises a short and narrow cul-de-sac, which lacks adequate turning facilities for vehicles, including refuse collection and emergency services. Consequently, vehicles are often required to reverse out of this area to exit via the Vernon Road junction, presenting operational and safety concerns. The proposed development includes the provision of a turning head within the appeal site, which would enable vehicles to manoeuvre and exit this area of Sheridan Road in a forward gear. While this represents a functional improvement, access to the turning head would necessitate navigation through extended stretches of parked vehicles along Sheridan Road, whilst vehicles would seek to exit the appeal site in the opposite direction.
18. Therefore, although the turning head would facilitate improved vehicle manoeuvrability, it would not, in isolation, resolve the conflicts which would arise from restricted carriageway width as a result of on-street parking, despite its

widening. The potential for vehicle obstruction and limited passing opportunities would remain a concern.

19. To conclude, the proposed development would therefore conflict with Policy ENV4 of the Local Plan for Pendle Core Strategy 2015 (PCS) and Paragraph 116 of the Framework. These policies note that where the residual cumulative impacts of the development are severe, following mitigation in the case of the Framework, planning permission should be refused.

Biodiversity net gain

20. The appeal was accompanied by a signed Unilateral Undertaking (UU) which has been submitted by the appellant. Amongst other things, this UU sought to make provisions in relation to biodiversity net gain. Comments were received by the Council with regard to the provisions of this UU. These comments suggested that the initially submitted UU could not be agreed. This is because the biodiversity net gain provision included a contribution for the provision of biodiversity units as a fallback option. However, Pendle Borough Council states that it is not a provider of biodiversity units. The initially submitted UU also made no provision for monitoring costs. As such, the UU has been revised during this appeal.
21. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and Paragraph 58 of the Framework sets out three tests that planning obligations must meet. First, they must be necessary to make the development acceptable in planning terms, secondly, they must be directly related to the development and thirdly, they must be fairly and reasonably related in scale and kind to the development.
22. The Biodiversity Planning Practice Guidance (PPG) states that to ensure that the BNG objective is effectively achieved, it is essential that biodiversity is integrated throughout the planning process. Applicants are expected to address BNG at the earliest stages and to incorporate it into site selection and design. Therefore, in following the first of the three tests as set out above, this obligation, and its subsequent monitoring, is necessary to make the development acceptable in planning terms.
23. Policy ENV1 of the PCS notes that adequate mitigation measures and compensatory habitat creation will be required through planning obligations and/or conditions. This is to ensure that there is no net loss of biodiversity and where possible, a net gain should be provided.
24. Schedule 2 of the revised UU addresses the matter of Biodiversity Net Gain provision. It notes that the development shall achieve no less than 10% in net gain over the baseline calculation. This would be achieved through the provision of a Biodiversity Gain Plan. This plan would include the proposed measures to deliver the net gain, a timetable for implementation, detailed arrangements for its monitoring over a 30-year period and the provision for the submission of annual monitoring reports. This obligation would require the provision of such details before the commencement of development.
25. The PPG notes that a monitoring fee can be charged through planning obligations. This will cover the cost of monitoring and reporting on delivery of that obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. However, the PPG further notes that

monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring.

26. The revised UU further adds that with regard to monitoring, the amount shall be agreed with the Council at the reserved matters stage to reflect the scope of monitoring required by the Biodiversity Gain Plan. Whilst this does not stipulate an amount, this would be agreed during the reserved matters stage and would be negotiated with the Council once the level of monitoring is known to inform the contribution.
27. As such, these provisions would be directly related to the development and at this outline stage of the proposal, fairly and reasonably related in scale and kind to the development. It would be lawful and would secure these provisions. I am therefore satisfied that the revised UU is a sufficient mechanism to capture and monitor Biodiversity Net Gains. As a result, this revised provision would accord with Policy ENV1 of the PCS. I have taken the provisions of the UU into consideration.

Planning Balance

28. I have found conflict with Policy ENV4 of the PCS and Paragraph 116 of the Framework with regard to the proposed access and its effect upon the operational efficiency of Sheridan Road. I have judged the consequence of increased movements to and from the appeal site, in light of the parking situation along Sheridan Road, to be severe. On this basis, it must be concluded that the proposal is in conflict with the development plan when considered as a whole. Furthermore, the Council is unable to demonstrate a five-year supply of deliverable housing sites. The evidence presented indicates a significant shortfall, with only 2.8 years of supply currently available.
29. In accordance with Paragraph 11 of the Framework, where the most important policies for determining the application are deemed out of date due to such a shortfall, the presumption in favour of sustainable development is engaged. As there are no relevant policies in this case that protect areas or assets of particular importance, the provisions of Paragraph 11(d)(ii) of the Framework apply. This requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
30. The Framework aims to significantly boost the supply of housing. In an era of national, and in this case, local housing shortfalls, the provision of up to 18 additional energy efficient units, including a provision for affordable housing, would make a notable contribution to that supply. I afford moderate weight to this benefit of the scheme.
31. The proposal would also provide several improvements to the highway and to overall pedestrian safety. These include a dedicated turning head within the appeal site, a pedestrian link from Sheridan Road to Alma Road, tactile paving in various positions outside of the appeal site, public transport accessibility upgrades, a street lighting review, a widened footway and a new pedestrian refuge island. The proposed development would involve the removal of two trees from Sheridan Road. These would be replaced within the appeal site. Collectively, these are benefits of the scheme which weigh positively in favour of the proposal. I apply moderate weight to these benefits.

32. The proposed development would also be within a location which is supported by shops and services which are a close distance from it. The future occupants of the development would support the local economy through their use of these shops and services. During the construction of the scheme, the proposed development would provide benefits to the local construction industry through the procurement of materials and labour. These benefits attract positive, but overall limited weight in favour of the proposal.
33. It must also be recognised that in addition to those highway and pedestrian safety benefits listed above, the proposal would include the widening of Sheridan Road. Whilst this may be beneficial, vehicles would still remain parked within Sheridan Road for a long length of its highway following this mitigation. In taking into account all of the reasonable future scenarios which may occur, this would not overcome the highway operational efficiency concerns I have identified within this appeal. This is the critical failure of this appeal.
34. Having considered all relevant matters, it is acknowledged that the appeal scheme presents certain benefits to the wider locality. These must be weighed against the identified conflict with the development plan, particularly in relation to the proposed access arrangements. In undertaking this planning balance, the proposed development represents a finely balanced scheme. The decision therefore hinges on a careful weighing of these competing factors.
35. Whilst the benefits are acknowledged and afforded moderate weight, the harm arising from the access location, specifically its adverse impact upon the operational efficiency along Sheridan Road, is considered to be severe. This attracts significant weight in my assessment of this scheme. When assessed against the policies of the Framework taken as a whole, the adverse impact of the development upon the highway is considered to significantly and demonstrably outweigh the benefits.

Conclusion

36. For the reasons given above, the proposal would be contrary to the development plan as a whole. There are no material considerations which indicate that I should take a decision otherwise than in accordance with the development plan in this case. Therefore, I conclude that the appeal should be dismissed.

J Smith

INSPECTOR