
Appeal Decision

Hearing held on 9 February 2016

by G D Grindey MSc MRTPI. Tech.Cert.Arb.

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

Decision date: 16 February 2016

Appeal Ref: APP/M2325/W/15/3138447

Land north of Blackpool Road, Newton with Clifton, Lancashire, PR4 0XE.

- 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 Beluga Projects Ltd against the decision of Fylde Borough Council.
 - The application Ref 15/0065, dated 30 January 2015, was refused by notice dated 2 September 2015.
 - The development proposed is residential development with local service provision (potential Use Class A1, A3 or A4) access, public open space and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Background matters

2. The original application was described as above. During the processing of the application the description of development was changed to 'outline application for residential development of up to 55 dwellings, with access, public open space and associated infrastructure'.
3. Reason for refusal no 2 concerned access arrangements. The Council carried out a speed survey of traffic on Blackpool Road, the A583, in preparation for this appeal, in January 2016 and the results were passed to the appellants. The Council's speed survey found significantly higher average speeds for traffic on the A583 than had been recorded by the appellants in their earlier submissions. Not unreasonably, the appellants wished to respond to the findings of this rather late speed survey and came to the hearing with a plan showing a proposed revised access position together with various traffic calming measures¹.
4. There is a general principle that an appeal should not be used to evolve an application and that it is important that what is considered by an Inspector is essentially what was given formal consideration by the Council. I am very conscious that the Parish Council and local residents were not aware of this latest access submission and had not been formally consulted upon it.

¹ Document 3: Plastic wallet containing tpm landscape drawing 2146 03; 2146 05N; Street Design Partnership drawing 6603 PO9 rev C and P10 rev B; 'Statement of Implications' 3 page document

5. Notwithstanding this, given that there was a significant difference in the speeds recorded, it seemed to me important that my consideration of the application should be based upon the latest (and higher) speed figures. After some discussion I stated that I would accept the revised access scheme, to take into account the latest information available, and that we would discuss the amended access position at the appeal, together with the original. If I were minded to allow the appeal, access could be made a reserved matter since all that is needed to be known at this stage is that a safe and suitable access to the site could be achieved for all people², as the National Planning Policy Framework (the Framework) says. Helpfully Cllr Collins, for Newton-with-Clifton Parish Council,³ attended the hearing and was able to take part in the proceedings. Thus I deal with the appeal on this basis.
6. I confirmed at the hearing that the application site edged red is as shown on drawing no 6603 PO1 with further details on PO9 rev B and P11. A helpful indication of one way in which the site could be developed is shown on drawing no 6603 P10 rev A. I deal with the appeal with regard to these plans together with the plans submitted at the hearing (in the alternative) and as listed in the footnote above.
7. An executed Unilateral Undertaking (UU) was submitted at the hearing; this covered the details for securing affordable housing, the payment of a contribution for education, and a commitment to submit a Right of Way Works Specification concerning the public footpath that crosses the site and joins Preston Old road to the north of the site. The UU responds to the Council's reason for refusal no 3 and this matter need not concern me further. Overall, the Council raised no issues concerning the UU and I take it into account in the overall planning balance.
8. The Council's fourth reason for refusal concerned inadequate information about the potential of the site to support birds that contribute to the designation of the Ribble and Alt Estuaries Special Protection Area and Ramsar site. Helpfully the parties have continued a dialogue on this matter with the result that Natural England states that sufficient information has now been supplied to address their previous concerns. This is also a matter that need not concern me further.

Main Issues

9. Accordingly, from my inspection of the site and locality and the representations made at the hearing and in writing it seems to me that there are three main issues in the determination of this appeal. These are: (i) the effect of the proposal on the character & appearance of the locality; (ii) the connectivity of the site in relation to Clifton, local services and facilities there and (iii) the design and location of a possible new access to the site.

Housing land supply

10. The Statement of Common Ground sets out that both parties are in agreement that the Council is unable to demonstrate a five year supply of deliverable housing sites. At the last calculation, in March 2015 and hence nearly a year ago, the Council stated that the supply amounted to 4.3 years; I have no evidence that casts doubt on this figure.

² The Framework, paragraph 32

³ Also a Cllr for Fylde Borough Council

11. The Council's reason for refusal refers to policy SP2 of the Fylde Borough Local Plan which resists development in countryside areas, unless for a limited number of restricted development types, none of which apply here. There was no dispute that the appeal sites lie outside the settlement boundary for Clifton⁴ as defined by the Local Plan⁵. The development would, therefore, conflict with the development plan in this regard. However, paragraph 49 of the Framework states that 'relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.' It seems to me that Local Plan policy SP2 is relevant to housing land supply and thus the Framework policy applies. The Framework necessarily reduces the weight to be given to Local Plan policy SP2.
12. In turn, I need next to examine paragraph 14 of the Framework which states that where, as here, the development plan is out-of-date, planning permission should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole". Thus a planning balance or judgement needs to be made.

Reasons

Issue (i) the effect of the proposal on the character & appearance of the locality

13. This issue includes whether there would be any loss of an open aspect, and the appearance of a small settlement set within a rural, countryside area and any effect of scale of development relative to the village. The nucleated settlement of Clifton has grown along Preston Old Road with later expansions to the north. Development on the south side of Preston Old Road appeared to me to have been limited to a couple of cul-de-sacs⁶ to the western end of the village, but otherwise there is a strong boundary at the southern end of the unusually long gardens to the Silver Street and Preston Old Road properties. Generally, at or about this southern boundary to the settlement, the land noticeably falls away to the lower lying flat lands, ultimately extending down to the River Ribble.
14. The appeal site is part of a large pasture field at present, with the eastern boundary undefined. A public footpath crosses the site, from the settlement centre in Preston Old Road to Blackpool Road (A 583) and beyond. The long back gardens of the Silver Street and Preston Old Road properties together with those of Mulberry Close and Highfield Close back onto the appeal site and form a distinct and firm boundary to the settlement, when looking northwards from this footpath. A further, highly noticeable element is that the settlement is on elevated ground; the appellant company's original Landscape and Visual Impact Appraisal (LVA) describes the settlement as "sitting on the ridge line"⁷. The appeal site is at a considerably lower level than the existing settlement.
15. At the hearing we discussed the Local Character Areas identified in the LVA; Clifton village (LCA1) is set within Pastoral Farmland (LCA3) except for the field of which the appeal site forms a part which is defined as Urban Fringe Farmland (LCA2). The LVA describes LCA2 as "semi-rural" and with the A583 creating a physical barrier between the appeal site and the fields beyond. Reference is

⁴ NJL appeal statement, paragraph 2.2

⁵ And shown in appendix B to Mr Stell's statement

⁶ Highfield Close and Mulberry Close

⁷ LVA paragraph 1.4

- made to open views across the countryside to the east, but with detracting urbanising features including commercial development, overhead cables and the proximity to the edge of the settlement.
16. I do not agree. Although the appeal site has the village to the north, I did not find any significant sense of the appeal site being 'urban fringe' or even 'semi-rural'. The site, and the field of which it is a part, is entirely pastoral in character and appearance and, even though the A583 crosses the flat lands to the south of Clifton, it is bordered by trees and a maintained hedgerow; it is merely a main road crossing open countryside.
 17. The caravan sales area on the south side of Blackpool Road appears to me to be an isolated and sporadic commercial site within an otherwise open countryside setting; I do not find it has a significant effect on the character of the appeal site. At the hearing it was mentioned that the owner of this site was, in any event, required to carry out some further landscaping around the site.
 18. Viewed from the north, east, south and the west the appeal scheme could not appear anything other than a considerable extension of built development out into open countryside. These equate to "near views" 1, 2, 3, and 4 on figure 10 of the LVA and position 8 on "far views". While this effect might be softened by the landscaping proposed, I find that on such an exposed open site, planting can look rather contrived and it can draw the eye as a device for concealment. I do not find that it would assist in assimilating the proposed development into the existing landform. I agree with the Council that the LVA and the later Character and Settlement Appraisal (CSA) fail to identify the views from Lodge Lane, westward towards the site. While these might be limited in summer, certainly in the leafless months of the year⁸ there would be an adverse view of the new development, set incongruously below the settlement, from this direction.
 19. While I agree with the LVA that the change in the context of the wider landscape character of the study area would be low, it is clear, as the LVA states, that the magnitude of change is high for the site with the change from farmland to built form. The CSA identified longer distance views from footpaths to the west (running south from School Lane) - viewpoints 2, 3 and 4 in the CSA and in broadly similar positions to viewpoints 5 and 6 on the LVA. I walked these footpaths before the hearing; users of these distant footpaths would perceive the development in a wider landscape setting. I found that the scale of the built development proposed, relative to the wider views from these locations only, would be limited.
 20. As such, the appeal site is very important in creating the open setting to the settlement, it is also very necessary to facilitate the perception of the settlement "on the ridge line." The appeal site and the field of which it is a part are vital in underlining the elevated position of Clifton and its position above the lower flat lands extending down to the Ribble. In my view, the proposal would have a significant and adverse effect upon the open countryside and the setting to the village. The development would not appear as a natural extension to Clifton, but rather as a somewhat large, detached spillage of built development below the settlement, outwards onto the flat lands below. The development would fatally change the role of the site, from facilitating the open setting of the elevated village, to one of built development.

⁸ As I saw at my site inspections in February

21. While I deal with the technical aspects of the access below, it is worth recording in this 'character and appearance' issue that the original access, as given formal consideration by the Council involved a possible entrance to the site broadly opposite the caravan retail site. There would be a substantial loss of hedgerow length and 6 trees edging the site and protected by a tree preservation order would also be lost to achieve the visibility splays required.
22. While Root Protection Areas (RPAs) in accordance with the advice in BS5837:2012 are indicated, the submitted plans show that they have been "adjusted" on the assumption that the tree root growth would be away from the road and into the field. There is no evidence to support this assumption however and BS5837 states that "the default position should be that structures are located outside of the RPAs"⁹ in any event. The appellant did not really dispute the tree and hedgerow loss but argued that an alternative access to the north, and/or with shorter visibility splays, could provide a safe access.
23. This northern access would still require the removal of 155m or so of hedgerow to incorporate 4.5 x 160m visibility splays¹⁰ and possibly substantial works to achieve an acceptable gradient for the road into the site since the field, at that point, is noticeably lower than the A583. I have no details of such works but they may well be rather noticeable in the landscape, at the point of access, and be an urbanising feature.
24. Tpm Drawing 2146 03, contained in the bundle submitted at the hearing indicate 4.5m x 160m splays could be achievable but I remain unconvinced concerning any effect on the protected trees. Again, the RPAs have been "adjusted" for the "presumed" root growth towards the field, with no evidence to support this assumption. Secondly, the green line indicates "155m of hedgerow to be replaced"; but the protected trees are within the line of the existing hedgerow. It is unclear to me why, therefore, if the hedgerow is required to be removed, the tree trunks would not equally obstruct visibility. The drawing is at a small scale and such that it is impossible to make a fully informed decision, as the trunk positions are not plotted at all, but I remain doubtful as to the safeguarding of the protected trees with that access option, if the hedgerow is judged to be required to be removed.
25. Pulling these threads together, I find that the scheme would introduce a sprawl of built development across open countryside, which would be perceived as an incongruous extension out onto the lower flat lands. The appeal site and the field of which it is a part create the setting to the small scale settlement on the ridge, in its open countryside landscape. This would be a negative change to the distinctive character and appearance of the settlement. The most significant views of the site are from close by. Thus while Mr Patrick argued that the houses on the southern edge of Clifton would still be seen above the proposed development, any understanding of the topography would be lost. The obvious defined edge to the village, set on its ridgeline above the open flat fields below, would be concealed and the appearance of a nucleated settlement within an open setting would be lost.
26. The development would also fill the, at present, open field between the main body of Clifton and the sporadic and isolated caravan retailing site on the south side of Blackpool Road. This would create a broad swathe of development out

⁹ BS5837:2012 paragraph 5.3.1

¹⁰ Tpm landscape drawing 2146 03

across the flat lands to the south of Clifton and would radically change the distinctive existing character. Further damage to the character and appearance of the environment here would result from the creation of an access from the A583 into the site. Local Plan policy HL2 seeks to ensure that new development is 'in keeping with the character of the locality in terms of scale'. This principle is broadly in accordance with the Framework and I find the scheme would not meet this requirement.

Issue (ii) connectivity issues.

27. The Council is concerned that the appeal site, and its proposed vehicular access onto Blackpool Road, is such that the development would be detached from the remainder of Clifton. New residents would, therefore, be likely to join the A583 in private vehicles and then drive to services and facilities in nearby settlements rather than turn off the main road back into Clifton. Thus new residents from the appeal development would not contribute to the vitality of Clifton.
28. I understand the importance of supporting the local shop and the Post Office in the village which I saw during my site inspections. However, the services in Clifton are limited; existing residents will already need to travel to schools, medical services, employment, larger scale shopping opportunities and for leisure trips anyway. I acknowledge that the Council has supported other development in Clifton "that will enhance the viability of Clifton as a place where limited growth is to be expected"¹¹.
29. I have examined the two other sites for development¹² shown on in Appendix B to Mr Stell's statement and, it is possible that new residents from those sites may pass along Preston Old Road and stop at the village shop/Post Office. It is equally likely, though, that they would seek the quickest route out onto the A583 anyway and not drive along Preston Old Road, just as the Council fears would be the case with new residents from the appeal. Those two developments were presumably assessed against Local Plan policy HL2 which requires regard to be had to local availability of shops, schools, employment sources, public transport and other community facilities. Clifton has been identified for some growth even when it is clear that most Clifton residents will need to travel for such facilities in any event. Thus I agree with the appellant company's comparison of the appeal site and the Ash Lane site, in terms of connectivity¹³.
30. It seems to me that the footpath link from the appeal site would make the Post Office/shop and bus-stops an easy walk of a few minutes – and shorter than any such walk from the site granted planning permission in Ash Lane. It is true that the footpath emerges onto Preston Old Road at a point where there is no pavement, but it did not seem to me a notably hazardous road to cross to the pavement on the opposite side. While the Council is concerned about the gradient and surface of the footpath where it links northwards onto Preston Old Road, it seems to me that this could be dealt with satisfactorily under the commitment in the UU to submit a Public Right of Way works Specification.

¹¹ Mr Stell's statement, paragraph 10.5

¹² 15/0763 north of Preston Old Road and 15/0165 off Ash Lane

¹³ Appellant company's appeal statement, paragraphs 2.22 – 2.26

31. I therefore conclude that the location of the proposed development would not be **so** detached from the village, such that new residents would not contribute to the vitality of Clifton's services, or reach public transport links, such that the appeal should be dismissed on this issue.

Issue (iii) the design and location of a possible new access to the site.

32. First of all, I consider that any judgement on the acceptability of any proposed access onto the A583 should take account of the latest information on average speeds, as collected by the Highway Authority in January this year. This found northbound speeds of 55mph and southbound 57mph, despite the 50mph speed limit along the road and the presence of a speed camera.¹⁴
33. Manual for Streets 2 (MforS2) suggests that it provides guidance on stopping sight distances for streets where 85th percentile speeds are up to 60 km/h (37mph)¹⁵ and that the principles can have a wider application elsewhere. But, while the A583 is no longer a trunk road, it seems to me it is akin to one, given the volume and speeds of traffic and its use as a direct link between Blackpool and Preston. It is certainly more like a trunk road than the types of roads to which MforS2 refers. Considering the results of the latest speed survey, I find 4.5m x 160m visibility splays would be appropriate for the main access of this development to join a road with these characteristics, in order for it to be safe.
34. As stated above, the location of the original possible access would result in the loss of a considerable length of hedgerow and the necessity to fell protected trees with a negative and urbanising result upon the character and appearance of the locality. At the hearing the appellant company responded to the Highway Authority's latest information with the suggestion of a more northerly location for the access; local residents and the Parish Council have not been formally consulted about this element.
35. Tpm Drawing 2146 03, contained in the bundle submitted at the hearing indicate 4.5m x 160m splays could be achievable but, as I have stated earlier, I remain unconvinced concerning any effect on the protected trees.
36. Appendices I and J to the appellant Company's statement also suggested an alternative of 2.4 x 56m visibility splays, assuming that traffic speeds could be reduced to 40mph on the A583. This does not seem efficient or convenient for road users on such a main route however and, given that recorded speeds are in excess of the speed limit already, even with a speed camera in operation on the road, I have no evidence that speeds would be reduced to the extent that the appellant company claims in any event.
37. I conclude on this issue that the various access points suggested would be unsatisfactory due to the tree and hedgerow loss that would result. Regarding the reduced visibility splay scheme, I find this would not result in a safe and suitable access as the Framework requires and would conflict with Local Plan policy HL2 in that it would have an adverse effect on the safe and efficient operation of the highway network.

¹⁴ visible in view 11 in the CSA

¹⁵ MforS2 paragraph 10.1.3

The planning balance

38. The Council accept they cannot demonstrate a 5 year housing land supply; in these circumstances the Framework identifies in paragraph 14 that for decision making, where relevant policies are out of date, permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits of the development. There would be undoubted benefits flowing from the proposals, in particular from the provision of housing, the affordable housing secured by the UU and support from the new residents, of the limited facilities within Clifton.
39. However the Framework does not adopt a narrow definition of sustainability, with paragraph 17 advising that it is a core planning principle to enhance and improve places, take account of the different roles and character of different areas and contribute to conserving and enhancing the natural environment. I place particular weight on the aims of the Framework, as set out here.
40. The absence of harm concerning connectivity issues is a neutral factor in the balance. I have found substantial harm to the character and appearance of the area would result from the scheme. I am also not convinced, on the evidence I have seen, that a safe and suitable access to the site could be provided. Taken together, these shortfalls in the proposals are adverse impacts that significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the Framework as a whole.

Other matters

41. At the time of my site inspections the appeal site was saturated and there was standing water in places. The Agricultural Land Classification and Soil Resources Report¹⁶ states at paragraph 3.2.5 that, at the time of survey there were "pools of surface water covering much of the site". The LVA at paragraph 1.3 stated that there was "standing water on the ground which prevented use of the public footpath". Many comments from local residents who have lived by the site for many years talk of the site being under water regularly.
42. While there are undoubtedly technical solutions to this standing surface water, as examined by the Flood Risk Assessment¹⁷, I remain concerned that water displaced by the development could be catered for adequately and that it would not cause problems elsewhere. While my conclusions above would be sufficient to dismiss the appeal, had I been minded to allow the appeal, this is a matter on which I would have sought further information.
43. I have considered all other matters raised but find nothing that changes my decision on this appeal.

Gillian D Grindley

Inspector

¹⁶ Dated December 2014, submitted with the original application

¹⁷ By Capita, January 2015

APPEARANCES

FOR THE APPELLANT:

Mr A Williamson BA DipTP MRTPI	Of Counsel; Partner, Walker Morris
Mr M Saunders MRTPI	Chartered Town Planner, NJL Consulting
Mr P Wooliscroft	Director, Croft Transport Solutions
Mr K Patrick CMLI	Director, tpm Landscape

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Stell	Development Manager, Flyde Borough Council (FBC)
Ms P Bennett	Landscape Architect
Mr A Wallbank	Tree Officer, FBC
Mr G Robinson	Highways Engineer, Lancashire County Council

INTERESTED PERSONS:

Cllr P Collins	For Newton with Clifton Parish Council & also FBC
Ms P Winlow	Local resident

DOCUMENTS

Document 1: Executed Unilateral Undertaking

Document 2: Signed Statement of Common Ground

Document 3: Plastic wallet containing revised access proposals: tpm landscape drawing 2146 03; 2146 05N; Street Design Partnership drawing 6603 PO9 rev C and P10 rev B; 'Statement of Implications' 3 page document

Document 4: Bundle concerning footpath gradient: drawing 2146 01, email, views and sketch images

Document 5: 7 pages of draft conditions discussed at inquiry (with track changes)

PLANS

Larger A3 size tpm landscape Character and Settlement Appraisal to replace smaller, unintelligible version already submitted, handed in at the hearing

PHOTOGRAPHS

2 x photographs handed in at the hearing by Ms Bennett of site from Lodge Lane and from A584 looking north