

“ACCESS”-RELATED EXTRACTS FROM THE 2020 DECISION ON APPEAL

[emphasis and observations added]

Appeal to the Secretary of State

Decision Ref: APP/R2330/W/19/3240964

9. In seeking to overcome the concerns of a previous Inspector with respect to inadequate provision to deliver social housing as part of a preceding appeal, a planning obligation by way of Unilateral Undertaking under Section 106 of the Planning Act (UU) dated 23 January 2020 has been provided as part of this appeal...

... I note that the UU for the purposes of identification of the site **has a red edge plan** that is **different** from the submitted plans insofar as it **excludes the access road**.

29. Based upon the evidence before me, there has not been a material change in circumstances in terms of the proposed access arrangements and local highway conditions aside from **the inclusion of the site access * within the red edge on the location plan submitted as part of this proposed development.** * For definition, see paras 31 & 45 & Condition 3

31. The vehicular and pedestrian **access to the site** would be primarily via a cobble surfaced road at the side of No 106 Whalley Road, although **other points of access would be available from Owen Street and along Back Owen Street ...**

(...“particularly for pedestrians”)



32. ... Furthermore, conditions **could** also be imposed to mitigate **the current unsuitable condition** of the **access route** to ensure that it is resurfaced **between Whalley Road and the site entrance**, and to ensure that street lighting is added to improve visibility during periods of darkness.

33. Whilst ownership matters have been raised with respect to works taking place along the **access road**, **the submitted plans include**¹ **it within the red edge and the Council determined the planning application on**² **that basis**".

¹They do not. ²It did not.

36. In reaching that view, I have taken into account that the **access road** is already capable of being used **by vehicles** as an **access point to and from Back Owen Street** and it is reasonable that on occasion the manoeuvres to which concerns have been raised would have already taken place.

36. ... However, based upon the evidence, none of the accidents which have taken place had any relationship with the use of **the proposed site access**.

37. The evidence before me includes a swept path analysis which shows that a fire vehicle would be capable of entering the site from Whalley Road and turning and leaving in forward gear, and based on my observations I am satisfied that **access to the site** could be obtained to accommodate larger service and construction vehicles. In reaching that view, I have taken into account that the narrowest point of **the access** is below the route specification of 3.7m width sought by the Lancashire Fire and Rescue Service. However, it is evident that fire appliances are not standardised, and different dimensions may be adopted.

38. ... Concerns have been raised in terms of lack of parking for construction workers on Back Owen Street. However, during my visit I observed sufficient availability of on-street parking on surrounding streets to accommodate the levels of parking demand generated during periods of construction so as to not encourage parking on Back Owen Street, restrict access to surrounding properties or cause inconvenience for existing residents.

40. ... Whilst concerns have been raised with respect to the impact on heritage arising from the loss of a cobbled area of the access road following re-surfacing, the evidence before me indicates that the site does not fall within a Conservation Area and that a large number of cobbled streets remain elsewhere in Hyndburn. Consequently, I am satisfied that the benefits of upgrading the access route to the site to enable it to be developed outweighs the loss of the cobbled section of road.

40. ... Consequently, I am satisfied that the benefits of upgrading the access route to the site to enable it to be developed outweighs the loss of the cobbled section of road.

44. I have had regard to the planning conditions that have been suggested by the Council and in consultee responses *. Where necessary I have reordered the conditions, amended the wording to ensure consistency with paragraph 55 of the Framework and consolidated the conditions where possible. * The applicant's fence is not 1m North of the Network Rail boundary

45. Conditions 1 and 2 relate to the time limit for the planning permission and compliance with approved details to provide certainty of the development for which permission is granted.

45. ... Conditions 3 and 4 are pre-commencement conditions to secure highway works to ensure that the site access is suitable for vehicles, pedestrians and cyclists to ensure that the development does not have an unacceptable impact in terms of highway safety.

45. ... The reason for the pre-commencement conditions are to ensure that the full details of the highway works are approved with any necessary agreements for the works in place before the development commences and to ensure a pre-development survey to allow post-development assessment of any damage on the surrounding access roads to allow for timely repairs.

48. ... The reference to routing of delivery vehicles to/from the site has also been removed as it would unreasonably impose controls on the highway network as I am satisfied that appropriate access could be secured to the site.

SCHEDULE

Conditions

2) The development hereby permitted shall be carried out in accordance with the following approved plans: BLJT-00600948; PHA/042/100; PHA/042/200 rev B; PHA/042/300 & sss-7741 rev A.

3) No development shall take place until full details of a scheme for the highway works to provide the site access have been submitted to and approved in writing by the local planning authority. The scheme of works shall include the re-surfacing of the side street adjacent to 106 Whalley Road, addition of street lighting and any agreements required thereto. The approved scheme shall be implemented in full before the first occupation of any supported living unit hereby approved.