



Appeal Decision

Site visit made on 14 November 2017

by S R G Baird BA(Hons) MRTPI

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

Decision date: 30th November 2017

Appeal Ref: APP/M2325/W/17/3181335

99 Ballam Road, Lytham St Annes, FY8 4LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Purcell Developments against the decision of Fylde Borough Council.
 - The application Ref 17/0050, dated 23 January 2016, was refused by notice dated 24 May 2017.
 - The development proposed is the erection of a 3-storey apartment building containing 8 apartments with associated car parking and landscaping following the demolition of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 3-storey apartment building containing 8 apartments with associated car parking and landscaping following the demolition of the existing dwelling at 99 Ballam Road, Lytham St Annes, FY8 4LF in accordance with the terms of the application, Ref 17/0050, dated 23 January 2016, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Purcell Developments against Fylde Borough Council. This application is the subject of a separate Decision.

Main Issues

3. These are: (1) the implications for neighbours' living conditions with particular reference to privacy and outlook; (2) the effect on the character and appearance of the area and (3) the significance of No. 99 Ballam Road as a non-designated heritage asset.

Reasons

4. The development plan for the area comprises the Fylde Borough Local Plan (As Altered) - October 2005 (FBLP). The appeal site is located within Lytham St. Annes where FBLP Policy SP1 indicates that subject to compliance with other policies development will be permitted. The emerging Fylde Council Local Plan to 2032 (eFCLP) is currently being examined.

Issue 1 - Neighbours' Living Conditions

5. Criterion 4 of FBLP Policy HL2 and criterion b of eFCLP Policy GD7 indicates that a housing proposal will only be permitted where, amongst other things, it would not adversely affect the amenity and privacy of neighbouring

properties. In addition, the Council has referred to SPD¹ as “...*useful design guidance*”. Given the SPD refers only to house extensions, it is, in my view, inappropriate to seek to apply this to the appeal proposal. Thus, in the absence of any specific guidance on separation distances for this type of scheme, I have assessed the effect of the proposed scheme using professional judgement.

6. The common boundary with No. 1 Lilac Avenue is formed by a wall some 2m high with sporadic shrub and tree planting within the appeal site. No. 1 sits parallel to the proposed west elevation of the flats and the denser evergreen shrub planting along the rearmost part of the side elevation of No. 1 is around 3m high. The western elevation of the first-floor flat (FF) 2 would have a floor to ceiling height window running the full depth of the living room/kitchen and a wrap-around terrace. These features would face a first-floor secondary window to a bedroom and a kitchen window on the ground floor. In addition there would be slightly oblique views of part of the rear garden of No. 1. The separation distances from the full height window to the side elevation of No. 1 would be some 14.3m and from the terrace some 13.2m. As part of the landscaping scheme, it is proposed to retain the existing mainly evergreen planting along the common boundary, which would continue to mature, and to plant 3 trees, some 4.5 to 5m high at the time of planting, in the area between FF 2 and the common boundary with No. 1. The combination of existing and proposed landscaping would acceptably mitigate the potential for direct and perceived overlooking of the side and rear of No. 1. This combination of separation and screening along with the juxtaposition of the existing and proposed properties would ensure that the proposal would not appear materially dominant or overbearing when viewed from No. 1.
7. FF 3 would have a similar configuration of living room/kitchen windows and terrace and any overlooking of the front of and the approach to No. 1 would be acceptably filtered by the existing tree planting along the north-western part of the boundary. The single flat on the second floor and its associated terraces would be set back from the edge of the building. The configuration of this flat and the set-back would ensure there was no direct overlooking of No. 1. Given the proposed separation distances to No. 101 Ballam Road to the north and Watchwood House to the south, I consider there would be no material overlooking or loss of privacy.
8. On this issue, given the degree of separation, the retention of existing planting and the sensitive introduction of additional landscaping, that the proposed scheme would not have an unacceptable effect on the living conditions of nearby residents through a material loss of privacy or outlook.

Issue 2 – Character and Appearance

9. FBLP Policy HL2 (criteria 1 and 2), indicates that a development should be compatible with adjacent land uses and in keeping with the character of the locality in terms of, scale, space around buildings and design. Emerging FCLP Policy GD7 indicates that development should be of a high standard of design taking account of the character and appearance of the local area (criteria c, g, h and j).

¹ Extending Your Home - Supplementary Planning Document Adopted November 2007.

10. Whilst the footprint of the proposed building would be larger than the existing house and garages, it would be contained within a large plot, set well back from Ballam Road and maintain a visually significant gap to Lilac Avenue. In terms of height, the main 2-storey element would be similar to that of the existing house. Whilst the single second-floor flat would increase the overall height of the building to some 9.5m its impact would be materially reduced by its limited footprint and the set back from the main front elevation. In this context the building would not dominate the plot or surrounding buildings and would not appear cramped.
11. Ballam Road and the side roads off it comprise individual large dwellings of varying ages, designs and finishes set in extensive plots. As such there is no one overarching architectural theme defining this area. Although the development is for flats, the building has been cleverly and sensitively designed to appear as an individual dwelling of a scale, mass, finish and position that reflect the existing character and appearance of Ballam Road. Moreover, as the Council recognises, there is no in-principle planning policy bar to the redevelopment of individual plots to flatted development. Overall, the proposed building represents high quality contemporary architecture that would contribute positively to this approach to Lytham St Annes. Whilst the removal of the hedgerow on the Ballam Road frontage would, in the short term, increase the prominence of the hard surfaced access/parking area this impact would be short-lived through its replacement as part of the proposed landscaping scheme.
12. On this issue, I conclude that this development would not have an unacceptable effect on the character and appearance of the area.

Issue 3 – Heritage Asset

13. No development plan policies relating to heritage assets are referred to either in the reason for refusal or the Council's statement. The National Planning Policy Framework (Framework) recognises that heritage assets are an irreplaceable resource to be conserved in a manner appropriate to their significance. The appeal site is not within a Conservation Area; the building is not a Listed Building nor is it identified on a Local List of buildings of historic or architectural significance. As such the existing building does not fall within the Framework definition of a Designated Heritage Asset.
14. No. 99 was built in in the mid-1930s in the modernist Art Deco style as a private house and has remained in private residential use to date. Internally and externally the house has been altered and extended. Externally the main alterations include the removal of the original steel framed windows and the addition of blockwork to the edge of the first-floor terrace. Whilst the original frames have been removed the openings have not been altered and the terrace retains the original handrails behind the decorative concrete blockwork. Both these features could be restored relatively easily. The main additions include a set of detached double garages and a flat-roofed sun room on the rear. Neither of these have a material effect on the Art Deco appearance of the property. Internally the property appears to have undergone a material number of alterations that have altered its original layout/character.
15. There appears to be no dispute that the existing building could be considered as a non-designated heritage asset. Framework paragraph 135 indicates

that in weighing applications that affect non-designated heritage assets a balanced judgement is required having regard to the scale of loss and the significance of the heritage asset. Amongst other things, eFCLP Policy ENV5 identifies that development proposals should protect undesignated heritage assets. Whilst the supporting text to the Policy ENV5 identifies that a Local List of Buildings will be produced, a clear methodology for identifying buildings for local listing and how they will ultimately be selected has yet to be determined.

16. The appellant has part produced a detailed Heritage Appraisal carried out by an in-house heritage professional. The Council, other than providing comments by its Conservation Officer and the Lytham Civic Society, has not carried out a bespoke heritage appraisal. Having regard to the various submissions and given my conclusions regarding the nature of the alterations/extensions, I consider that this building can be regarded as a non-designated heritage asset of medium to low significance.

Other Considerations

17. The Highway Authority has no objection on traffic or highway safety grounds. I have no reason to disagree with that conclusion. The site is within an area identified as Flood Zone 3, an area of high risk. The application was accompanied by a Flood Risk Assessment that was assessed by the competent authority and subject to the imposition of appropriate conditions there is no objection on the grounds of potential flooding. I have no reason to disagree with that conclusion. The application was accompanied by appropriate and proportionate ecological assessments, which did not identify material harm. Whilst the proposal would result in the loss of some existing trees and hedging, this loss would be adequately mitigated by replacements as part of a comprehensive landscaping scheme. The potential for noise and disturbance during the construction phase would be short-lived and is something that the Council could control through existing legislation and could be mitigated by the imposition of appropriate planning conditions. The Council has confirmed that the scale of the proposed development does not require the provision of affordable housing or financial contributions for mitigating the impact of the development on existing community facilities.

Planning Balance and Conclusions

18. Framework paragraph 47 seeks to boost significantly the supply of housing. Councils are to identify and update annually a supply of specific deliverable sites sufficient to provide 5-years' worth of housing land against their housing requirements. Here, based on a 5-year Housing Supply Statement dated 31 March 2017 – Examination in Public Edit July 2017, the Council in its Statement of Case dated October 2017 submits that the supply of housing land exceeds 5 years. However, I have been provided with a copy of a Statement of Common Ground also agreed by the Council in mid-October 2017 in relation to an appeal² relating to land at Mains Lane, Poulton-le-Fylde which accepted that it had a less than 5-year supply of housing land and that Framework paragraph 14 was engaged. In the absence of any further information or explanation, I consider that on the

² APP/M2325/W/17/3174723.

balance of probabilities, the Council cannot demonstrate a 5-year supply of housing land. In this context, the shortfall in housing land supply engages the application of the fourth bullet point of Framework paragraph 14. In this case, based on the evidence before me it is only the first limb of the fourth bullet point that is engaged i.e. that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole.

19. The appellant identifies a range of benefits associated with this proposal of which the key benefit is the contribution, albeit small, to the supply of housing. In light of the clearly stated national objective of boosting significantly the supply of housing, I attach significant weight to this contribution. The remaining benefits are generic and non-specific and are no more than would be expected from any development. As such they attract limited positive weight.
20. The proposal would result in harm through the loss of a non-designated heritage asset of medium to low significance. I consider in light of the benefits this development would bring, in particular the contribution to the housing land supply, and given the absence of material harm to neighbours' living conditions or the character and appearance of the area that this adverse impact would not significantly and demonstrably outweigh the benefits of the proposed development. Accordingly, and having taken all other matters into consideration, I conclude that the proposed development would not conflict with the development plan and the Framework when taken as a whole and this appeal is allowed.

Conditions

21. For the reasons set out by the Council, I consider the suggested conditions are reasonable and necessary in the interests of the appearance of the area; to ensure recording of the existing building; to mitigate the impact of the development on neighbours' living conditions, ecology and highway safety and to provide adequate drainage and mitigate the potential of flooding. Where necessary and in the interests of precision and enforceability I have reworded the suggested conditions.

George Baird

Inspector

SCHEDULE OF CONDITIONS

1. The development must be begun not later than the expiration of 3 years beginning with the date of this decision.
2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 21/01/2017, including the following plans: Site and location plan as existing – 237448-100 Rev A; First floor and roof plan as existing – 237448-102 Rev A; Elevations as existing – 237448-110; Sections as existing – 237448-120; Demolition – Site and location plan – 237448-201; Ground floor plans as proposed – 237448-202 Rev B; First floor plan as proposed – 237448-203 Rev B; Second floor and roof plan as proposed – 237448-204 Rev B; Elevations as proposed – 237448-210 Rev A; Tree retention and removal plan – PL1655-VW-002-01 Rev 04; Hardworks and Boundaries – PL1655-VW-003-01 Rev 04; Softworks – PL1655-VW-004-01 Rev 04; Landscape levels – PL1655-VW-00501 Rev 02 and Illustrative sections (bin store) PL1655-VW-006-01 Rev 02.
3. Prior to commencement of construction, samples of the materials to be used in the construction of the external surfaces (including elevations, roof, windows, doors, balconies, bin store and hard standing) of the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall take place during the bird nesting season (1 March-31 August inclusive) unless an ecological survey has first been submitted to and approved in writing by the local planning authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of trees and shrubs shall take place until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the local planning authority. Nest site protection shall thereafter be provided in accordance with the approved methodology.
5. Prior to the commencement of development a method statement detailing the eradication of and/or control and/or avoidance measures for rhododendron, monbretia and variegated yellow archangel should be supplied to and agreed in writing to the local planning authority. The agreed method statement shall be adhered to and implemented in full.
6. Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block pavements, or other approved materials the details of which shall first be submitted to and approved in writing by the local planning authority.

7. The existing access (south of Ballam Road) shall be physically and permanently closed and the existing footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads concurrent with the formation of the new access off Ballam Road.
8. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly. Development shall be carried out in accordance with the approved details.
9. Prior to the first occupation of the development hereby permitted a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. The sustainable drainage management and maintenance plan shall include as a minimum: arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a residents' management company; and arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. The development shall subsequently be completed, maintained and managed in accordance with the approved plan.
10. The proposed windows identified as '5' on drawing number 237448-210 Rev A shall be glazed with obscure glass of a type to be submitted to and approved in writing with the local planning authority and shall thereafter be retained or if replaced the glass shall be of the same type as previously agreed.
11. The integral garage and the Amenities/Bike Store indicated on Drawing No. 237448-202 Rev A shall be used for the purposes of housing a motor vehicle and cycle storage respectively and shall be retained available for those uses as indicated at all times thereafter.
12. Prior to the first occupation of any dwelling, the car parking area shall be constructed, drained, surfaced and laid out as shown on the approved plans listed in condition 2. These areas shall thereafter be retained for the purposes of car parking for residents on the site, their visitors or delivery/collection vehicles.

Prior to any development activity commencing, retained trees, either individually or, where appropriate, as groups, will be protected by erecting HERAS fencing at the Root Protection Areas identified in the arboricultural survey. Within, or at the perimeter of, these root protection areas, all of the following activities are prohibited: lighting of

fires; storage of site equipment, vehicles, or materials of any kind; the disposal of arisings or any site waste; any excavation and the washing out of any containers used on site. HERAS fencing must not be removed or relocated to shorter distances from the tree without the prior written agreement of the local planning authority. Any work to retained trees to facilitate development or site activity must (a) be agreed in writing in advance with the local planning authority and (b) must meet the requirements of BS3998:2010 Tree Work - recommendations.

13. Any trees removed without the consent of the local planning authority or trees damaged or becoming severely diseased during the development period shall be replaced during the next planting season with trees of such a size and species as may be agreed with the local planning authority.
14. Prior to the commencement of any development on the site a written schedule of building recording and analysis shall be prepared by an appropriately qualified person, and shall be submitted to and agreed in writing by the local planning authority. The works must then be carried out in accordance with this schedule and the final report produced and submitted to the local planning authority no later than 3 months following demolition of the existing building.
15. There shall be no on site works, including site set up and the removal of any trees or shrubs until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include:
 - a) construction vehicle routes to and from the site;
 - b) arrangements for the parking of vehicles for site operatives and visitors;
 - c) details of areas designated for the loading, unloading and storage of plant and materials;
 - d) details of the timing of deliveries to the site associated with construction works;
 - e) details of the timing of construction activities that are likely to generate noise audible outside of the site;
 - f) details of the siting, height and maintenance of any security hoarding;
 - g) wheel wash facilities;
 - h) measures for the control of noise, vibration and dust disturbance created during any on-site works.
16. All landscape works shall be carried out in accordance with the approved details shown on landscaping proposal plan PL1655-VW-004-01 Rev 04 prior to the first occupation of any part of the development or in accordance with a program to be submitted to and agreed in writing with the local planning authority and shall thereafter be retained and maintained. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees of similar size and species to those originally required to be planted.

17. Prior to the first occupation of the dwellings hereby permitted, the access and visibility splays shown on approved plan Drawing No. 237448-202 Rev B shall be implemented in full.
18. Prior to the first occupation of the dwellings hereby permitted the off-site works detailed in the Mott MacDonald Transport Technical Note dated January 2017 shall be implemented in full.
19. Prior to the commencement of any development, details of the ground and slab levels for the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
20. Prior to the commencement of development full details of foul water drainage shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.