



Appeal Decision

Site visit made on 8 June 2020

by Conor Rafferty LLB (Hons), AIEMA, Solicitor

Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2020

Appeal Ref: APP/E2340/W/20/3244277

17 White Lee Avenue, Trawden BB8 8TD

- 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 Mr S Hardman against the decision of Pendle Borough Council.
 - The application Ref 19/0430/FUL, dated 10 June 2019, was refused by notice dated 6 September 2019.
 - The development proposed is the erection of a detached dwelling with integral garage.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a detached dwelling with integral garage at 17 White Lee Avenue, Trawden BB8 8TD in accordance with the terms of the application, Ref 19/0430/FUL dated 10 June 2019, subject to the conditions set out in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of the occupants of No. 17 White Lee Avenue regarding outlook and light and the occupants of No. 19 White Lee Avenue regarding outlook and privacy.

Reasons for the Recommendation

4. The proposal relates to the erection of one dwelling with integral garage which, due to the sloping nature of the street, would sit in a slightly more elevated position than No. 17. Planning permission was previously granted for the construction of a dwelling at the site, but this has since lapsed. The revised proposal, the subject of this appeal, incorporates new floor plan layouts and elevations, an integral garage and a revised car parking layout.
5. The proposed development would be located adjacent to No. 17 and No. 19, separated from both by a 2 metre high close boarded fence. Patio doors leading to the lounge of No. 17 are the only windows located along the side elevation facing the appeal site. The proposal would be located approximately 2 metres from these patio doors, behind the proposed fence. No. 17 also benefits from a conservatory, which the rear elevation of the

proposed house would extend beyond at ground floor level. As the conservatory is set off to one side, the proposal would be located approximately 5.2 metres from the side elevation of this conservatory which is mostly glazed.

6. It is acknowledged that the main projection to the rear of the proposal would be closer to the conservatory at No 17, as well as its private rear garden space, than the previously permitted scheme. Nonetheless, the majority of the rear projection would be single storey with the second storey of the proposal having a minimal projection beyond the rear elevation of the main house at No. 17. This together with the modest separation distance would mean that the proposed development, even though at a slightly higher level, would not appear overly overbearing from the conservatory or the garden space. Furthermore, the garden space near to the proposed house would retain views of the large, lower rear gardens at No. 17, ensuring that the proposal would not unduly impact on the outlook from No. 17. From the lower rear gardens themselves the proposal would also not appear overbearing as it would be experienced in the context of the neighbouring residential dwellings, to which it is similar in style and scale.
7. In addition, given the overall level of glazing at the conservatory, and the fact that the outlook from the northern and eastern elevations would remain unchanged, the proposal would not create an unwelcome sense of enclosure from the conservatory at No. 17 or have a significant effect on the light to this room. In reaching this conclusion I have observed and acknowledged the positioning of the large protected tree to the rear of No. 17.
8. While the separation distance between the proposal and the side patio doors of No. 17 is not as generous as the distance from the conservatory, particularly when considering the fence to be installed, it does not represent an unusual residential relationship such that the proposal would be deemed overbearing. Furthermore, these patio doors represent a secondary set of windows for this room, and both the outlook and light experienced from the large living room window to the front would remain unchanged.
9. It is noted that there are also patio doors on the rear elevation of No. 17, which have been incorrectly identified as windows on the submitted plans. However, due to the positioning of the proposal the outlook and light experienced from these patio doors would remain largely unchanged and the appellant's documents demonstrate that the 45 degree rule would be met from the centre point of these doors.
10. With regards to No. 19, the proposal would be located approximately 1.3 metres from the side elevation of this property, along which there are no habitable windows. Even if the kitchen on the rear elevation of No 19 is considered as a habitable room, the single storey nature of the rear projection at the proposal, and the lack of windows along the side elevation of this projection ensure that there will be no impact on the outlook or privacy of the occupiers of No. 19 in this regard. Furthermore, due to the positioning of the proposal the outlook experienced from these kitchen windows at No. 19 would remain largely unchanged.

11. Accordingly, for the reasons above, I conclude that the proposal would not have a materially unacceptable effect on the living conditions of the occupiers of No. 17 or No. 19. As such, it would accord with Policy ENV2 of the Local Plan for Pendle Core Strategy 2011 – 2030, adopted 17 December 2015, the Local Development Framework for Pendle Conservation Area Design and Development Guidance Supplementary Planning Document 2008, adopted 14 August 2008 and the National Planning Policy Framework. These require, amongst other things, that development is of a high quality design and has a high standard of amenity for existing users.

Other matters

12. Interested parties have raised concerns that the proposal could have an unacceptable impact on the character and appearance of the streetscene and highway safety, as well as cause interruption by construction works, and land destabilisation.
13. The proposal would not be out of place in the existing residential streetscene. The resulting massing and pattern of development in this location would be in keeping with the immediate residential area, while the design of the proposal would also match the surrounding properties. It would therefore preserve the character and appearance of the Trawsden Forest Conservation Area within which it is located.
14. With regards to highways safety, the plans submitted show three parking spaces to be provided on site to avoid on street parking and congestion which would be in accordance with Policy 31 of the Replacement Pendle Local Plan 2001-2006 adopted 2006. It has been suggested that the proposal does not provide adequate parking spaces contrary to policies of the Trawsden Forest Neighbourhood Plan (2018 – 2030), Autumn 2018 (the NP) as the garage does not meet the dimensions required by this plan to be the third parking space. However, not counting the garage the proposal provides two parking spaces which, for a detached three bedroom property accords with the minimum requirement at Appendix 4 to the NP.
15. A condition could be imposed to ensure that a Construction Method Statement is to be submitted for approval by the Council regarding the construction works ensuring that resident's living conditions are protected. Furthermore, there is no substantive evidence before me to suggest that land destabilisation would be an issue in the construction of the dwelling.
16. Therefore, I see no reason to reach a different conclusion to the Council that the proposal would not have an adverse effect in these respects.

Conditions

17. Regard has been had to the conditions suggested by the Council and the comments of the appellant. The standard time limit condition as well as a condition that the development is carried out in accordance with the approved plans are necessary in the interests of certainty. It is necessary and relevant in this case to exceptionally restrict permitted development rights regarding the future provision of extensions to safeguard the living conditions of the neighbouring residents and the character and appearance of the area.

18. Further conditions requiring approval of details of external materials, stipulating the colouring and materials of external doors and windows, and securing the set back and depth of window openings are necessary having regard to the level of information submitted with the application and to secure an appropriate appearance and design of the development. An additional condition regarding the glazing of the side elevation windows is included to ensure the privacy of neighbouring occupiers is not unduly impacted.
19. A condition is also required in relation to the parking spaces to be provided at the property prior to occupation. This is necessary in the interests of highway safety. Furthermore, a condition requiring the submission and approval of a Construction Management Statement has been imposed as a pre-commencement condition in the interests of highway safety and to ensure that neighbouring occupiers are not unduly disturbed by the construction works.
20. Condition 4 relates to drainage design in order that the Council may approve the drainage systems in the interests of avoiding flooding. This is a pre-commencement condition to ensure that the scheme is workable before development takes place. The Council's suggested condition regarding trees and hedgerows has not been included as it is not relevant to the site.

Conclusion and Recommendation

21. Having had regard to all matters raised, I recommend that the appeal should be allowed and planning permission should be granted for the erection of a detached dwelling with integral garage at 17 White Lee Avenue, Trawden BB8 8TD in accordance with the terms of the application, Ref 19/0430/FUL dated 10 June 2019, subject to the conditions set out in the attached schedule.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be allowed and planning permission should be granted for the erection of a detached dwelling with integral garage at 17 White Lee Avenue, Trawden BB8 8TD in accordance with the terms of the application, Ref 19/0430/FUL dated 10 June 2019, subject to the conditions set out in the attached schedule.

Zoe Raygen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Deed Plan, proposed sketch layout and block plan, CAL 2019 004 001 Rev B.
- 3) Other than site clearance and preparation works, no works shall commence on the construction of the hereby permitted dwelling until details / samples of the materials to be used in the construction of the external surfaces of the house hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No development shall commence until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall provide for foul and surface water to be on separate systems and include details of the flow attenuation measures for the surface water disposal system including final run-off rates. No building hereby permitted shall be occupied until the approved scheme has been implemented and any measures shall be retained for their intended use at all times thereafter.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension or enlargement of the dwelling shall be undertaken.
- 6) The window openings shall be set back from the external face of the wall. The depth of reveal shall be at least 100mm.
- 7) Excluding the garage door, all window frames, door frames and doors to the building hereby permitted shall be of timber construction only and retained as such; and shall be finished in a colour submitted to and approved in writing by the local planning authority. The garage door shall be finished in white prior to the occupation of the dwelling.
- 8) No building hereby permitted shall be occupied until two car parking spaces as shown on drawing No. CAL 2019 004 001 Rev B are surfaced in a bound porous material and laid out in their entirety. This shall be retained at all times thereafter for the parking of vehicles for the occupants of the development.
- 9) No development shall commence, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
 - i) The parking of vehicles of site operatives and visitors;
 - ii) The loading and unloading of plant and materials;
 - iii) The storage of plant and materials used in constructing the development;
 - iv) The erection and maintenance of security hoarding;
 - v) Wheel washing facilities;

- vi) Measures to control the emission of dust and dirt during construction;
and
 - vii) A scheme for recycling/disposing of waste resulting from demolition and construction works.
- 10) The window in the first floor north side elevation and the window in the first floor south side elevation of the development hereby permitted shall at all times be glazed only with obscure glass, of obscurity Level 4 or above, and be retained as such. Any replacement glazing shall be of an equal degree of obscurity. The window shall also be hung in such a way so as to prevent the effect of obscure glazing being negated by way of opening