



Appeal Decision

Site visit made on 24 June 2020

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2020

Appeal Ref: APP/E2340/W/19/3241602

Land off Blacko Bar Road, Roughlee Booth BB9 6NP

- 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 and Mrs Coates against the decision of Pendle Borough Council.
 - The application Ref 19/0535/FUL, dated 15 July 2019, was refused by notice dated 6 September 2019.
 - The development proposed is "the construction of 2 self-build, detached, eco-homes and a detached double garage on land owned by the applicant for his family."
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Procedural matter

1. The Council's decision refers to the site address as 'Land adjacent to Yate House, Ridge Lane, Roughlee'. This was the address adopted on the appeal form. However from the submitted plans it appears that Yate House is on the opposite side of Blacko Bar Road and the proposed development site does not abut Ridge Lane. I have therefore used the address as set out on the application form.

Decision

2. The appeal is allowed and planning permission is granted for "the construction of 2 self-build, detached, eco-homes and a detached double garage on land owned by the applicant for his family" on land off Blacko Bar Road, Roughlee Booth BB9 6NP in accordance with the terms of the application, Ref 19/0535/FUL, dated 15 July 2019, subject to the conditions set out in the schedule to this decision.

Main issue

3. There is one main issue in this case. That is the effect of the proposal on the character and appearance of the countryside, which is within the Forest of Bowland Area of Outstanding Natural Beauty (AONB).

Reasons

4. The site is an area (c.0.43 hectares) of agricultural land in the open countryside. It is on the southeast side of Blacko Bar Road, to the northeast of Dabs House and to the south of White Hough Water, with a footpath following the river. The eastern boundary is adjacent to dense woodland and to the south is further land used for agriculture and grazing.

5. The settlement itself is further to the northeast, across the bridge over White Hough Water. There are a range of facilities within the settlement and a bus route close to the site. The surrounding area includes intermittent housing and farmsteads set in open land.
6. The AONB was designated in 1964 and comprises around 310 square miles of upland landscape in Lancashire and Yorkshire. It features a central upland core with summits above 450m and large areas of peat moorland cut into by steep valleys which open out into green lowlands - such as the area around the appeal site.
7. The proposal is two detached dwellings, set back from Blacko Bar Road, from which access would be gained. The design approach seeks to reflect a traditional rural enclave, with dwellings designed to appear as though farm buildings had been converted to residential use.
8. The site is about 140 metres outside the settlement boundary, but this matter has not been raised by the Council as an objection to the proposal and the Council accepts that this is not an isolated location in policy terms. I have no reason to disagree. In addition Policy LIV1 of the Local Plan for Pendle: Core Strategy 2011-2030 (LP) accepts new housing development on non-allocated sites, provided they are within or very close to the settlement boundary and comply with other relevant policies including sustainability. The Council adopted Supplementary Planning Guidance (SPG) in 2002, entitled Development in the Open Countryside, which adopts a similar approach.
9. The key policy in this case is LP policy ENV1 which, amongst many other matters, gives great weight to the conservation of the landscape and scenic beauty of the AONB. It also references the Forest of Bowland AONB SPG (2003) which adopts a restrictive approach towards development in the AONB. There is a difference between the parties as to the relevance of this SPG given its age and the fact that it was produced in a different national policy context. However, given that it is referred to in the relevant part of the adopted development plan and that its general thrust is in line with national policy towards AONB protection, it remains a material consideration.
10. The development would be visible from various locations in the vicinity, and particularly from the footpath running along the river. But the fact that it could be seen does not equate to an intrusion into the area – what matters is how the development would sit in its context. Whichever viewpoint is chosen, to the extent that the development would be visible, the view of the open countryside would be preserved with the proposed dwellings set amongst others (both inside and outside the settlement) at the base of the hills. Its effect would be further limited by the setback of the buildings from the road frontage, with the larger of the two buildings located furthest from the road. The existing high stone wall along Blacko Bar Road would be repositioned and re-built using the existing stone, at a similar height, and this would help to screen the proposal in some local views.
11. The fact that the site is on the valley floor, in an area contained by rising slopes, would limit longer distance views of the site. It would not be prominent in the wider AONB landscape.
12. The Council has not raised any objection to the design concept or the materials to be used, in the light of LP policy ENV 2. The appellants' approach is to give

the impression of a historic farm complex and, although this may not be entirely successful, it would serve to further reduce the effect on the area.

13. Overall, the proposal would conserve the landscape and scenic beauty of the area. It would not conflict with the relevant development plan and national policies.

Other matters

14. A considerable amount of evidence has been submitted by the appellants regarding their personal circumstances and need. This has been the subject of comment by the Council and other parties. However, given my conclusions above on the main issue in this case I do not need to consider these matters further. I note that the AONB SPG advises that all proposals for new housing must meet a valid local need and must be accompanied by a Housing Needs Statement. However this aspect of the guidance is no longer compliant with national policy. In any event national guidance is clear that planning permission usually runs with the land. It is rarely appropriate to provide otherwise, although there may be exceptional occasions.
15. Highway safety and flood risk were amongst the matters raised by some local residents. However there is no technical evidence to counter the views of the highway authority and the Environment Agency, which are that the proposal is acceptable. Other matters are not of sufficient weight to alter my conclusions.
16. The main parties referred to two other appeal decisions in the area¹, suggesting that they are comparable to the appeal site. However, even leaving aside the fact that each appeal must be treated on its merits, the current appeal should be considered on the very particular circumstances of its location and design, and these other decisions are of very limited assistance.

Conditions

17. I have considered the conditions put forward by the Council, without prejudice to its position. I have made minor amendments in the interests of clarity and in line with national guidance.
18. In the interests of clarity, a condition is necessary to specify the approved plans (Condition 2).
19. A number of matters need to be submitted for approval. In the interests of the appearance of the development, details of the materials, boundary treatment and landscaping need to be approved (3 – 7, 11 and 12).
20. To avoid foul or surface water issues, a scheme for water treatment needs to be submitted, the development should be undertaken in line with the Flood Risk Assessment, and levels submitted for approval (8, 9 and 18). To prevent ecological damage, the development should be undertaken in line with the Preliminary Ecological Assessment (10). In the interests of local amenity and highway safety a Construction Method Statement needs to be submitted and implemented (13). For highway safety reasons visibility splays and other details need to be provided (14 – 16). To encourage sustainable means of transport, the dwellings should be provided with an electric vehicle charging point (18).

¹ 3229957 and 3153165

21. The Council suggested the withdrawal of a range of permitted development rights. The only reason given for this suggested condition was to enable the Council to control future development in the interests of the character of the area. However national guidance is that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. This has not been demonstrated in this case, and I do not intend to impose this suggested condition.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

**Schedule of conditions
Land off Blacko Bar Road, Roughlee Booth BB9 6NP**

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 07A, 09A, 05A, 11, 03A, 04A, 06A, 08A, 02, 10, TRI-2551-01 and MR19-025/101 RevB.
3. Prior to any above ground works samples of the materials to be used in the construction of the development hereby permitted (notwithstanding any details shown on previously submitted plan(s) and specification) including fascias, rainwater goods, windows, doors, wall and roof materials shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. The external wall samples as required by Condition 3 above shall be provided by means of the erection on site of a one metre square sample panel of stonework including proposed mortar mix and joint detail, for the written approval of the Local Planning Authority. The panel so approved shall not be removed until such time as the external walls are complete and development shall be carried out in accordance with the approved details.
5. Prior to any above ground works, samples of the materials to be used for all hard surfacing of the development hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. The hard surfacing shall be completed in accordance with the agreed details, prior to occupation of the first dwelling.
6. Prior to any above ground works, full details of all boundary treatments to be erected or planted on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details, prior to occupation of the first dwelling.

7. The windows and doors shall be recessed by at least 70mm.
8. A scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the erection of the external walls of the development. The scheme shall provide for separate systems for foul and surface water and be constructed and completed in accordance with the approved plans before any dwelling is occupied.
9. The development shall commence in accordance with the recommendations of the Flood Risk Assessment (2019-006-B Date: 08/07/2019).
10. The development shall be carried out in accordance with the recommendations set out in the Preliminary Ecological Assessment (Date: 1/03/2019).
11. All landscaping shall be implemented in accordance with approved plan MR19025/101 RevB. The approved scheme shall be implemented within the first planting season following the completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.
12. The existing hedgerow on the northern border of the site, adjacent to White Hough Water, shall be retained permanently in its entirety. Any part of the hedge removed without the Local Planning Authority's consent or which dies or becomes seriously diseased or otherwise damaged within five years following completion of the approved development, shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as specified by the Local Planning Authority.
13. No development shall take place, including any works of clearance, 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 preparation and 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 vii) A scheme for recycling/disposing of waste resulting from demolition and construction works viii) Details of working hours ix) Details of surface water discharge during construction period.
14. The development shall not commence until a scheme for the site access has been submitted to and approved in writing by the Local Planning Authority. The visibility splay at the site access shall be that land in front of a line drawn from a point 2m measured along the centre line of the proposed road to points measured 43m in each direction along the nearer edge of the carriageway of Blacko Bar Road, from the centre line of the access, and shall be constructed and maintained no higher than 1m above the carriageway level. The approved scheme shall be implemented prior to the first occupation of any house.

15. Before the dwellings hereby permitted are occupied, the access and road to be used for vehicular purposes extending from the highway boundary into the site shall be appropriately paved in a bound porous material.

16. The development shall include provision to enable vehicles to enter and leave the highway in a forward gear and for sufficient on plot parking. The development shall not be occupied until such provisions have been laid out and surfaced in accordance with approved plan No.10. The car parking and manoeuvring areas shall thereafter at all times remain free of obstruction and available for parking and manoeuvring purposes.

17. No development shall commence until details of the existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority. The details should demonstrate that there will be no increase in ground levels within that part of the site identified as being at risk of flooding.

18. Prior to first occupation each dwelling shall be provided with an electric vehicle charging point.

.....End of conditions.....