



Appeal Decisions

Site visit made on 11 September 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal A Ref: APP/P3420/W/20/3250790

16 Fair View, Boon Hill Road, Bignall End, Staffordshire ST7 8LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr R Emmett against the decision of Newcastle-Under-Lyme Borough Council.
- The application Ref 19/00472/CN04, dated 14 January 2020, sought approval of details pursuant to condition No 4 of planning permission Ref 19/00472/FUL, granted on 4 October 2019.
- The application was refused by notice dated 17 March 2020.
- The development proposed is demolition of existing dwelling and erection of replacement dwelling.
- The details for which approval is sought are external roofing materials.

Appeal B Ref: APP/P3420/W/20/3248061

16 Fair View, Boon Hill Road, Bignall End, Staffordshire ST7 8LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr R Emmett against the decision of Newcastle-Under-Lyme Borough Council.
- The application Ref 19/00956/FUL, dated 3 December 2019, was refused by notice dated 3 February 2020.
- The application sought planning permission for demolition of existing dwelling and erection of a replacement dwelling without complying with conditions attached to planning permission Ref 19/00472/FUL, dated 4 October 2019.
The conditions in dispute are Nos 5, 8 and 9 which state that:
 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended (or any Order revoking or re-enacting that Order), no extensions, roof alterations, the construction of outbuildings, shall be constructed within the site as may otherwise be permitted by Classes A, B, C and E of Part 1, Schedule 2 of that Order, unless they have been the subject of a prior planning permission from the Local Planning Authority.
 8. Any gates shall be located a minimum of 5 metres rear of the carriageway edge and shall open away from the highway.
 9. Any boundary treatment forward of the visibility splays shown on the approved drawings shall not exceed 600mm in height above the adjacent carriageway
- The reasons given for the conditions are:
 5. To protect the appearance of the building and the character and openness of the

Green Belt in accordance with Policy S3 of the Newcastle-under-Lyme Local Plan 2011 and the aims and objectives of the National Planning Policy Framework (2019). 8 & 9. In the interests of highway safety and in accordance with the aims and objectives of the National Planning Policy Framework (2019)

Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for demolition of existing dwelling and erection of a replacement dwelling at 16 Fair View, Boon Hill Road, Bignall End, Staffordshire ST7 8LA in accordance with planning application Ref 19/00956/FUL, dated 3 December 2019, without compliance with conditions No 5 and 9 previously imposed on planning permission Ref 19/00472/FUL dated 4 October 2019, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1 Class E of the Order, shall take place unless planning permission has first been granted by the Local Planning Authority.

Procedural Matter

3. Planning permission ref 19/00472/FUL, for the erection of a replacement dwelling following demolition of the existing house, was subject to 11 conditions. Appeal A is concerned with condition 4, which requires the approval of details of i) external roofing materials, ii) proposed means of boundary treatment and iii) soft and hard surfacing materials. The Council's letter dated 17 March 2020 confirms that the submitted details of boundary treatments and hard surfacing materials are acceptable and satisfy the requirements of parts ii) and iii) of condition 4. Appeal A therefore relates solely to the details of external roofing materials required under part i).
4. Appeal B seeks to remove conditions 5, 8 and 9.

Main Issue

5. For Appeal A, the main issue is the effect of the proposed roofing materials on the character and appearance of the area.
6. For Appeal B, the main issues are:
 - whether condition 5 is necessary and reasonable having regard to the character and appearance of the area and local and national policy concerning development in the Green Belt; and
 - whether conditions 8 and 9 are necessary and reasonable having regard to highway safety.

Reasons

Appeal A

7. Boon Hill Road rises up from Bignall End towards Wood Lane, with residential development fronting onto both sides of the road. House types, styles and ages in the surrounding area vary considerably, with no particular design predominating. There is also considerable variation in roofscapes. In terms of materials, the properties are generally constructed of red/brown brick, whilst some have light coloured render. The roof materials are mainly brown or grey clay or concrete tiles or, less commonly, slate.
8. Once constructed, the replacement dwelling will be a substantial two storey detached house in a prominent position, fronting directly onto Boon Hill Road. The design is not dissimilar to the existing dwelling, with twin gables on the front elevation, and like the current house, its large roof will be clearly visible within the streetscene.
9. The existing house has brown coloured tiles, whereas the proposed ceramic roof tiles for the replacement dwelling, (Piermont Autumn Leaf Engobed), are slightly brown/olive green in colour and have a slight sheen. These tiles have already been installed on the detached garage on the appeal site. Whilst their colour is appropriate, the tiles have a reflective surface, which makes the garage roof appear lighter and markedly different to the roofs of the surrounding houses. The use of this tile on the much larger roof of the replacement dwelling would appear incongruous in the streetscene and would draw attention to the house, increasing its prominence to an unacceptable degree.
10. I conclude that the proposed roofing material would cause harm to the character and appearance of the area. Its use would conflict with the provisions of Policy CSP1 of the Newcastle-under-Lyme Core Spatial Strategy 2009 (Core Strategy) which, amongst other considerations, require that development contributes positively to an area's identity through the use of appropriate vernacular materials for buildings and surfaces.

Appeal B

Condition 5

11. Paragraph 145d) of the National Planning Policy Framework (the Framework) allows for the replacement of a building in the Green Belt, provided that the new building is not materially larger than the one it replaces. The Council has confirmed that, owing to previous additions to the original building, the increase in scale of the replacement dwelling will be greater than that generally considered acceptable in the Green Belt.
12. In light of this, the Council has sought to control future extensions to the property through the removal of permitted development rights Classes A, B, C, and E of Part 1 Schedule 2 of the General Permitted Development Order (GPDO). Classes A and B would allow for further additions through single storey side and rear extensions, and additions to the roof. Class C would allow for the insertion of roof lights which would enable use of the loft space for living accommodation, and Class E permits outbuildings and other structures

within the curtilage of the building, where they are ancillary to the enjoyment of the dwelling house.

13. Permitted development rights are provided through secondary legislation which does not differentiate between areas within or outside of the Green Belt. There is nothing in the Framework which suggests that, in areas of Green Belt, extensions or outbuildings allowed under permitted development rights should be restricted. I accept that the replacement dwelling will be larger than the original, but policies for the protection of the Green Belt provide no clear justification for restricting permitted development rights in this instance.
14. The Council is concerned that removing condition 5 and the resultant lack of control over future additions, alterations and outbuildings could cause harm to the visual amenities of the area and the host dwelling. I acknowledge that if these rights were used to their full extent, the property could be further enlarged quite considerably. However, the area is characterised by residential properties which vary considerably in their style and appearance. There are no particular qualities relating to the area or to the replacement dwelling, once constructed, which require special protection to the extent that permitted development rights under Classes A, B and C should be withdrawn.
15. The dwelling is set within a very large curtilage area to the rear and side, which is visible from Boon Hill Road and from surrounding dwellings. The property already has a detached garage which will provide for outdoor storage of vehicles and other equipment incidental to the enjoyment of the dwelling. Permitted development rights afforded by Class E could, if used to their maximum extent, allow a large area to be occupied by further outbuildings, enclosures or containers. I note the appellant's comments that they have no intention to build a series of outbuildings, but other occupiers in future may do.
16. Given the size of the site, such buildings and structures could cause harm to the character and appearance of the area, which is identified in Policy N20 of the Newcastle under Lyme Local Plan 2011 (Local Plan) as being an Area of Landscape Enhancement, within which it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.
17. I acknowledge that the existing dwelling has the same curtilage with no restrictions on permitted development under Class E. However, it appears from the imagery on Google Maps that there were previously structures on the land, which appear to have been associated with a business use. There are no longer any obvious signs of this on the ground, but it is unclear how long the whole of the site has formed part of the residential curtilage and as such, how long it has benefitted from permitted development rights.
18. Examples have been provided of two other appeal decisions in the area in which conditions restricting permitted development rights were removed (APP/P3420/A/12/2178068 and APP/P3420/W/18/3201127). In both cases, reference was made to the constrained nature of the site, which does not apply here. The site is open and largely flat with no obvious constraints that would prevent the erection of buildings and structures in future. In light of the above factors, the restriction of permitted development rights under Class E is reasonable and necessary.
19. I conclude that the restriction of permitted development rights under Classes A, B and C is not necessary or reasonable having regard to the character and

appearance of the area and local and national policy concerning development in the Green Belt. As such, there is no conflict with Local Plan Policy S3, or with guidance in section 13 of the Framework, both of which seek to protect the Green Belt.

20. However, for the reasons given above, this does not apply to the restriction of rights under Class E, the retention of which is necessary to prevent future harm to the character and appearance of the area. I have therefore revised condition 5 to make the necessary changes.

Conditions 8 and 9

21. The appeal site is accessed directly off Boon Hill Road, which is a residential road linking the settlements of Bignall End and Wood Lane. At the time of my visit, there was a reasonable amount of traffic on the road, which is subject to a 30mph speed limit. The carriageway and the footway are fairly narrow and the road is reasonably busy with shallow bends close to the appeal property. Footways are present on either side of the road immediately adjacent to the appeal site, but they end near to the boundary of the site access, with no pavement in front of the neighbouring property, Homestead.
22. The submitted plans do not show any gates, but if they were to be installed, condition 8 requires that they be sited 5m to rear of the carriageway edge, and open inwards, to prevent vehicles blocking the footway and carriageway whilst the gates were being opened. Whilst I note that some other properties along the road have gates along their front boundaries, many have accesses which are open and ungated, enabling drivers to leave and enter without needing to stop on the road.
23. Taking account of the circumstances along this stretch of road, in particular the amount of traffic and the narrow carriageway and footway, measures to avoid vehicles blocking the road are justified. In order to ensure the safety of occupiers of vehicles entering the site, as well as other road users, condition 8 is reasonable and necessary, and should be retained.
24. The approved plans for the replacement dwelling involve a repositioning of the access onto Boon Hill Road, so that it would be further away from the house, and closer to the neighbouring property. The proposed driveway, which had been installed at the time of my site visit, now runs close to the side boundary wall of the adjacent property, Homestead. Although low in height, the neighbouring boundary wall will restrict visibility for vehicles leaving the site, particularly as the driveway slopes away from the road. Given the issues raised above in relation to the nature of the road, the maintenance of visibility splays is important to ensure highway safety for all users.
25. Drawing 19-111-07 shows the visibility splay, together with details of the proposed front boundary treatment which would comprise of a Golden Leylandii hedge. Maintaining the visibility splay in line with condition 9 would only affect a short section of the proposed hedge. Most of the hedge, including the section directly in front of the house, would be unaffected. The restrictions imposed by the condition would therefore be minor and would not affect the occupier's ability to maintain privacy along the front boundary. In any case, ensuring adequate visibility through limiting the height of the hedge would be in the appellant's interests.

26. Whilst condition 9 is necessary in the interests of highway safety, drawing 19-111-07 shows that the visibility splay crosses part of the neighbour's property. This means that the condition is not reasonable, because full compliance with it is beyond the appellant's control. As the condition does not meet the six tests set out in paragraph 55 of the Framework, I have removed it.
27. I conclude that condition 8 is reasonable and necessary having regard to highway safety. Its retention is necessary to meet the requirements of Framework paragraph 108b) that safe and suitable access to the site can be achieved for all users. Condition 9 does not meet the test of reasonableness and should be removed.
28. The remaining conditions are still required, and I have not altered them.

Conclusion

29. For the reasons given, details of external roofing materials required by condition 4i) are not approved, and so Appeal A is dismissed. Appeal B is allowed and condition 5 varied and condition 9 removed, as set out above. Condition 8 is still necessary, and I have therefore retained it.

R Morgan

INSPECTOR