



Appeal Decision

Site visit made on 20 October 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2020

Appeal Ref: APP/B2355/W/20/3257011

Land to South of 667 Burnley Road East, Lumb, BB4 9PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Heather and Victor Jordan against Rossendale Borough Council.
 - The application Ref 2020/0037, is dated 23 January 2020.
 - The development proposed is described as "*phase 2 application (Permission in Principle) for 1 dwelling consequent on phase 1 approval No 2019/0351*".
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs Heather and Victor Jordan against Rossendale Borough Council. This application is the subject of a separate Decision.

Background and Main Issues

3. The Council granted Permission in Principle ('PIP') for residential development at the appeal site on 20 September 2019 (Ref 2019/0351). This appeal relates to the Council's subsequent refusal to grant technical details consent pursuant to the original PIP.
4. The main issues in this appeal are the effect of the development, firstly, on the character and appearance of the area and, secondly, on the ecological value of the site.

Reasons

Character and appearance

5. The appeal site consists of a large garden area on the south eastern side of Burnley Road East. An attractive hedgerow runs across its frontage that contributes to the pleasant leafy character of the area. The surrounding properties mostly consist of traditional terraced houses and bungalows.
6. The development would introduce a large 4 bedroom bungalow onto the site that would be served by a new vehicular access point. It would have an unusual design incorporating a central flat roofed section, with taller pitched

roof elements on either side, and a high central chimney stack. This design would contrast sharply with the surrounding properties and would be starkly dissimilar from anything in the vicinity. Moreover, its proposed roof shape and substantial width would result in an awkward appearance that would draw the eye. In my view, it would be a discordant feature that would fail to respect the character of the area.

7. At its current height, the existing hedgerow would partly screen the development from view, such that it would have only a limited presence within the street. In this regard, it is proposed to retain most of this hedgerow apart from the removal of a short section to facilitate access. However, the windows to 3 of the 4 proposed bedrooms would look directly onto this hedgerow at close quarters. This arrangement is likely to create significant pressure to lower or remove part of the hedgerow in order to provide adequate light and outlook to those rooms. Any such works to the hedgerow would diminish its visual contribution to the area and would result in the proposed dwelling being far more visible within the street.
8. A Phase 1 Land Contamination Risk Assessment¹ was submitted in support of the appeal. This states that the site was previously used as allotment gardens, which has the potential to have contaminated the site with various substances including metals and metalloids, polycyclic aromatic hydrocarbons, petroleum hydrocarbons, and pesticides. Moreover, it identifies several potential sources of ground gas and notes that the site is also within an area requiring radon protection measures. Accordingly, the submitted Phase 3 Remediation Strategy² recommends the capping of soft-landscaping areas with a minimum of 600mm of clean material and the installation of gas protection measures. Whilst the appellant asserts that there is no reason to conclude that any such contamination exists, that is not the conclusion of their own land contamination reports. With regard to the appeal decision³ highlighted by the appellant, that Inspector stated that they had no evidence before them of any contamination on the site, which is not the case here.
9. The recommended 600mm of clean material could be achieved either by raising ground levels or by the excavation/removal of material prior to capping. In this regard, it appeared that material had been excavated and removed at the time of my site visit. These excavations extended up to the back of the hedgerow across the site frontage. It is unclear what impact this has had on the root systems of that hedge, although a number of severed roots were visible. Conversely, were the site to be raised by 600mm, then it would make the proposed dwelling far more prominent within the street.
10. Separately, the Highway Authority asserts that it is necessary to reduce the height of the hedgerow to 1.05 metres in order to ensure adequate visibility. However, a visibility splay plan has been submitted which shows that 60 metres x 2.4 metres visibility splays could be achieved in both directions without reducing the height of the hedgerow. The Council has not sought to question this. The proposed visibility splay would significantly exceed the sight stopping distances for a 30 mph zone set out in the County Council's 'Creating Civilised Streets' (2010). Moreover, it is not clear that a reduced hedge height would necessarily make the entrance more visible to future guests were the

¹ Ref 1489R Jordan - Rossendale (Castledine & Co, November 2019)

² Ref 1519K P3 Jordan - Rossendale (Castledine & Co, January 2020)

³ APP/B2355/W/19/3236875

dwelling to be used as bed and breakfast accommodation. In any case, this could be achieved by other means, e.g. a requirement that a small sign be installed/retained. However, that does not alter my other concerns regarding the development, as set out above.

11. For the above reasons, I conclude that the development would significantly harm the character and appearance of the area. It would therefore be contrary to Policy 1, Policy 23, and Policy 24 of the Rossendale Core Strategy (2011). These policies seek to ensure, amongst other things, that new development contributes positively to local character and is compatible with its surroundings in terms of style and layout.

Ecology

12. The appellant's Preliminary Ecological Appraisal⁴ identifies the existing hedgerow as a 'Habitat of Principal Importance'. It recommends that it be retained within the development, and that the loss of part of the hedgerow to create a new access point be compensated for within the site. However, as set out above, I consider that the development is likely to lead to significant pressure to either lower or remove parts of the hedgerow. This would be contrary to the recommendations of the Preliminary Ecological Appraisal, and the comments provided by the Council's ecologist. Any harm resulting from the recent excavations onsite would be in addition to this. I therefore conclude that the development would be likely to significantly harm the ecological value of the site. It would therefore be contrary to Policy 18 and Policy 19 of the Rossendale Core Strategy (2011). These policies seek to ensure, amongst other things, that new development does not adversely affect habitats and areas of ecological value.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR

⁴ Verity Webster, November 2019