The Planning Inspectorate

Appeal Decision

Site visit made on 28 September 2020 by Hilary Senior BA (Hons) MCD MRTPI

by Sarah Housden BA (Hons) BPL MRTPI

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

Decision date: 13 November 2020

Appeal Ref: APP/E2340/W/20/3254764
Land to the rear of 21-25 Duxbury Street, Earby BB18 6RG

- 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 & Mrs Horsefield against the decision of Pendle Borough Council.
- The application Ref 19/0692/FUL, dated 24 October 2019, was refused by notice dated 5 March 2020.
- The development proposed is erection of a two storey dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey dwelling at Land to the rear of 21-25 Duxbury Street, Earby BB18 6RG in accordance with the terms of the application, Ref 19/0692/FUL, dated 24 October 2019 subject to the conditions 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.

Procedural Matter

3. The application form gives the site address as No 19 Duxbury Street (No 19) whereas the decision notice and appeal documents refer to land to the rear of Nos 21-25 Duxbury Street. I have used this latter address in the banner heading and my formal decision above as it more accurately describes the location of the site.

Main Issue

4. The main issue is the effect of the proposal on highway safety, having particular regard to the safety and free passage of other highway users.

Reasons

5. Duxbury Street lies within the settlement of Earby and consists of a row of stone built terraced properties. There is a private access road to the rear of the properties, with access from Croft Street. The area to the east of the access road is used for off street parking and garaging by the residents of Duxbury Street. A public right of way runs to the rear of the parking/garaging area.

6. The appeal proposal is to construct a detached two storey dwelling on land to the rear of Nos 21 - 25, which is currently used as a garden and parking area for No 19. Whilst it would include sufficient off-street parking for the proposed dwelling, it would remove the existing parking provision for No 19 which would be likely to take place on Duxbury Street.

7. The site is located within Earby Conservation Area (CA). Given the design and siting of the proposal, I am satisfied from all I have seen and read that it would preserve the character and appearance of the CA and would conserve the significance of this designated heritage asset. Accordingly, the requirements of S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area would be met.

8. The appellant indicates that the intended future occupier of No 19 would not own a vehicle thereby not generating any additional demand for on-street parking. However, were the property to change ownership or occupiers in the future, that situation could change and I have therefore assessed the appeal proposal on the basis that the existing parking for No 19 would be displaced onto Duxbury Street.

9. Duxbury Street has limited width in the vicinity of No 19, with parking available only on one side of the road, although additional space is available closer to the Duxbury Street/Red Lion Street junction. At the time of my site visit which took place mid-morning, there were on road parking spaces available in the vicinity of the proposal. I recognise that this was a snapshot in time and during the working day and that there may be greater demand for parking spaces at other times of the day.

10. Conflict between vehicle users would be most likely to arise with vehicles entering and leaving the junction between Duxbury Street and Red Lion Street, although due to the road layout vehicle speeds are likely to be low. However, the additional demand for parking spaces generated by one household would be limited and unlikely to lead to situations where there is insufficient on - street space to enable vehicles to manoeuvre out of the path of oncoming traffic to enable it to pass. Access for large vehicles such as emergency vehicles would be available to the side of No 25 Duxbury Street.

11. Furthermore, there is no evidence before the appeal of accident data. From all I have seen and read, I consider that the additional on street parking generated by the occupiers of one additional dwelling would not cause unacceptable harm to highway safety, having particular regard to the safety and free passage of other highway users.

12. For the reasons above, the proposal would not have an unacceptable impact on highway safety having particular regard to the safety and free passage of other highway users. It would not therefore conflict with policy ENV4 of the Local Plan for Pendle Core Strategy (2015), saved policy 31 of the Replacement Pendle Local Plan (2006) and the National Planning policy Framework (the Framework) which together seek, amongst other things to ensure that development should have regard to the impact on highway safety including in terms of the free flow of traffic.

Conditions

13. I have considered the conditions suggested by the Council in accordance with the Planning Practice Guidance. For clarity, I have amended the wording of a number of the suggested conditions so that they comply with the tests set out in the Planning Practice Guidance and the Framework

14. In the interest of proper planning I have attached a condition relating to time limits, and a condition specifying relevant plans to provide certainty. Conditions concerning external materials and landscaping are necessary in the interests of the character and appearance of the area.

15. In the interests of highway safety and to ensure that the proposed dwelling has sufficient parking facilities, a condition is necessary requiring the approved parking spaces to be provided.

16. A condition removing permitted development rights for extensions, roof alterations and curtilage buildings is necessary in the interests of the character and appearance of the area and to safeguard the living conditions of adjoining occupiers.

17. A condition requiring a construction method statement is necessary to ensure that the impact on the local highway network is managed.

18. To ensure that the proposal would be acceptable in terms of flood risk, a condition is necessary to ensure that the development is carried out in accordance with the revised Flood Risk Assessment and that finished floor levels are in line with the approved plan.

Conclusion and Recommendation

19. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Sarah Housden

INSPECTOR

Schedule

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 plans:01B, 02C, 03C and 04E.

3) No above ground works shall commence on site unless and until, representative samples of all the external materials to be used in the construction of the roof, walls and driveway surface, together with samples showing the colour and finish of the windows and doors and detailed plans of the rooflights and solar panels to be installed as part of the development hereby approved, have first been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved materials and details

4) No development shall commence on site unless and until, a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted at a scale of 1:200 and shall include the following:

   a) All proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;

   b) All proposed boundary treatments with supporting elevations and construction details;

   c) An outline specification for ground preparation;

   d) All proposed hard landscape elements and pavings, including layout, materials and colours;

   e) The proposed arrangements and specifications for initial establishment;

   f) Maintenance and long-term maintenance of all planted and/or turfed areas.

   The approved scheme shall be implemented in its entirety within the first planting season following the substantial 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.

5) The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing no. 01B for two cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

6) Notwithstanding the provisions of Article 3 and parts 1 and 2 of the Second Schedule of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Classes A (Extensions and other alterations), B (Additions to

the roof), C (Alterations to the roof), E (Curtilage buildings) and Class G (Chimneys, flues etc.) of Part 1 of Schedule 2 and of that Order, shall be carried out without express planning permission first being obtained from the Local Planning Authority.

7) No development shall commence on site unless and until, a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide separate systems for foul and surface waters, be constructed and completed in accordance with the approved details before the dwelling is occupied and thereafter be retained.

8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:

   i) the parking of vehicles of site operatives and visitors;
   ii) loading and unloading of plant and materials;
   iii) storage of plant and materials used in constructing the development;
   iv) wheel washing facilities;
   v) measures to control the emission of dust and dirt during construction;
   vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
   vii) delivery, demolition and construction working hours.

   The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

9) The development shall be carried out in accordance with the revised Flood Risk Assessment dated 14.1.20 Ref 71609R3 buy Geo Smart and the finished floor level shall accord with the details shown on submitted plan no. 04E.