
Appeal Decision

Site visit made on 29 October 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/Z2315/W/20/3256351

Land at Vicarage Avenue, Padiham

- 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 Reedley Properties Limited against the decision of Burnley Borough Council.
 - The application Ref FUL/2020/0147, dated 1 April 2020, was refused by notice dated 15 July 2020.
 - The development proposed is the erection of 6 no. detached bungalows and garages, access, landscaping and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 6 no. detached bungalows and garages, access, landscaping and ancillary works at Land at Vicarage Avenue, Padiham in accordance with the terms of the application, Ref FUL/2020/0147, dated 1 April 2020 subject to the conditions contained in the schedule attached to this decision.

Main Issues

2. The main issues are the effect of the proposed development on 1) the character and appearance of the area and 2) the setting of listed buildings adjacent to the site.

Reasons

Character and appearance

3. The appeal site comprises an area of undeveloped land at Vicarage Avenue, Padiham. It is located in a predominantly residential area where the properties surrounding the site are made up of rows of terrace dwellings. Of these, the properties on Vicarage Avenue face towards the appeal site, with the rear of properties on Whalley Road and Blackburn Road looking towards the appeal site. There is an 'L' shaped area of gardens that bounds the site. Craggs Farm and cottage, which are grade II listed buildings are located towards the west of the appeal site. In terms of landscape features, there are hedges along the site boundary with Vicarage Avenue and the rear lane of properties on Whalley Road with the remainder of the site being predominantly overgrown vegetation.
4. The proposed development is for the construction of 6 loosely arranged detached bungalows in a cul-de-sac layout. The principle of residential development is not in dispute between the main parties, with the Council's

reason for refusal focusing on the layout and design of the bungalows which is considered to be totally incompatible with the character of the Victorian terraces. Regarding the principle of residential development, which would be compatible with the prevailing land use of the area, I have no reason to form a different view.

5. The surrounding properties are notable for their gridiron, terraced formation and whilst they are pleasantly designed and make a positive contribution to the character and appearance of the area, they do not represent a wholly unique form of development, nor are they recognised locally or nationally for their architectural or historic interest.
6. The proposed layout and design would depart from the layout and design of the dwellings surrounding the site. The proposed dwellings are however sited at such a distance from the existing dwellings that they would not cause a sharp or harmful contrast in their appearance or form. The development would appear clearly distinguishable from the make-up of the existing properties, sitting within a clearly defined site. Due to their size and scale, the proposed dwellings would not be dominant features in the area nor would they dilute the presence of the existing Victorian terraced properties. Their appearance would be of a traditional domestic design that would be appropriate in this context and again, due to the separation from existing properties, the departure from the existing properties in terms of design, would not result in harm.
7. On my site visit, I observed that in the wider area there are several examples of different property styles and layouts, with properties built over various eras. Such a situation represents a typical evolution in the design, layout and appearance of residential areas in many towns and cities.
8. The proposed development is for bungalows in an area of predominantly two storey properties, and the development would be of a lower density than the surroundings. Due to the separation of the site from the existing properties, I find no justification of the need to replicate the scale and density of the existing properties, I do not find that either of these elements causes harm.
9. I therefore conclude that the proposed development would not have a harmful impact on the character and appearance of the area. It would therefore comply with Policy SPG5 of the Burnley Local Plan (2018) which requires, amongst other things, that development proposals respect existing, or locally characteristic street layouts, scale and massing.

Setting of listed buildings

10. Craggs Farmhouse lies to the west of the appeal site. It dates from around 1840 and is grade II listed together with the associated barn and stables, which are also grade II listed. Despite its former agricultural use, no such use is evident at present, with the property being surrounded by mature trees in a landscape setting. The proposed development retains a gap with the listed buildings that largely consists of mature trees.
11. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.

12. I am provided with a copy of the Heritage Statement that was submitted with the planning application. The statement finds that no harm to the settings of the listed buildings would arise from the development, because they already have an established suburban rather than rural location, and because the proposal incorporates sufficient physical separation and distinctiveness of design, for the listed buildings to continue to be experienced as a historic farmstead.
13. The Council's Conservation Officer, in considering the statement, concurred with this view, insofar that the magnitude of impact on setting is considered to have little effect on the significance of the heritage asset and no real change in the ability to understand and appreciate the asset. It was concluded, in their opinion, that there is no harm to significance arising.
14. Although members of the planning committee are entitled to form a different view to that of officers, I am not provided with any substantive evidence as to why the proposed development would harm the significance or the setting of the listed buildings.
15. I find that due to the size, scale and siting of the proposed development, and the fact that the notable landscape features comprising the mature trees on the intervening land are unaffected by the proposal, I consider that there would be a neutral impact on the setting and significance of the listed buildings.
16. Therefore, the proposal would preserve the special interest or setting of Craggs Farmhouse and associated buildings and would not result in harm to the significance of these listed buildings. It would comply with Policy HE2 of the Burnley Local Plan (2018) which requires, amongst other things, that developments avoid harm to significance and the setting of designated heritage assets.
17. The proposal would preserve the setting of the listed buildings as required by Section 66(1) of the LBCA Act.

Other Matters

18. A number of representations made both to the appeal and the original planning application refer to the highway impacts of the development, including during construction, in relation to parking, increased traffic and the safety of junctions. Such matters were not contained in the Council's reason for refusal and I note that the Highways Authority did not raise an objection to the proposal, subject to conditions. I find that such highways matters are not pertinent to the main issues and I am not presented with any substantive evidence that the proposed development would have an unacceptable impact on highway safety or produce residual cumulative impacts on the road network which would be severe.
19. Construction would cause some noise and disruption, but this would be temporary and would be mitigated by a Construction Method Statement which could be the subject of a condition.
20. Due to the topography and the intervening distances achieved, the proposal would not result in any significant loss of privacy for the occupants of neighbouring houses.

21. Representations regarding the need for housing, or the amount of housing development in the area are not pertinent to the main issues and I am not provided with any substantive evidence that would lead me to conclude that the development should be prevented on this basis. Similarly, the fact that the site is not specifically allocated for housing, or that the local plan examination removed a suggested allocation for the expansion of an industrial area do not result in the proposal being unacceptable in planning terms.
22. There is no evidence before me to suggest that the development would be at risk of flooding or lead to an increased risk of flooding elsewhere, nor is there any evidence that there would be an unacceptable impact on biodiversity, as inferred in the Ecology comments that the site did not support a habitat of biodiversity value. Biodiversity enhancements may be secured by condition. There is no evidence that former mine workings would prevent the development from being carried out.
23. Representations that the development is purely for profit, that the landowner purposely made the area look an eyesore to aid their planning application and that they have refused requests by residents on Whalley Road to lease plots on the land adjacent to their property, are not land use planning matters, or matters of significant weight which would alter my findings on the main issues.
24. Similarly, the view that the development has no benefit to the community or environment is not determinative. In my experience the provision of bungalow developments can often meet a local demand that is not typically catered for in larger housing developments, and through landscaping and biodiversity enhancements, the scheme can provide some environmental benefit.
25. Concern that the development of the site could lead to the development of neighbouring Green Belt land is unfounded, not least by the fact that the appeal site is not within the Green Belt. Development in the Green Belt is subject to policies that are not applicable to the appeal proposal.
26. Reference is also made to the loss of amenity space where children play. I am not provided with any evidence to support the notion that the land constitutes public open space. Indeed, on my site visit I observed that any form of public access to the site was not readily apparent. Such matters are not pertinent to the main issues and have little weight in the appeal.
27. Reference is made to the impact on the listed Huntroyde Gatehouse. I am not provided with any further reference to the location of this structure to consider the impact of the development on it, however it appears to be some distance from the appeal site.

Conditions

28. I have considered the conditions put forward in the Committee Report and those recommended by consultees as the conditions the Council consider should be imposed in the event the appeal is allowed.
29. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty. The Committee Report recommends a further 19 conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.

30. As the materials are stated on the approved plans a separate condition requiring the use of materials as stated in the approved plans is not necessary.
31. In the interests of highway safety, conditions requiring; engineering details of the access, implementation of access (both for construction purposes and for use of the development), measures to prevent gates opening towards the adopted highway, wheel cleaning of vehicles during construction, construction method statement and implementation of car parking to serve the development, are necessary.
32. Conditions requiring engineering details, implementation of suitable access for construction, wheel cleaning and the submission of a construction method statement, are all required prior to the commencement of development to ensure that such measures are in place throughout the construction phase. A condition requiring specific surface treatment of the access is not required as this is covered by other conditions, and a condition stipulating the position of gate posts and that gates open inwards to the site is not required as this is shown on the approved plans.
33. In the interest of sustainability, a condition requiring the implementation of electric vehicle charging to serve the dwellings is required.
34. In the interest of the living conditions of surrounding residents, a condition is required in relation to hours of construction.
35. A condition requiring details of surface water drainage is required to manage the risk of flooding. It is required prior to commencement to ensure that any measures needed can be built into the development at an early stage. A condition requiring that foul and surface water are drained on separate systems is necessary in the interests of flooding and pollution.
36. A specific condition relating to noise mitigation and dust suppression is not required as this can be covered in the required construction method statement. A condition restricting the burning of waste or other materials in the curtilages of the dwellings is not necessary to make the development acceptable in planning terms. A condition requiring the reporting of any unexpected contamination, and if necessary, a remediation report, implementation and validation statement, is necessary to mitigate any adverse impact on the environment.
37. A condition requiring the submission of details of landscaping and biodiversity enhancements is necessary in the interests of the character and appearance of the area and to secure enhancements to biodiversity.
38. The removal of permitted development rights should only be imposed in exceptional circumstances that I do not consider exist in this instance.

Conclusion

39. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

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 plans: Proposed Site Plan – Dwg 02, Proposed Plans Plots 1,2,4,6 – Dwg 03, Proposed Plans Plot 3 – Dwg 04, Proposed Plans Plot 5 – Dwg 05, Proposed garage Plans – Dwg 06.
- 3) Prior to the commencement of development, full engineering, drainage, and constructional details of the access shall be submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.
- 4) No part of the development hereby approved shall be occupied until the approved scheme referred to in Condition 3 has been constructed and completed in accordance with the scheme details.
- 5) The new access to the site shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.
- 6) The access road for the approved development shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level up prior to the commencement of construction of the dwellings.
- 7) All gates and associated mechanisms to be located outside the adopted highway shall have physical restraints to prevent the gates from opening towards the adopted highway.
- 8) For the full period of construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
- 9) Prior to the commencement of development, including any works of demolition, a construction method statement shall be 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) Routing of delivery vehicles to/from site vi) Measures to control the emission of dust and dirt during construction.
- 10) The development shall not be occupied until the car parking areas to serve the development have been laid out and hard surfaced in accordance with approved drawings and made available for use and retained as such thereafter.
- 11) No dwelling shall be occupied until an electric vehicle charging point to serve that dwelling has been installed. The charging point shall be retained as such at all times thereafter.

- 12) All works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.
- 13) No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include: (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water; (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); (iii) that foul and surface water are drained on separate systems; and (iv) A timetable for its implementation. The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.
- 14) In the event that any evidence of potential contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted to and approved in writing by the Local Planning Authority.
- 15) None of the dwellings shall be occupied until a landscaping scheme, which shall include measures for biodiversity enhancements, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in the first tree planting season following the substantial completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.