



Appeal Decision

Site visit made on 5 January 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2021

Appeal Ref: APP/B2355/W/20/3259984

Zion Cottage, Saunders Height Lane, Newchurch, Rossendale, Lancashire BB4 9NB

- 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 A Nauseda against Rossendale Borough Council.
 - The application Ref 2020/0221, is dated 26 May 2020.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Zion Cottage, Saunders Height Lane, Newchurch, Rossendale, Lancashire BB4 9NB in accordance with the terms of the application, Ref 2020/0221, dated 26 May 2020, subject to the conditions set out in the attached schedule.
2. An application for costs was made by Mr A Nauseda against Rossendale Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal as well as an Officer Report which sets out draft reasons for refusal. I have framed the main issues for this appeal around those submissions which the appellant has seen and had opportunity to comment on.

Main Issues

4. The main issues are i) the effect of the proposal on the character and appearance of the area, ii) whether or not the proposal would provide suitable living conditions for future occupiers, and iii) whether or not the appeal site can be properly and sustainably accessed.

Reasons

Character and appearance

5. The proposal, a replacement for a dwelling currently attached to the Windy Willows Farm House, would be located within a separate area to the rear of Windy Willows. The site is largely screened from the many and various public rights of way near the site by trees, planting, Windy Willows and intervening distance. At present, the character of the site is of a farmhouse with associated

buildings and substantial screening set in an otherwise open and rural landscape, similar to other groups of buildings visible across the surrounding area.

6. Unlike the dwelling it is replacing, the appeal proposal would be two-storeys and set away from Windy Willows. However, even with the increased size proposed, given the location of the appeal site relative to the other landscape and site features, I do not consider that this would lead to any significant or otherwise harmful increase in the amount of visible or perceptible built development on the site and the area.
7. It is clear from the area around the appeal site that many farmhouses are typically found in, or appear to be part of small groups. The appeal proposal would give rise to such an appearance. As such, I do not consider that the proposal would lead to any harmful spread or increase of urbanising built-development in the countryside. Similarly, I do not consider that the proposed changes to the boundaries would cause any harmful encroachment into the countryside.
8. The proposal will lead to a change in the character and appearance of the site. However, given the nature of the site and surroundings, I do not consider that this in itself is unacceptable or harmful. The overall open, rural character and appearance of the area, with relatively remote groups of buildings set within it, would be retained.
9. As such, I consider that the proposal would accord with Policy 23 of the Core Strategy Development Plan Document: The Way Forward (2011-2026), adopted 2011 (the Core Strategy). This policy seeks, amongst other things, to ensure that development is of a high standard of design which responds to the local context, distinctiveness and character, and that it protects views. The proposal also accords with the aims of the National Planning Policy Framework (the Framework) to achieve well-designed places and conserve the natural environment.

Living conditions

10. Neither the Officer Report nor the Statement of Case from the Council suggest or substantiate any potential harm to the living conditions of future occupiers of the appeal property. Indeed, the Report goes so far as to highlight that whilst the size of the current dwelling falls short of the Nationally Described Space Standards, the proposed dwelling would exceed them. The proposal also includes parking and private outdoor space, all commensurate with a dwelling of the size proposed and appropriate to the location.
11. As a result, I must conclude that the proposal offers suitable living conditions for future occupiers and does so without any adverse impacts suggested by the Council. As such, I consider that the proposal would accord with advice in the Framework on achieving well designed places with a high standard of amenity for existing and future occupiers.

Access

12. Despite the profusion of public rights of way around the site, it is clear that future occupiers of the proposal are likely to rely on the private car for day-to-day transport and access, and that parking will be required. The proposal clearly provides for the provision of car parking, and the appellant has

submitted evidence to demonstrate that the site can be accessed from the public highway.

13. Whilst the Framework does seek to reduce the reliance on and use of the private car, I cannot set aside that the appeal proposal is for a replacement dwelling, and as such, the proposal does not necessarily introduce new private-car based trips. In addition, I note that the Council does not object to the principle of the replacement dwelling.
14. As such, I consider that the proposal can be properly and sustainably accessed in line with the requirements of Policy 23 of the Core Strategy and guidance in the Framework.

Other Matters

15. I note the concerns of third parties and the Council over the provision of drainage for the appeal proposal. However, despite these, there is no suggestion that appropriate arrangements for drainage cannot be made, and the Council are satisfied that this can be addressed through the imposition of a suitably worded condition, which the appellant agrees to in principle.
16. In addition, the planning process does not override separate legal rights, nor does it provide legal rights where none currently exist. As such, it remains for the appellant to secure and maintain these rights, separately from the planning application and appeal process.

Conditions

17. The Council has suggested a number of conditions to be attached, should planning permission be granted. Having had regard to the requirements of the Framework and the Planning Practice Guidance (the PPG) I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2). Conditions requiring development in accordance with the submitted material details (3), implementation of the submitted construction method statement (4) and landscaping scheme (5), and restoration of the exposed part of Windy Willows Farm House (8) are necessary to ensure the satisfactory appearance of the completed development. Condition 6 is required to ensure that appropriate ecological mitigation works are carried out.
18. Condition 7 is required to be a pre-commencement condition as it relates to matters which could not be properly addressed at a later stage. The appellant suggests that Windy Willows Farm already has its own drainage arrangements and it is not part of this application. However, on the basis of the third-party representations on this point, I consider that the condition meets the tests in the PPG and is necessary to ensure the proper provision of drainage, both for the appeal proposal, and the existing dwelling.
19. The Council has requested the removal of permitted development rights for extensions and outbuildings. Given the relative sensitivity of the site and the close relationship of the site to its neighbour, I consider that this condition is clearly justified and is both reasonable and necessary. The conditions overall therefore meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed, and planning permission granted.

S Dean

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: Location Plan, Proposed Site Plan SN-19-05-20-B, Proposed Floor Plans / Elevations SN-19-05-20-A, Detail of Access Track SN-19-05-20-C
3. The roof of the dwelling hereby permitted shall be covered with natural blue-grey slates and the external walls of pitch-faced natural stone, with larch boarding above.
4. The development hereby permitted shall be undertaken in accordance with the submitted Construction Method Statement (Ref AN.250520.C).
5. The development hereby permitted shall be undertaken in accordance with the submitted Landscaping Access and Boundary Treatment Plan (Ref AN.250520.D), with any additional planting to take place in the first available planting season following substantial completion of the building hereby permitted.
6. The Recommendations for Mitigation and Compensation set out on Pages 20 & 21 of the submitted Preliminary Ecological Appraisal by Verity Webster (May 2020) shall be implemented.
7. Prior to the commencement of the development hereby approved, a scheme detailing the foul-water drainage arrangements for both the proposed dwelling and that at Windy Willows Farm, including a programme for its implementation, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved programme.
8. Prior to first occupation of the dwelling hereby permitted the existing dwelling on the application site shall be demolished and the part of the rear elevation of the house at Windy Willows Farm thereby exposed shall be made-good in accordance with a scheme first submitted and approved in writing by the Local Planning
9. Notwithstanding the provisions of Class A to E of Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development Order 2015, as amended or revoked and re-enacted, no extension or outbuilding shall be erected without submission and approval of an application for Planning Permission for it.

End of schedule of conditions