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# Appeal Decision

Site Visit made on 1 September 2021

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> September 2021**

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**Appeal Ref: APP/P2365/W/21/3276145**

**11 Ash Close, Ormskirk L39 3PB**

- 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 and Mrs Steve and Elaine Pratt against the decision of West Lancashire Borough Council.
  - The application Ref 2020/0698/FUL, dated 12 August 2020, was refused by notice dated 21 May 2021.
  - The development proposed is the demolition of a single garage and the erection of a dormer bungalow following the sub-division of the garden of no. 11 Ash Close, reconfiguration of access and parking (for both the existing and proposed dwellings), and associated hard and soft landscaping (including new boundary treatment).
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of a single garage and the erection of a dormer bungalow following the sub-division of the garden of no. 11 Ash Close, reconfiguration of access and parking (for both the existing and proposed dwellings), and associated hard and soft landscaping (including new boundary treatment) at 11 Ash Close, Ormskirk L39 3PB in accordance with the terms of the application, Ref 2020/0698/FUL, dated 12 August 2020, subject to the conditions in the attached schedule.

## Procedural Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

## Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and the living conditions of the residents of 9 and 11 Beechwood Drive and 9 Ash Close with particular regard to outlook.

## Reasons

### *Character and Appearance*

4. The appeal relates to an irregular shaped side garden area of a semi-detached bungalow that is located at the corner of the Ash Close cul-de-sac. The immediate surroundings are characterised by similar semi-detached bungalows that are laid out in a staggered arrangement to follow a set pattern and the curved alignment of the turning head.

5. The majority of the dwellings along Ash Close also have modest gaps between them, with very low front boundary walls, presenting open plan grass frontages with hedgerows and shrubbery. All of these factors combine to present a relatively spacious layout.
6. Whilst the appeal site tapers to the rear it is not dissimilar in size and shape to other nearby plots on the Close. The submitted plans also show that the proposed dwelling would be commensurate in its size, scale and design as the existing house at No 11 and comparable to many other properties in the Close.
7. It is acknowledged that the south west corner of the proposed dwelling would be sited near to the shared boundary with 9 Beechwood Drive. However, the Council measure this gap to be approximately 1.7 metres at its closest point to this shared boundary. The submitted plans also show that there would be a generous amount of space maintained between the majority of the proposal's southern side elevation and this boundary fence line.
8. The distance from its shared boundary with No 11 would also be similar to the majority of the gaps found between neighbouring bungalows and their shared side boundaries on the Close. These factors, along with the considerable set back and front driveway area, would ensure that an acceptable sense of separation and space is maintained. Whilst it would have a slightly smaller rear garden area than the immediate neighbouring properties, this would not deviate from the established street pattern to such a degree as to significantly harm the character and appearance of the surrounding area.
9. The proposed development would therefore not fill the width of the plot to such an extent as to appear cramped, overdeveloped, or at odds with the prevailing character of the street scene. As such no conflict would arise with Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document 2013 (Local Plan). This seeks, amongst other things, for development proposals to be of high quality design, having regard to visual amenity through sensitive design, appropriate siting, orientation, scale, materials, boundary treatment and landscaping.

#### *Living Conditions*

10. As previously mentioned, the proposal would be orientated so that its southern side elevation would be in proximity to the rear boundary fences of 9 and 11 Beechwood Drive. The proposed dwelling would also have a rear dormer which would increase its scale, massing and form.
11. The Council's Supplementary Planning Document, titled 'Design Guide' 2008 (SPD) advises that the acceptable size of a new building including an extension will be determined by its height; the adjacent ground levels; the distance from the boundary and also the size of the neighbouring garden/amenity space and orientation.
12. Although falling under the overlooking section, the SPD also sets out that the minimum distance between main elevations and those that do not contain primary windows of habitable rooms should be 12m. In my experience, this is a reasonable distance to be maintained to ensure that the level of outlook from a property is protected.
13. Nonetheless, it is uncontested that even when taking account of the single storey additions to No 9 and 11 the interface distances between these and the

southern elevation of the new dwelling would significantly exceed this distance, being located approximately 17 metres and 21 metres away respectively. This would be a generous distance regardless of any screening that would be provided by the existing boundary treatment and hedgerows. The proposed untouched front roof plane would also help to reduce any sense of bulk and overall prominence, when viewed from No 11. In light of these factors, I do not consider that the proposal would appear overly intrusive or unacceptably overbearing from No 9 and 11 Beechwood Drive or their rear garden areas.

14. Given the presence and proximity of the proposed approximate 2 metre high fencing to the ground floor side windows of 9 Ash Close, and the distance that the proposed dwelling would be located away from this neighbouring property, the level of outlook from it would not be limited to such a degree as to warrant the dismissal of the appeal on this basis.
15. As such I am satisfied that the size, scale and massing of the proposal would not be in such close proximity to the rear windows of Nos 9 and 11 Beechwood Drive and 9 Ash Close to appear intrusive or visually dominate the outlook from them. I therefore find that the proposed development would not harm the living conditions of the residents of these neighbouring properties, with particular regard to outlook. As a result, it would not conflict with Local Policy GN3 in this regard, which amongst other things, requires proposals for development to retain reasonable levels of amenity for the occupiers of the proposed and neighbouring properties.

### **Other Matters**

16. It has been put to me that the proposal would not be for social housing or first time buyers and that there is not a need for this type of additional housing in the area. However, in facilitating a sustainable pattern of development in West Lancashire, Local Plan Policy RS1 sets out that residential development will be permitted within the Borough's settlements on brownfield sites, and on greenfield sites not protected by other policies. The site lies within the Key Service Centre of Ormskirk and I note that Officers are satisfied that the principle of residential development in this location is acceptable. I have no reason to disagree with this or conclude that there would be harm arising from an oversupply of housing in the area.
17. Whilst I have noted local residents' arguments in respect of highways the Council's Highway Authority has not raised any objections in regard to the proposed shared driveway, or manoeuvrability for emergency vehicles or vehicles during the construction process, and I am satisfied that the number of vehicle movements would not result in any unacceptable congestion or highway safety risk. Any disturbance during construction would be for a temporary period only.
18. Local residents and third parties' comments in respect of the appellant's lack of communication with them prior to the submission of the planning application, the tone of the appellant's Statement of Case and criticism in regard to the planning committee meeting are noted. However, these have not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.
19. Damage caused to property during construction would be a private matter between the parties involved. Concerns about the potential for future

neighbour disputes, and the negative impact that this may have on their wellbeing are also acknowledged. However, I have reasoned above, with reference to planning considerations in terms of the public interest, that the proposal would not have unacceptable effects.

20. In respect of privacy, it is proposed that first floor windows on both side elevations of the proposal would be glazed in obscure glass. Officers also consider that there would be sufficient separation distance from 9 and 11 Ash Close, and 7, 9 and 11 Beechwood Drive so that there would be no material harm in respect of loss of outlook, light or privacy of their residents, including overlooking from the rear dormer windows. Those observations accord with mine of the nature of the site and its surroundings, and the likely highly limited effects in this respect.
21. I also have considered the argument that the grant of planning permission would set an undesirable precedent for other similar developments. However, each application and appeal must be determined on its own individual merits, and I have found the proposal to be acceptable for its own specific reasons. As such a generalised concern of this nature does not justify withholding planning permission in this case.
22. In addition, I am aware that there is no obligation for the existing hedgerows along the shared boundary to be retained after the construction works are completed and note that the Council's suggested conditions do not include the requirement for these to be retained. Nonetheless, on my site visit I saw that some vegetation also exists within 9 and 11 Beechwood Drive's rear garden areas. Given the substantial separation distances referred to above, and the screening that the occupiers of these neighbouring properties would have from vegetation within their control I do not consider such a condition to be reasonable or necessary in the interests of protecting the living conditions of the residents of neighbouring properties.

### **Conditions**

23. I have considered the conditions suggested by the Council against advice in the Planning Practice Guidance (PPG): *Use of planning conditions*. In addition to a condition specifying the relevant plans (which is necessary to provide certainty), re-worded conditions are needed to secure details of external materials (for precision) and, in the interests of the character and appearance of the area.
24. I have imposed a condition to secure an electric vehicle charging point to reduce transport emissions in the interests of air quality and consider a condition in respect of compliance with the submitted drainage strategy report to ensure that an adequate system for the drainage of the site is provided.
25. In order to safeguard the privacy of the occupiers of neighbouring properties I have also imposed a condition for obscure glazing to be provided for the proposal's side facing windows. However, I have amended the wording of this to ensure that they would only be capable of being opened 1.7 metres above the floor of the room within which they are installed. For similar reasons it is also necessary to remove some permitted development rights to ensure that no further windows or openings are added to the dwelling in the future without the need of planning permission having had particular regard to advice in

Paragraph: 017 Reference ID: 21a-017-20190723 of the PPG in this respect. I have also reworded this condition to meet the tests of precision.

26. It is also necessary in the interests of highway safety to ensure that the existing driveway of No 11 and the proposed dwelling are kept available for parking, as would be achieved via condition eight. Nonetheless, I have already concluded that the erection of protective fencing around the privet hedgerow on the southern boundary of the site is unnecessary to protect the living conditions of neighbouring properties. Given that this hedgerow is not clearly visible in the street scene it also holds little visual amenity value. As such I have not imposed the condition suggested by the Council in that respect.

### **Conclusion**

27. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed.

*Mark Caine*

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 Floor Plans and Elevations Dwg: PLA001 Rev D, Location and Site Plan Dwg: PLA002 Rev D, Proposed Block Plan Dwg: PLA004 Rev D, New Boundary Treatments Dwg: PLA006 Rev D, and Proposed Block Plan Dwg: PLA007 Rev D.
- 3) No development hereby permitted above slab level, shall take place until details of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, which shall be retained thereafter.
- 4) Prior to the first occupation of the dwelling hereby permitted, a scheme for the provision of an electric vehicle charging point shall be submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until an electric vehicle charging point has been installed in accordance with the approved details. The approved electric vehicle charging point shall be retained thereafter.
- 5) The development hereby permitted shall not be occupied until the surface water and sewage disposal works have been completed in accordance with Drainage Strategy Report Rev A, Drainage Construction Details Sheet 1 of 2 Dwg: 1165-1006-CIV-50 Rev P1, Drainage Construction Details Sheet 2 of 2 Dwg: 1165-1006-CIV-51 Rev P1, and Drainage Layout Dwg: 1165-1006-CIV-10 Rev P1. Once completed, the approved surface water and sewage disposal works shall be retained thereafter.

- 6) The development hereby permitted shall not be occupied until the first floor windows in its north and south elevations have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. These windows shall be glazed with obscure glass to a degree sufficient to conceal or hide the features of all physical objects from views (level 4) and shall be retained at this level of obscurity at all times thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, other than those expressly authorised by this permission shall be constructed on the north or south elevations.
- 8) The development hereby permitted shall not be occupied until spaces have been laid out in accordance with Proposed Block Plan Dwg: PLA004 Rev D, New Boundary Treatments Dwg: PLA006 Rev D, Proposed Block Plan Dwg: PLA007 Rev D for cars to be parked and those spaces shall thereafter be kept available at all times for the parking of vehicles.