



Appeal Decision

Site Visit made on 14 September 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2021

Appeal Ref: APP/F2360/W/21/3274471

Land adjacent to The Oaks, Potters Lane, Samlesbury, Preston PR5 0UE

- 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 Darbyshire against the decision of South Ribble Borough Council.
 - The application Ref 07/2020/00549/FUL, dated 1 July 2020, was refused by notice dated 13 November 2020.
 - The development proposed is a large multi-generational 6 bedroom family eco-home, with associated landscaping and sub-level car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey plus basement level family eco-home with associated landscaping and sub-level car parking and proposed new access at land adjacent to The Oaks, Potters Lane, Samlesbury, Preston PR5 0UE in accordance with the terms of application Ref 07/2020/00549/FUL, dated 1 July 2020, subject to the conditions set out in a schedule attached to this decision.

Preliminary Matters

2. The description in the banner heading is taken from the planning application form. The description in my decision above is taken from the Council's Decision Notice as this provides a more accurate and encompassing description of the development. It does not change the development for which planning permission was sought and the appellant has used it on their appeal form. Consequently, I am satisfied that no party will be prejudiced by my use of it. I have proceeded on this basis.
3. On 20 July 2021, the Government published a revised National Planning Policy Framework (the Framework). In the interests of natural justice both main parties have had the opportunity to submit comments on the relevance of the Framework to this case. I have taken any comments received into consideration and in reaching my decision I have had regard to the revised Framework.
4. Since the Council determined the planning application the appellant has obtained a Certificate of Lawfulness which confirmed the use of the appeal site as a residential garden area at the time the certificate was sought. I have had regard to this in reaching my decision.
5. The appeal site lies close to the Grade I listed Church of St Leonards the Less, a Grade II listed school building and listed structures within the church grounds. There is no dispute between the main parties that the proposed development would not have an adverse effect on the setting of the Listed

Buildings. Having considered the proposal and visited the site, I concur with that view. Accordingly, it is my view that the development proposed would preserve the setting of the designated heritage assets and I shall make no further reference to this matter.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and the relevant development plan policy
- the effect of the proposal on the openness of the Green Belt and the purposes of including land within it
- if the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

7. The Government attaches great importance to Green Belts. Section 13 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy G1 of the South Ribble Local Plan [2015] (SRLP) states that in the Green Belt planning permission will not be given for the construction of new buildings unless there are very special circumstances. However, the policy lists a number of exceptions to that restriction which reflect those listed in Paragraph 149 of the Framework, (formerly Para. 145). Of those exceptions the appellant refers me to the provision for limited infilling within villages.
8. The site consists of part of an extended garden area to a residential bungalow which is accessed from a private stretch of Potters Lane. The plot lies adjacent to other residential properties forming a small cluster of development close to the church and associated primary school on the south-eastern bank of the River Ribble. The land is gently sloping to the river and is presently lawned with tree belts formed on two sides. A frontage hedge contains some impressive mature trees.
9. The term 'limited infilling in villages' is not defined within the Framework or Policy G1 of the SRLP and is a matter of planning judgement. Although undefined, there is no dispute between the main parties that the site would lie within the village area of Samlesbury.
10. The position of the site lies adjacent to a similar sized residential plot at Westray. The proposed position of the building would sit alongside the dwelling at Westray and forward of a house known as Waters Edge. Here it would square off the cluster of development with the neighbouring residential buildings to the northwest and southwest. Although it would be on the edge of the group and be detached from a loose cluster of residential properties to the northeast it would, nevertheless, form part of the cluster associated with the church. As an area identified as part of the village by the Council, it would appear as infill to the existing arrangement of development within that group.

11. I acknowledge the Council's concerns that the proposal would not infill a gap along an otherwise developed frontage. However, I am not referred to any requirement within the development plan or national policy in that regard. I note that this was an approach taken by some colleagues in cases elsewhere, but the contexts of those decisions are unclear and contrast to the approaches in other appeal decisions submitted in evidence by the appellant. Although relevant, those decisions are not binding and do not limit the scope of judgement in individual case circumstances in other locations. Accordingly, in the absence of a more detailed definition within the development plan, I have considered this case on its own merits and with regard to the situation on the ground.
12. The proposal is for a single unit and therefore 'limited' in relation to the number of new dwellings proposed. The scale of the building would be significant, however, according to the Council the overall height would be comparable to the neighbouring property at Westray. Furthermore, the site lies in an area of buildings with mixed designs and scales. Plot sizes in the locality are also widely variable. Although the building would provide accommodation on three floors, this would include a basement layer below existing ground level.
13. Taken with its proposed position on the lower part of the site, I find that in the context of local development, the proposal would be 'limited' for the purposes of the Green Belt assessment. For those reasons, I conclude that the proposal would fall within the scope of the exception described in Policy G1e of the SRLP as limited infilling and would not constitute an inappropriate form of development in the Green Belt. The exception under Policy G1e is not subject to the requirement that the land conforms with the Framework's definition of previously developed land.
14. It is an established principle that development falling within the exceptions to inappropriate development in the Green Belt does not unduly affect the Green Belt's openness or conflict with the reasons for including land within the Green Belt¹. Accordingly, no harm to the Green Belt would result.
15. For the above reasons and having regard to the specific circumstances of this case, I conclude that the development would comprise limited infilling within a village. It would thereby constitute an exception specified in Policy G1 of the SRLP and Paragraph 149 e) of the Framework. It would not, therefore, constitute an inappropriate form of development in the Green Belt, result in harm to its openness nor conflict with its purposes. Accordingly, very special circumstances are not required to justify the development.

Other Matters

16. I acknowledge the concerns of local residents in opposition to the proposal. I am satisfied that the required consultations have been carried out sufficient to enable those with an interest in the proposal to make representations. This included local residents and groups. I have taken their views into account in coming to my decision.
17. I note concerns in relation to the effect of the proposal on the character and appearance of the locality. Notwithstanding the overall scale of the building and

¹ *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404

associated works, the proposed position on the lower part of the site and effects of the existing boundary screening would limit views to the building. Furthermore, the site benefits from some established tree screening which would limit contextual views to other built development in close proximity. Given the previously described variation to building types and scales, the proposal would contribute to the group of individually styled properties in the vicinity. Accordingly, it would assimilate into the mixed character of the locality.

18. Concerns in relation to the potential for successive unspecified proposals for development are not a matter to which I attribute significant weight. Precedent is rarely an argument that should carry great weight in planning decisions, which should be made on their own merits in the context of the development plan and other material considerations.
19. The proposal would be sited on a garden area. The Framework encourages Council's to set out policies for resisting the inappropriate development of garden areas. However, I am not directed to any such specific restrictions in this particular case. Furthermore, there is little before me to indicate that development in this locality is restricted to that meeting a demonstrated housing need.
20. Third party concerns relating to the effect of the development on flood risk elsewhere, highway safety and neighbouring living conditions are not supported by substantive evidence to demonstrate that any such harm would result. The Council confirms that any potential effects on the Nature Conservation Area are matters which can be controlled through suitable planning conditions. There is nothing before me to suggest the proposal would lead to a likely significant effect on other sites of ecological interest.

Conditions

21. The Council have suggested several conditions which I have considered alongside the advice in the Framework and Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of the case. However, some have been edited for precision and clarity.
22. In addition to the standard time limit condition, I have imposed conditions specifying the relevant drawings as this provides certainty.
23. To protect trees to be retained, conditions requiring the timing and method of protection of trees and the prevention of adverse effects on their root areas are necessary. These are of necessity pre-commencement requirements to avoid adverse impacts to tree health arising from site works including those at the site preparation stage.
24. Conditions requiring details of the finished levels of the site and details of separate drainage systems are necessary in the interest of achieving sustainable site drainage and avoidance of elevated flood risks elsewhere. These are of necessity pre-commencement requirements as they are generally works incorporated into the first phases of a development. The approval of levels will also protect other amenity interests in the locality.
25. To ensure wildlife and biodiversity interests are protected and enhanced, requirements for a pre-site check for nesting birds, the installation of bird boxes and creation of a boundary hedgerow are reasonable and necessary. In

the interests of protecting the character and appearance of the area, I have imposed a condition requiring details of external materials of the building, hard landscaping elements and boundary treatments.

26. To protect the living conditions of nearby residents, conditions in relation to site working times - including restrictions to activities likely to cause noise or disturbance and the prevention of the burning of materials on the site are reasonable and necessary. A condition in relation to parking and delivery management during the construction phase of the development is necessary in the interests of the safety of highway users and the general amenity of the area. As a constrained highway area this is of necessity a pre-commencement requirement.
27. To prevent contamination of ground waters or surface waters and/or ensure the safe use of the site, conditions requiring the details of any intended piling activity, the nature of imported subsoil or topsoil, and the monitoring for contamination are necessary.
28. Conditions to achieve energy efficiency and encourage the use of low or zero emission vehicles are necessary and reasonable in the circumstances of the case. This is in the interests of minimising the environmental impact of the development.

Conclusion

29. For the reasons set out above, I conclude that the appeal should be allowed.

R Hitchcock

INSPECTOR

Schedule of Conditions to planning permission 07/2020/00549/FUL

- 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: 1704-L01 RevB; 1704-P01; 1704-P02 and 1704-P03.
- 3) Prior to the commencement of development, protective fencing should be erected in accordance with 'Appendix 6 – Proposed Location of Tree Protection Barriers' of the AIA Report by Howe2 Landscapes, dated 25th September 2020, and shall remain in-situ throughout the construction phase of the development.

The fencing will consist of a scaffold framework in accordance with Figure 2 of BS 5837 – 2012. Vertical tubes will be spaced at a maximum interval of 3m. Onto this, weldmesh panels shall be securely fixed with scaffold clamps. Weldmesh panels on rubber or concrete feet should not be used.

The site manager or other suitably qualified appointed person will be responsible for inspecting the protective fencing daily; any damage to the fencing or breaches of the fenced area should be rectified immediately. The fencing will remain in place until completion of all site works and then only removed when all site traffic is removed from site.

- 4) Prior to commencement of development a cross section design and method statement shall be submitted to the Local Planning Authority for approval in writing detailing a suitable load bearing confinement system to be installed to protect tree roots and minimise compaction of the soil within the root protection areas of Trees T84 and T85 of the AIA Report by Howe2 Landscapes, dated 25 September 2020. This should include a specification for a suitable washed gravel fill or similar material and a suitable porous top dressing. The approved scheme shall be implemented before vehicles, plant or machinery are brought on to the site, including that for the purposes of site preparation. Once installed, protective fencing should be erected so as to provide tree protection for the remainder of the root protection areas of T84 and T85 outside of the access area whilst allowing site access.
- 5) Save for the requirements in Condition 4, existing ground levels as set out in the Topographical Land survey Drawing No S17-1053 should be retained within the root protection areas of protected trees and excavated by hand. Any exposed roots should be immediately wrapped to prevent desiccation. Wrapping should be removed prior to backfilling. Roots smaller than 25mm diameter should be pruned with a suitable sharp tool. Roots over 25mm diameter should only be removed following consultation with an arboricultural consultant. Prior to backfilling roots should be surrounded with topsoil or sharp-sand or inert granular fill before the soil is replaced.
- 6) No development shall commence until a ground levels survey, to include existing ground levels and proposed ground and slab levels, has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved levels.
- 7) Prior to commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The following drainage options in the following order of priority shall be considered:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

The development shall be completed, maintained and managed in accordance with the approved details.

- 8) Foul and surface water shall be drained on separate systems.
- 9) Prior to commencement of any development a scheme for the satisfactory disposal of water and backwash discharge from the proposed swimming pool shall be submitted to and approved in writing by the Local Planning Authority. Such approved scheme shall be completed in all respects prior to the dwelling hereby permitted being brought into use.
- 10) Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the dwelling will meet the required Dwelling Emission Rate of 19% enhancement to the 2013 Building Regulations standard. The development thereafter shall be completed in accordance with the approved details.

The dwelling shall not be occupied until a SAP assessment (Standard Assessment Procedure), or other alternative proof of compliance (which has been previously agreed in writing by the Local Planning Authority) such as an Energy Performance Certificate, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the dwelling has achieved the required Dwelling Emission Rate.

- 11) No tree felling, vegetation clearance works, hedge removal or other works that may affect nesting birds shall take place during the nesting season, between March and August (inclusive), unless the absence of nesting birds has been confirmed by further surveys or inspections and written approval has been given from the Local Planning Authority.
- 12) Before the construction of the dwelling takes place, details of the colour and texture of the facing and roofing materials to be used for the dwelling, together with the hard landscaping including retaining walls and boundary treatments shall be submitted to and approved by the Local Planning Authority. The development shall be completed in accordance with the approved details.
- 13) Prior to the commencement of development, a Construction Traffic Management Plan (CTMA) shall be submitted to and approved in writing by the Local Planning Authority. The CTMA shall include and specify the provisions to be made for the following: -
 - a) The parking of vehicles of site operatives and visitors
 - b) Loading and unloading of plant and materials used in the construction of the development
 - c) Storage of such plant and materials

- d) Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
 - e) Vehicle wheel washing facilities
 - f) Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties and obstruct the highway.
- 14) During the site preparation and construction of the development no machinery, plant or powered tools shall be operated outside the hours of 08:00 to 18:00 Monday to Friday 09:00 – 13:00 on Saturdays. No construction shall take place at anytime on Sundays or nationally recognised Bank Holidays.
- 15) Prior to the commencement of any piling works on the site, details of all piling activities shall be submitted to and approved in writing by the local planning authority together with all mitigation measures to be taken. The piling works and mitigation shall be implemented in accordance with the approved details.
- 16) Piling activities shall be limited to 09:30-17:00 Mondays to Fridays with no piling activity Saturdays, Sundays or nationally recognised Bank Holidays.
- 17) There shall be no burning of waste material or vegetation on site.
- 18) Once works commence on the site, should site operatives discover any adverse ground conditions and suspect it to be contaminated, they should report this to the Site Manager and the Contaminated Land Officer at South Ribble Borough Council. Works in that location should cease and the problem area roped off. A Competent Person shall be employed to undertake sampling and analysis of the suspected contaminated materials. A report which contains details of sampling methodologies and analysis results, together with remedial methodologies shall be submitted to the Local Planning Authority for approval in writing. The approved remediation scheme shall be implemented prior to further development works taking place and prior to occupation of the development.
- 19) Prior to the importation of any subsoil and/or topsoil material into the proposed development site, information supporting the suitability of the material shall be submitted to the Local Planning Authority for approval in writing.
- The information submitted shall include details of the material source, sampling methodologies and analysis results, which demonstrates the material does not pose a risk to human health as defined under Part 2A of the Environmental Protection Act 1990.
- Only the approved soils shall be brought on to the site.
- 20) Prior to the first occupation of the development hereby approved, a scheme for the provision of bird boxes, including a programme of implementation, location details and timescales, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details within the agreed timeframes.
- 21) Prior to the first occupation of the development hereby approved, a scheme for the provision of a hawthorn hedge to the northern boundary, including a programme of implementation, location details and timescales, shall be submitted to and approved in writing by the Local Planning Authority. The

development shall be carried out in accordance with the approved details within the agreed timeframes.

- 22) An electric vehicle recharge point shall be provided to the property, prior to occupation. This shall consist of as a minimum a 7Kwh electrical socket located externally (or in the garage if available) in such a position that a 3 metre cable will reach the designated car parking spaces. A switch shall be provided internally to allow the power to be turned off by the residents.

End of Schedule.