



Appeal Decision

Site visit made on 22 November 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/P2365/W/22/3302286

Land at the rear of 8 The Marshes Lane, Mere Brow, Tarleton PR4 6JR

- 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 D Tomlinson (Bella Homes NW) against the decision of West Lancashire Borough Council.
 - The application Ref 2021/1459/FUL dated 13 December 2021, was refused by notice dated 11 April 2022.
 - The development proposed is the erection of two two storey dwellings at on land at rear of 8 The Marshes Lane.
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Decision

1. The appeal is allowed and planning permission granted for the erection of two two storey dwellings at Land to the rear of 8 The Marshes Lane, Mere Brow, Tarleton PR4 6JR in accordance with the terms of application Ref 2021/1459/FUL dated 13 December 2021 and subject to the conditions set out in the attached schedule.

Procedural Matters

2. The appellant has submitted an Arboricultural Impact Assessment (AIA) with the appeal. I am satisfied that, as part of the appeal, the Council has had the opportunity to comment on this. As such, I am satisfied there is no risk of prejudice if I take the report into account. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the development on: the character and appearance of the area; and trees.

Reasons

Character and appearance

4. The site is a plot of land that previously formed part of the rear garden of No. 8 The Marshes Lane at which planning permission has been granted for the erection of a single storey dwelling. The surrounds, while rural, have a predominantly residential nature, made up of properties of various styles and with numerous examples of backland dwellings.
5. The Council does not object to the principle of a residential dwelling at the site and finds that, among the varied styles of surrounding properties, the external design of the proposal would not appear out of place. Based on my observations I have no reason to disagree. However, the Council contends that the proposal would, by failing to be subservient to the property at No. 8, have an adverse impact on the character and appearance of the area.

6. I acknowledge that, unlike the previously approved bungalow, the proposed properties would be similar in height, width and footprint to the dwelling at No. 8. However, I do not find this would result in visual harm to the surrounds. The proposal would be set back some distance from No. 8 and would incorporate dimensions that would be commensurate with the site, such that the proposed dwellings would not appear cramped or contrived within the plots or appear as dominant additions when experienced alongside No. 8.
7. The proposal would be set back some distance from the frontage and, while the Council has referred to the relatively open nature of the streetscene and high visibility of the proposal, I noted views of the site to be limited from The Marshes Lane. Although the proposal would be visible from immediately surrounding dwellings and within the site itself, from these locations it would be experienced among other dwellings of similar scales, ensuring that it would not appear out of place but would assimilate with the surrounding context.
8. I have had regard to the examples of backland development within the area that have been cited by the appellant, all of which I viewed on my visit. I noted that many of these examples are located in more visually prominent positions than the proposal, and incorporated development of sizeable scales and varying designs. While each application should be decided on its own merits, it is clear that sizeable backland development is a characteristic of the area. In this context the proposal reflects the surrounding pattern of development and is consistent with the placement of built form in the area.
9. For the reasons given I find that the development would not have a significant adverse effect on the character and appearance of the surrounding area. As such, it would accord with Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document, which among other things seeks to ensure high quality design that has regard to local character.

Trees

10. I observed trees and planting within the vicinity of the site, including two oak trees along the rear boundary. Due to their backland position, the overall amenity value of the trees and their contribution to the wider character of the area is somewhat limited. While not significant, an element of screening of dwellings to the rear of the site is also provided by these trees. There is no substantive information before me to suggest that these trees, or others within the vicinity of the site, are subject to protection orders.
11. The appeal has been accompanied by an AIA, prepared taking into account British Standard BS5837:2012. It lists the trees and hedging in the vicinity of the site, identifying the root protection areas and retention classifications for each. The AIA concludes that no trees shall require removal or pruning to enable the construction of the proposal, and outlines protection measures to be put in place. Based on the evidence before me and my observations on site, I am satisfied with the conclusions and recommendations of the AIA.
12. I acknowledge the Council's concerns regarding future pressure to reduce the trees along the rear of the site due to their overhang. However, while some canopy management may be required, I have no reason to conclude that such works would necessarily extend to significant or unacceptable pruning.

13. The proposed dwellings would be set back from the rear boundary of the site, providing separation between the tree canopies and rear windows. While areas of the garden would remain below the tree canopies, the overhang would be generally high above the ground level and further areas of amenity space would be provided outside of the tree canopies. Together, this would ensure no significant harm would arise to the living conditions of future occupiers, and would reduce the likelihood for significant pruning works to be undertaken.
14. Given my findings on the amenity value of these trees, I do not consider that the level of pruning likely to arise from the proposal would result in undue harm to the character and appearance of the area, and there is nothing substantive to suggest the long term health of these trees would be at risk.
15. I note that pruning of these trees would remove an element of screening between the proposal and the dwellings to the rear, particularly No. 116 The Gravel. However, even substantial pruning or removal would not harm the living conditions of surrounding residents with regards to privacy. Even acknowledging the orientation of the proposal and the positioning of its rear glazing, the distance between the proposed dwellings and surrounding properties would ensure no unacceptable levels of overlooking would result. In addition, a high close boarded boundary fence would separate the gardens of the proposal from neighbouring dwellings, retaining a level of privacy and ensuring that the enjoyment of these spaces would not be unduly impacted.
16. For the reasons given, I find that the development would not have a significant adverse effect on trees. As such, there would be no conflict with Policies EN2 and GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document, which among other things seek to ensure development does not cause significant harm to trees, including the loss or damage of trees of significant amenity or screening value.

Other Matters

17. Concerns have been raised by interested parties with regards to the effect of the proposal on ecology and drainage. However, the Council is satisfied that no harm would arise in these respects. Based on my observations I have no reason to disagree. I have attached conditions to ensure the proposal is carried out in accordance with the submitted drainage report and ecological survey, and that further details on drainage are approved by the Council.
18. Interested parties further queried if the proposal would result in a high level of vehicle trips, creating highway safety implications. The Council have concluded that the proposal would not have a severe impact in this regard. On my observations and given the limited number of dwellings proposed, I have no reason to disagree.
19. I acknowledge concerns of interested parties with regards to noise and disturbance, and removal of vegetation at the site. However, this appears to relate to another development previously permitted at the site rather than the scheme before me.
20. I further note a dispute regarding the precise boundary line relative to the placement of trees at the rear of the site. However, this is a private matter between parties.

Conditions

21. I have had regard to the conditions suggested by the Council and the appellant's comments on these. As required by the relevant regulations I have received and considered the response from the appellant confirming they are agreeable to those which are pre-commencement conditions.
22. The standard time limit condition as well as a condition that the development is carried out in accordance with the approved plans are necessary in the interests of certainty and proper planning. The approved plans condition includes reference to the Ecological Assessment, AIA and Drainage Strategy.
23. To safeguard the character and appearance of the area I have imposed conditions to ensure external materials, floor levels and landscaping works are approved by the Council, including a condition requiring the replacement of any planting that dies or is removed or destroyed within five years.
24. I have attached a condition relating to the approval of a drainage scheme, including the submission of details of any sustainable drainage scheme, which is necessary to ensure that appropriate drainage arrangements are put in place. A condition relating to parking is necessary to make the proposal acceptable in transport terms, and a condition relating to electric vehicle charging points is necessary to ensure such provision is made and in the interests of the wider environment. Finally, a condition relating to the methods of construction of the proposal is necessary in the interests of the living conditions of surrounding residents.
25. The Council has also suggested conditions requesting details of root protection measures. However, this information has now been provided in the AIA which is referenced in the condition relating to approved plans. Furthermore, Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am not persuaded that such circumstances exist in this case.

Conclusion

26. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

C Rafferty

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 and documents: Location Plan dated December 2021; Proposed Site Plan Drawing No: 2655-01B dated November 2021; Site Plan Rev A 18/03/22 dated December 2021; Proposed House Type Drawing No: 2655-02A dated November 2021; Arboricultural Impact Assessment with Tree Protection Measures, Project AIA.13391.01 dated 20 December 2021; Drainage Strategy and Assessment of Flood Risk CFC20193 dated December 2021; and Preliminary Ecological Appraisal Ref 7650 dated 7 December 2021.
3. No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until the following information shall have been submitted to and approved in writing by the local planning authority: a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings; full details of the proposed finished floor levels of all buildings and hard landscaped surfaces. The development shall be carried out in accordance with the approved details.
5. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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.
7. No building hereby permitted shall be occupied until surface and foul water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime
8. No dwelling shall be occupied until space has been laid out within the site in accordance with Proposed Site Plan Drawing No: 2655-01B dated November 2021 for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

9. Prior to first occupation of the dwellings, a scheme to deliver electric charging points, together with a timetable for implementation, shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be fully implemented in accordance with the approved details and to the approved timetable.
10. 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: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

END OF SCHEDULE