
Appeal Decision

Site visit made on 25 January 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Appeal Ref: APP/E2340/W/22/3308482

18 Reedley Road, Reedley, Burnley, Lancashire BB10 2LU

- 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 S Choudrey against the decision of Pendle Borough Council.
 - The application Ref: 22/0427/FUL, dated 24 June 2022, was refused by notice dated 8 September 2022.
 - The development proposed is the erection of detached bungalow within garden curtilage of 18 Reedley Road.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached bungalow at 18 Reedley Road, Reedley, Burnley, Lancashire BB10 2LU in accordance with the terms of the application, Ref: 22/0427/FUL, dated 24 June 2022, subject to the conditions in the attached schedule.

Procedural Matter

2. The description of development in the banner heading above is taken from the planning application form. The description that I have used in my decision paragraph excludes the superfluous elements, without changing the overall meaning of what is proposed.

Main Issue

3. The main issue is whether the proposal would provide suitable living conditions for its future occupiers with regard to outlook, visual impact and privacy.

Reasons

4. The appeal site comprises part of the garden of 18 Reedley Road. It extends away from the host property in a narrowing fashion towards the corner of Reedley Road with Walter Street. The boundary with Reedley Road is formed by a wall and hedgerow arrangement.
5. To the rear, the boundary with the neighbouring property at 86 Walter Street (no 86) is formed primarily by a high conifer hedge. The plot at no 86 is sited at an oblique angle to the appeal site. The associated house is set back a short distance from the common boundary and its rear elevation faces over the corner of the appeal site towards the side of the host property.
6. The proposed dwelling would be sited so that it would face Reedley Road and as a consequence it would not directly face the rear of the house at no 86.

Whilst the proposed dwelling would be set a fairly modest distance off the common boundary, the proposed rear elevation windows would maintain a relatively free outlook, save for the proposed boundary treatment in order to protect privacy. Where the side and rear elevations of the house at no 86 would be most apparent would be at a distance of around 6 metres (m). However, beyond this point both elevations would further slant away from the proposed dwelling.

7. Such a relationship between the proposed dwelling and the house at no 86 would not therefore be overbearing. For the most part, the separation would be significantly greater than 6m and the greater massing of no 86 would be angling away from the proposed dwelling. The visual impact would not thus be unacceptable.
8. The oblique nature of the respective plots, together with the orientation of the rear of No 86, would also mean that none of its first floor windows would be facing directly to the habitable room windows on the rear of the proposed dwelling. The respective windows on the proposed dwelling and no 86 would thus be at a distinct angle to one another and this would limit the intervisibility.
9. It is proposed to remove the conifer hedge. The appellant has indicated this would be replaced by a screen fence of a minimum height of 1.8m. When this is considered alongside the respective relationship between the proposed dwelling and no 86, the level of overlooking that would occur would not be unacceptable.
10. The Council's Design Principles Supplementary Planning Document (2009) (SPD) states that its aim is to provide guidance to applicants applying for planning permission on the types of householder developments, shop fronts and advertisements which are likely to be acceptable, and in regard to planning and designing domestic extensions in a way which will enhance the appearance whilst maintaining the character of the neighbourhood and the amenity of neighbours.
11. On this basis, a consideration of the proposed dwelling would fall outside of the SPD's ambit as it is not one of the types of development which it concerns. However, even if the SPD is considered relevant, there would not be a particular conflict with it. Where the SPD refers to minimum spacing standards, the minimum distance of 21m between habitable room windows in properties concerns where they are facing each other. This would not be the case with the proposal because of the oblique nature of the plots. It would also not result in an overbearing effect for the purposes of the SPD, for the reasons that I have already set out.
12. I would have more sympathy for the Council's position if the proposal would result in a direct orientation between the proposed dwelling and the rear of the house at no 86. However, because such a relationship between the dwellings would not occur, the effect on the living conditions of the future occupiers of the proposal would not be unacceptable.
13. I conclude that the proposal would provide suitable living conditions for its future occupiers with regard to outlook, visual impact and privacy. As such, it would comply with Policy ENV 2 of the Local Plan for Pendle Core Strategy 2011-2030 (2015) (Core Strategy) where it concerns the highest possible standards of design and with the National Planning Policy Framework where it

refers to a high standard of amenity for existing and future users as part of achieving well designed places. It would also accord with the SPD in as far as it is relevant to the proposal by way of where it concerns living conditions.

14. The Council's appeal statement also sets out that it considers that the proposal is contrary to Policy ENV 1 of the Core Strategy, although this policy is not listed in the reason for refusal. Given that this policy concerns protecting and enhancing our natural and historic environments, the proposal would not be in conflict.

Other Matters

15. The site is subject to a Tree Preservation Order (No 3 1976 Reedley). An attractive specimen is found close to the site frontage with Reedley Road. This would be retained, as would be the hedge along this boundary in a trimmed form. The removal of the conifer hedge would not detract from the amenity value in this regard.
16. The traffic generated by the proposal would be of a limited nature as one modest sized dwelling is proposed. It would not thus unduly add to traffic congestion or worsen traffic conditions, including with regard to movements associated with a local school. It would not be unacceptable in highway safety terms.
17. In order to ensure that the proposal would not cause surface water drainage issues, a planning condition can be imposed for an acceptable scheme to be agreed and implemented. Compliance with the grant of planning permission is itself a matter for the Council. The purported burning of material on the site has a limited bearing because the appeal is to be decided on its own planning merits for a dwelling.

Conditions

18. In addition to the timescale for implementation, I have imposed for the purposes of certainty a condition with regard to the approved plans that show the proposal. I have also imposed conditions concerning details of the external materials in order to protect the character and appearance of the area, and a drainage scheme in the interests of providing satisfactory drainage and minimising flood risk.
19. I have imposed a condition in relation to a landscaping scheme in the interests of both character and appearance, and living conditions. This includes details of all boundary treatment and so would include that on the boundary with no 86. I have also imposed conditions by way of hedgerow height on Reedley Road and parking, in the interests of highway safety.
20. A condition concerning cycle parking is imposed in the interests of promoting the use of modes of transport other than the car, whilst a condition concerning an electric car charging point also is imposed in the interests of combating climate change. A condition regarding tree protection measures is imposed to protect the amenity value during construction.
21. I have not imposed other conditions that relate to construction because this is a modest development and any disruption and related effects would be likely for a short time period only. I have also not imposed a condition which takes away permitted development rights that the Council suggested as it is not

necessary in order to protect living conditions. Where I have changed the wording of the remaining conditions put forward by the Council, I have done so in the interests of precision and without changing their overall intention.

Conclusion

22. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

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: Dwg 03B Proposed Site Plan, Dwg 01 Proposed Plans and Elevations, and Dwg 04B Proposed Block Plan.
- 3) No above ground construction work shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted, including details of external hard surfacing, fenestration, rainwater goods, elevation and roof materials, has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.
- 4) No above ground construction work shall commence until a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. Foul and surface water shall be drained on separate systems. In the event of surface water discharging to public sewer, the rate of discharge shall be restricted to the lowest possible rate which shall be agreed with the statutory undertaker prior to connection to the public sewer. The scheme shall be constructed and completed in accordance with the approved scheme before the development hereby permitted is first occupied and thereafter retained.
- 5) No above ground construction work shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) the exact location and species of all existing trees and other planting to be retained;
 - b) all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
 - c) an outline specification for ground preparation;
 - d) proposed boundary treatments on all site boundaries with supporting elevations and construction details;
 - e) all proposed hard landscape elements and pavings, including layout, materials and colours; and
 - f) the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.

The approved scheme shall be implemented in its entirety within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage. The approved boundary

treatment shall be implemented prior to the first occupation of the development hereby permitted and shall thereafter be retained.

- 6) Prior to the first occupation of the development hereby permitted, the existing hedgerow on the highway frontage of the site to Reedley Road shall be reduced to and be permanently maintained henceforth at a height not greater than 0.9m above the nearside carriageway level. Any subsequent boundary treatment shall be no higher than 0.9m.
- 7) The development hereby permitted shall not be first occupied unless and until the parking area shown on the Dwg 03B Proposed Site Plan has been constructed, laid out and surfaced in bound porous materials. The parking area shall thereafter always remain available for the parking of domestic vehicles associated with the dwelling.
- 8) Prior to the first occupation of the development hereby permitted, cycle storage facilities shall be provided in accordance with a scheme that has been previously submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be retained thereafter.
- 9) Prior to the first occupation of the development hereby permitted an electric vehicle charging point shall be provided and retained thereafter.
- 10) The development hereby permitted shall be carried out in accordance with the tree protection measures during construction as set out in the Arboricultural Impact Assessment, prepared by Bowland Tree Consultancy Ltd, dated August 2022.