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## Appeal Decision

Site visit made on 7 March 2023

**by H Jones BA (Hons) DipTP MRTPI**

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

**Decision date: 18<sup>th</sup> April 2023**

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**Appeal Ref: APP/U2370/W/22/3310931**

**Moor End Manor, Back Lane, Stalmine, Lancashire FY6 0JN**

- 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 Steve Howard against the decision of Wyre Council.
  - The application Ref 22/00664/FUL, dated 29 June 2022, was refused by notice dated 18 October 2022.
  - The development proposed is the change of use of land to form additional domestic garden to facilitate erection of detached garage/car port/domestic store and installation of a private swimming pool.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to form additional domestic garden to facilitate erection of detached garage/car port/domestic store and installation of a private swimming pool at Moor End Manor, Back Lane, Stalmine, Lancashire FY6 0JN in accordance with the terms of the application, Ref 22/00664/FUL, dated 29 June 2022, subject to the following 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: Site Location Plan and LF/SH/3702.

### Preliminary Matters

2. In Part E of the appeal form it is stated that a revised description of the development was agreed between the main parties and the wording provided matches that on the Council's decision notice. Therefore, in the above banner heading and my decision I have adopted the revised wording albeit I have removed the reference to the application being partly retrospective as this is not an act of development.
3. On site, the land proposed for the change of use contains, amongst other features, external seating but the proposed garage is not in situ nor is a swimming pool complete at the rear of the property. For the avoidance of doubt, I have determined the appeal on the basis of the plans submitted.
4. Originally, an alternative vehicular access to serve the development was proposed but, during the determination of the planning application, this was omitted with revised plans submitted. The plans before me show that the proposed garage building would be served via an extended driveway leading

from an existing access adjacent to the property identified on the plans as Hawthorn. I have determined the appeal on this basis.

5. On 26 January 2023, and since the Council made their decision on the application the subject of the appeal, the Wyre Local Plan (2011-2031) (incorporating partial update of 2022) has been adopted (the LP). It is a revised replacement for the Wyre Local Plan (2011-2031). The Council have confirmed that policy SP4, referenced within the Council's reason for refusal, has been amended. However, neither main party has submitted to me that the amendments have wrought any significant implications in respect of the appeal or changed in any fundamental way the content or operation of policy SP4, and I have no reason to disagree. For the avoidance of doubt, I have determined the appeal with regard to the new development plan.

### **Main Issue**

6. The main issue is the effect of the proposed change of use of land and, of the proposed garage building, upon the character and appearance of the area.

### **Reasons**

7. Moor End Manor is a large recently built residential property. It is situated on the edge of Stalmine and is accessed via Back Lane. To the west of the property, and closely beside it, are other residential properties. Given the number and proximity of the properties, this area is quite built-up, and Moor End Manor feels part and parcel of a settlement.
8. East of the appeal site and on the same side of Back Lane there is a bungalow and opposite there is a building group at Moor End Farm. The bungalow is set farther from Back Lane than Moor End Manor. Between the bungalow and the appeal site land there is a stretch of mounded land which is interspersed with trees and other planting. Although somewhat separated from the appeal site by this intervening land and by reason of its farther set-back from the lane, the bungalow nevertheless remains quite close to Moor End Manor and, together with Moor End Farm, establishes more built development in the area.
9. Farther east still, beyond the bungalow and Moor End Farm there is more open space and buildings are sporadically distributed. There is no disagreement between the parties that the area subject of the change of use and upon which the garage building is proposed is countryside land. Despite this, the land is very close-by to Moor End Manor and the properties that neighbour it. Furthermore, whilst it contains gaps, the aforementioned planted stretch of mounded land in part encloses the appeal site and serves to separate it from the land to the east. I find that it is not until farther east, where there are greater open spaces, that a sense that a settlement has been left behind and the countryside has been entered takes place. For these reasons I find that the appeal site is visually associated with the built-up parts of the settlement.
10. I accept that in the proposal, the garden that would serve the host property would be enlarged by quite a significant amount. The building proposed which would contain not only the garage, but a car port and storage area would also be a large outbuilding. However, given I have found that the land subject of the change of use and proposed garage building does not exhibit the characteristics of the countryside, it follows that it would not harm to any degree of significance rural character or the landscape. The garage building

would also be very closely situated to the side elevation of the existing house and so in some views from Back Lane it would be seen against the backdrop of the larger house. In addition, and although the land subject to the change of use and garage proposal is slightly elevated and located quite close to a bend on Back Lane, the number of trees and planting which subsists in the area coupled with enclosures serving the host property would all provide some screening of the development in views from Back Lane. The development would therefore not appear prominent.

11. I accept that the additional garden land could permit domestic paraphernalia to appear as well as the garage building itself. However, because I find that the land is so closely associated with the existing built features of the host property and of the settlement more generally, no harm would result from this.
12. The property may already be served by a garage whilst the appellant has put forward no particular demonstration of need for the proposed building. However, I have set out above that no harm would result from the development, therefore, the absence of such demonstrations is not a determinative factor in my decision.
13. As a result, the proposed change of use of land and the proposed garage building, would not cause harm to the character or appearance of the area. The development would therefore accord with policies HP5 and CDMP3 of the LP. In summary, and amongst other matters, these policies require all development to respect or enhance the character of the area whilst extensions to residential curtilages outside settlement boundaries will only be permitted where they would not lead to any detriment to the character or appearance of the landscape. Amongst other matters, policy SP4 of the LP states that within Countryside Areas development will only be permitted where it is for certain specified purposes. The proposed development would not meet any of the purposes specified. For that reason, the development would be contrary to policy SP4, albeit in causing no harm to the open or rural character of the countryside, it would accord with other content therein.

### **Other Matters**

14. Public representations state that the land referenced as a campsite within the appeal submissions has not been used as such for a long time. However, and even if this were the case, the main issue in my determination relates to character and appearance and, in this context, I find that this matter has little bearing upon my determination.
15. Representations also raise concern with the safety of the access arrangements including by reference to the proximity of a bend on Back Lane whilst it is pointed out that trees and hedges which affect visibility in the area include those on land the appellant does not control. However, and as referred to in my preliminary matters, the plans now clarify that access would be via the existing access farther to the west and adjacent to the property Hawthorn. The Council have stated that such an arrangement would be safe, and I have no reason to disagree.

### **Conditions**

16. The Council have provided me with a list of suggested conditions. I have had regard to this as well as, in particular, the advice and guidance in respect of

conditions provided within the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG).

17. I have imposed the standard condition in respect of time limitation and a plans condition in the interests of clarity. As sufficient details of the external materials to be utilised within the proposed development are provided on plan LF/SH/3702, the plans condition I have imposed would also ensure the use of appropriate materials in the interests of protecting the character and appearance of the area. No additional condition for such a purpose is therefore necessary.
18. The Council have suggested a condition the effect of which would be to prevent the use of either the garage building or swimming pool for a separate use or residential accommodation. However, given the evidence before me, I have no reason to conclude that these features would be used for any purposes other than those incidental to the use of the main dwelling. No separate dwelling or separate use is before me. Therefore, I find that such a condition would not meet the 6 tests of imposing conditions, including that of being necessary and, therefore, I have not imposed it.
19. Finally, the Council have also suggested a condition which would remove permitted development rights for the erection of buildings, structures or enclosures on the site. I am mindful that the Framework, at paragraph 54, states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. Similarly, the PPG highlights that the removal of freedoms to carry out small scale domestic alterations may not meet the tests of reasonableness and necessity. The Council put to me that the condition is necessary in the interests of preserving the openness of the rural character of the area and the living conditions of residents in the area. However, I have found in the main issues that the appeal site does not exhibit the characteristics of the countryside, whilst the additional garden land the subject of the appeal does not have a particularly intimate relationship with neighbouring properties. It has not therefore been shown to me that the removal of permitted development rights are necessary and, as a result, I have not imposed the suggested condition.

## **Conclusion**

20. Whilst I have concluded that the proposal would conflict with policy SP4 of the LP, I have nevertheless identified in the main issue that the development would not harm the character or appearance of the area. The development would, therefore, comply with policies HP5 and CDMP3 and comply with the development plan as a whole. The appeal is therefore allowed subject to the conditions above.

*H Jones*

INSPECTOR