



Appeal Decision

Site visit made on 24 April 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/T2350/W/22/3310718

Land adj Black Horse PH, Pimlico Road, Clitheroe BB7 4PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Duffins Investments Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/0141, dated 7 February 2022, was refused by notice dated 9 May 2022.
 - The application sought planning permission for the construction of one block of seven apartments and associated parking without complying with a condition attached to planning permission Ref 3/2021/0405, dated 10 June 2021.
 - The condition in dispute is No 2 which states that: Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:
 - Location Plan Drawing No: 2030-A-10-LOC
 - Existing Site Plan Drawing No: 14-051-02C
 - Proposed Site Layout Drawing No: 2030-A-10-02 REV B
 - Proposed Floor Plans Drawing No: 2030-A-10-03 REV E
 - Proposed Elevations Drawing No: 2030-A-10-04 REV E
 - Proposed Section Drawing No: 2030-A-10-05.
 - The reason given for the condition is: For the avoidance of doubt as the proposal was the subject of agreed design improvements and/or amendments and to clarify which plans are relevant to the consent.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of one block of seven apartments and associated parking at Land adj Black Horse PH, Pimlico Road, Clitheroe, BB7 4PZ in accordance with the application Ref 3/2022/0141, dated 7 February 2022, without compliance with condition number 2 previously imposed on planning permission Ref 3/2021/0405, dated 10 June 2021 by Ribble Valley Borough Council, but subject to the conditions set out in the schedule of this decision.

Main Issue

2. The main issue is the effect varying the condition would have on the character and appearance of the area.

Reasons

3. The proposal seeks permission to vary condition 2 to raise the height of the previously approved building and reduce the footprint of the building, which would increase the gap between the building and adjacent retaining boundary

wall. The appellant highlights since the application was refused, planning permission has been granted for a further revision of the development, which is similar to the proposal, but sinks the building further into the ground by deeper excavation so that it would be at the same level as the scheme approved under 3/2021/0405¹.

4. The appeal site is located within a primarily residential area. Residents set out that Pimlico village is of important historical and architectural merit, being an early example in this area of industrial housing. Within the surrounding area the scale, massing, design and materials of buildings vary which results in an irregular streetscene. There are a mix of bungalows as well as two and three-storey dwellings within the surrounding area, with a number of buildings sited at a higher level than Pimlico Road. In addition, towards the north-west of the appeal site is a row of newly constructed dwellings which read as two-storey dwellings with accommodation in the roof when viewed from Pimlico Road. The buildings associated with Johnson Matthey, Hanson Cement and Tarmac Asphalt Plant are prominent, large features in the locality.
5. The Council considers that only limited weight can be afforded to the accuracy and reliability of the submitted visualizations. The proposal would result in the upper floor being more prominent than that approved. The upper floor of the approved scheme visually reads as being contained within part of the roof whereas the proposed upper floor would read as a full storey.
6. Having said that, the increase in height is not significantly different to that approved and the overall appearance of the building would not be dissimilar. Furthermore, the building would be set into the slope and set back from Pimlico Road and there are numerous surrounding mature trees which would provide screening. The combination of these factors would ensure that the building would not be unduly dominant. Consequently, having regard to the fallback positions, mixed character of the area as well as the proposal's height, scale, mass and elevational language, removal of the existing boundary/retaining walls, the proposal would not be an incongruous, discordant or unsympathetic addition. The scale and massing of the building would be sympathetic to the nearby varied built form.
7. Concern has been raised regarding the proposed materials. I observed on my site visit that there are a mix of materials within the vicinity of the site. In any event, a planning condition would ensure details of materials are approved to ensure that they are appropriate to the locality.
8. For these reasons, varying the condition would not cause harm to the character and appearance of the area. Accordingly, the proposal would comply with Policy DMG1 of the Council's Core strategy 2008-2028 (2014). This states development must be sympathetic to existing and proposed land uses.

Other Matters

9. A Grade II listed building (Pimlico Farmhouse and attached farm buildings) is located close to the appeal site. These are two-storey in height, pebble dashed and coursed stone buildings featuring glazed bar windows, tall arched cart entry, quoins and chimney. The scheme would not unduly interrupt views of the listed building, nor would it have any notable impact on how the heritage

¹ 3/2022/0640

asset is experienced. This is due to the distance between the appeal site and the listed building, as well as the intervening highway. As such, I am satisfied that the development would have a neutral effect on the heritage asset and would preserve the special interest of the listed building.

10. The Council has ticked on the appeal questionnaire that the appeal site is in or adjacent to or likely to affect a Site of Special Scientific Interest (SSSI) or an internationally designated site. Having said that, the Council has not raised concerns in this regard. The appeal site is situated to the west of the Coplow Quarry. Considering the nature of the appeal as well as the location and scale of the proposed development, I am satisfied that there would be no likely significant effect from the condition being varied. Therefore, there would be no adverse effect on the special interest features of the SSSI.
11. In addition to concerns relating to the main issue, objection comments have raised other matters. They include concerns relating to whether the building could be constructed as proposed without undermining the foundations of the boundary walls as significant excavation will be required. In addition, living conditions (loss of light and privacy), obscure windows, contradicting figures, inaccurate/misleading drawings and other options available to developer.
12. The principle of the development has been established through the original grant of planning permission. Having regard to the previous approvals and the structural appraisal, there is no robust evidence before me to suggest that the foundations of the boundary walls would be unacceptably undermined by the proposal.
13. In terms of living conditions of existing occupiers, having regard to the approved developments (including location of obscure windows), orientation and distance to neighbouring properties, the proposed variation would not result in unacceptable overlooking or loss of privacy or loss of light.
14. The concerns raised in relation to contradicting figures and the drawings would not be a reason to withhold planning permission. In terms of other options available to developer, my role is to determine the appeal based on the planning merits and impacts of the proposed development before me.
15. The Council's reason for refusal did not relate to the other matters raised. There is no credible evidence before me that would lead me to an alternative conclusion to the Council on the other matters, or that could justify the dismissal of the appeal on these grounds.

Conditions

16. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. In addition to considering the disputed condition, Section 73 provides the power to attach new conditions, to not attach conditions which were previously imposed or to attach modified versions of them.
17. I have imposed the conditions suggested by the Council, with some minor altering to the wording of the conditions for clarity and precision. The appellant and Council were given the opportunity to comment on the altered conditions. The conditions largely reflect those listed on the decision notice of 3/2021/0405 and appear still to be relevant.

18. The suggested conditions did not include all the conditions attached to the original permission (which included a condition relating to the visibility splay and the Public Right of Way) and included a new condition (relating to the Arboricultural Impact Assessment).
19. The appellant and Council were also given the opportunity to comment on the reasons for not imposing all the conditions attached to the original permission and reason for imposing a new condition. Based on the information presented, I am satisfied that drawing 2030-A-10-02 Rev: F (Proposed Site Layout) shows that planting is to be kept a maximum of 900mm high for sight lines, and this is covered in other conditions. Furthermore, the Public Right of Way condition attached to the original permission is not enforceable. Thus, I agree with the Council that the visibility splay and the Public Right of Way conditions attached to the original permission are not necessary. Given the number of nearby trees, I have imposed the condition relating to the Arboricultural Impact Assessment in order to protect trees and in the interest in the visual amenity of the area, and consider this condition is necessary.

Conclusion

20. For the reasons given above, I allow the appeal and vary condition 2 of planning permission 3/2021/0405. Accordingly, planning permission is granted subject to the conditions set out below.

L Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin within 3 years from the date of the permission which it varies (Ref 3/2021/0405, approved 10 June 2021).
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location Plan: 2030-A-10-LOC
Proposed Site Layout: 2030-A-10-02 Rev: F
Proposed Floor Plans: 2030-A-10-03 Rev: L
Proposed Elevations: 2030-A-10-04 Rev: K
Proposed Sections: 2030-A-10-05 Rev: A.
- 3) Notwithstanding the submitted details, details or specifications of all materials to be used on the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority before their use in the proposed development. The approved materials shall be implemented within the development in strict accordance with the approved details.
- 4) Details of the alignment, height, and appearance of all boundary treatments, fencing, walling, retaining wall structures and gates to be erected within the development shall have been submitted to and approved in writing by the Local Planning Authority prior to their installation. The development shall be carried out in strict accordance with the approved details.
- 5) The windows as indicated as 'Obscure Glazed' on drawing Proposed Elevations: 2030-A-10-04 Rev: K shall be fitted with obscure glazing (which shall have an obscurity rating of not less than 4 on the Pilkington glass obscurity rating or equivalent scale) and shall be non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Once installed the obscured glazing shall be retained thereafter.
- 6) Notwithstanding the submitted details, elevational details at a scale of not less than 1:20 and details of the precise location of all proposed refuse and cycle storage provision shall have been submitted to and approved by the Local Planning Authority prior to their installation. For the avoidance of doubt all proposed cycle storage shall be enclosed and lockable.
The development shall be carried out in strict accordance with the approved details and the approved details which shall be made available for use prior to first occupation of the dwellings(s) hereby permitted and shall be retained for use at all times thereafter.
- 7) Notwithstanding the submitted details and prior to first occupation of any of the dwellings hereby permitted, a scheme for the hard and soft landscaping of the site shall be submitted to and approved in writing by the local planning authority. The scheme shall indicate, as appropriate, the types and numbers of trees and shrubs, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and specifications of all retaining structures (where applicable) and an implementation programme.

The approved soft landscaping scheme shall be implemented in the first planting season following occupation or use of the development in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

The hard landscaping shall be implemented in accordance with the approved details prior to the first occupation of the development and retained thereafter at all times.

- 8) All tree works/tree protection shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment (dated April 2018). The specified tree protection measures shall remain in place throughout the construction phase of the development and the methodology hereby approved shall be adhered to during all site preparation/construction works. All trees/hedgerows shown as being retained within the approved details shall be retained as such in perpetuity.
The agreed tree protection shall remain in place and be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protection areas(s) specified.
- 9) No development shall commence on the site until such time as a construction traffic management plan, including as a minimum detail of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 10) The parking provision as indicated on the approved drawing Proposed Site Layout: 2030-A-10-02 Rev: F shall be implemented, made available for use and surfaced or paved in accordance with a scheme that shall have been submitted to and approved by the Local Planning Authority prior to first occupation of any of the dwellings hereby permitted.
- 11) The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with drawing Proposed Site Layout: 2030-A-10-02 Rev: F. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 12) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on drawing Proposed Site Layout: 2030-A-10-02 Rev: F have been implemented.
- 13) Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block pavements, or other hard material to be approved by the Local Planning Authority.
- 14) Foul and surface water shall be drained on separate systems.

15) No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority.

The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation. The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.