



Appeal Decision

Site visit made on 8 August 2023

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal Ref: APP/P2365/W/23/3315561

West Lodge, Mercer Court, Great Altcar L31 4LF

- 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 Empson against the decision of West Lancashire Borough Council.
 - The application Ref 2022/0110/FUL, dated 9 March 2022, was refused by notice dated 27 July 2022.
 - The development proposed is the demolition of building and erection of a bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of building and erection of a bungalow at West Lodge, Mercer Court, Great Altcar L31 4LF in accordance with the terms of the application, Ref 2022/0110/FUL, dated 9 March 2022, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr & Mrs Empson against West Lancashire Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The appeal site lies in the Green Belt. The main parties agree that the proposal would not be inappropriate development in the Green Belt and I have no reason to disagree. On this basis the main issues are;
 - The effect of the proposed development on the character and appearance of the area, including the setting of Upper Gore Farmhouse, a Grade II listed building,
 - The effect of the development on the natural environment, with particular regard to the presence of the protected species of water voles and their habitat.

Reasons

Setting of Listed Building

4. The appeal relates to an irregular shaped piece of land that is occupied by 2 commercial storage buildings and is bordered on three sides by relatively flat open fields and agricultural land. The larger of the 2 buildings is located to the east of the site and is constructed from corrugated sheet metal. The smaller building, which is proposed to be demolished and replaced, is to the western end of the site, and is timber-framed, with timber and sheet metal walls and

roofing. These are accessed via an unmade track that adjoins the cobbled access way through a small cluster of converted farm buildings known as 'Mercer Court' and on to Bells Lane.

5. Upper Gore Farmhouse, a Grade II listed building, sits within the group of former agricultural buildings on Mercer Court. I therefore have a statutory duty to have special regard to the desirability of preserving the setting of the farmhouse. The National Planning Policy Framework (the Framework) states that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. It also advises that any harm to or loss of the significance of a designated heritage asset should require clear and convincing justification.
6. Upper Gore Farmhouse is a handsome 2 storey property that originates from the late 17th Century. Alterations have occurred over the years. However, insofar as this appeal is concerned, I consider the significance of this listed building to derive in a large part from its architecture, T-plan layout and detailing, including its interior fabric, honestly reflecting in the present its historic origins as a farmhouse within a farmyard complex. The rural setting, and surrounding wider agricultural landscape contributes to revealing and understanding its significance.
7. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. To this end, the proposed bungalow would replace an unattractive dilapidated and partially open timber lean-to structure with a metal corrugated roof. My site observations confirmed that this is a building of unremarkable architectural interest, with a make-shift greenhouse type structure to the rear and a high level of outside storage around the site.
8. There is also an area of undeveloped enclosed land which separates the land proposed to be developed from the listed building and the cluster of buildings on 'Mercer Court' to the north, which are around 100 metres away. There is very limited, if any, intervisibility between them due to the combination of the distance, the size and scale of the adjacent large commercial storage building, other intervening buildings and cover provided by a substantial amount of trees. Furthermore, there is no suggestion that there are any historic or functional links between the site and the Farmhouse that would contribute to its significance. Therefore, although it may form a part of the wider setting of the Grade II listed building, the land proposed for development does not, in my view, contribute to the experience, understanding or significance of this designated heritage asset.
9. Furthermore, the submitted plans show the proposed bungalow to incorporate some traditional materials, using a combination of natural stone and timber. In addition, its design would include angled sedum roofs which would help to integrate the building into the landscape. Whilst it would be visible from public footpaths, the proposed bungalow would also be of a similar height and scale as the existing building and would occupy a smaller footprint. Therefore, the impact of the proposed built development upon the landscape would be similar to the existing building in terms of size, scale and massing.
10. Overall, the replacement of an unremarkable building by one which would incorporate local materials, a sedum roof, and would be of a similar size to the existing structure, would not be detrimental to the wider landscape in which it would stand.

11. As such, I concur with the views set out in the 'design and external appearance' section of the Council's planning officer report. These state that the form and massing of the development is acceptable in relation to design and is an improvement to the appearance of the site and would not have an impact upon the street scene or integration into its setting.
12. In light of the above, I find that the proposed development would preserve and therefore not harm the character and appearance of the area, including the setting of the Grade II listed building. As such, it would not conflict with Policy EN4 of the West Lancashire Local Plan 2012-2027 Development Plan Document 2013 (the Local Plan) which seeks to preserve and enhance West Lancashire's cultural and heritage assets.

Protected Species

13. Policy EN2 of the Local Plan states that where there is reason to suspect that there may be priority species, or their habitat, on or close to a proposed development site, a survey assessing the presence of such species, and where appropriate, making provision for their needs, should accompany the application.
14. A Water Vole Survey has now been submitted with the appeal, which confirms that the surveyed ditches are host to a low population density of water vole, with clear evidence of commuting and foraging purposes. It also concludes that as the works proposed are beyond a 7 metre buffer zone, there will be no impacts to habitat loss in relation to the ditch network, subject to avoidance measures. These measures include the erection of Heras fencing during the construction period, which could be secured by a planning condition.
15. However, the submitted construction environmental management plan (CEMP) indicates that the construction drop off zone and short-term storage of materials in low mounds may take place within the 7 metre buffer zone. This also does not include a number of the matters that Merseyside Environmental Advisory Service advised should be included within a CEMP or dealt with by planning conditions. As such, a condition for the submission and approval of a new CEMP to rectify this would be necessary.
16. In the absence of any substantive evidence to the contrary, I therefore have no reason to find that the proposal would cause material harm to ecology or wildlife. As such, no conflict would arise with Local Plan Policy EN2, in relation to demonstrating that there would be no harm to priority species and their habitats.

Other Matters

17. Neither main party has raised any objections to the effect of the proposed development on the setting of Old Gore Farmhouse, another Grade II listed building, which is located on Altcar Lane. In reaching my decision I have also had special regard to the statutory duty to pay special attention to the desirability of preserving the setting of this listed building. Given the intervening separation distance and the lack of intervisibility between this property and the proposed development I agree that the proposal would not harm the significance and setting of this heritage asset. On this basis, I am satisfied that it preserves those interests.

18. I have also had careful regard to the representations of local residents, which concern a number of issues. Arguments regarding highways and noise are noted. However, the Lancashire County Council Highways and Transport Section has not raised any objections in regard to visibility splays, access width or manoeuvrability for emergency vehicles, and I am satisfied that the number of vehicle movements associated with the proposal would not result in any congestion or highway safety and pedestrian safety risk. Given the likely existing commercial activity taking place on the site I also consider that the proposed use, for one bungalow, would not result in such an increase in noise to cause unacceptable disturbance to the occupiers of neighbouring properties.
19. Satisfactory intervening distances would be achieved between the appeal building and the habitable windows of neighbouring properties to ensure that local residents would not experience any significant loss of light, outlook or privacy. The Council has also found the site to not be in an isolated or unsustainable location and whilst some reliance on private vehicles will invariably be expected in rural locations such as this, overall, I consider the accessibility of the site to be reasonable.
20. There is no substantive evidence before me to demonstrate that the proposed development would exacerbate any existing flooding problems in the locality. I am also mindful that the Council's Drainage Engineer has not found the proposal to be objectionable, subject to a condition for the submission and approval of a strategy for the separate foul and surface water drainage. The Council's planning officer report also confirms that the building to be demolished benefits from a certificate of lawfulness (Ref: 2015/0177/LDC) and is therefore not temporary. I have no substantive reason to question any of this.
21. Issues regarding land ownership, leases, the right of access, and damage to property and cobbles have also been raised. However, these are private legal matters between the relevant parties. Footpath diversions, current enforcement proceedings in respect of other structures on the site or nearby have also not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me. It would also be for the Council to determine the expedience of enforcement action in respect of any other unauthorised development in the future.
22. Finally, the negative impact that the proposal may have on neighbouring residents' wellbeing is acknowledged. However, I have reasoned above, with reference to planning considerations in terms of the public interest, that the proposal would not have unacceptable effects.

Conditions

23. I have considered the conditions suggested by the Council against the tests of paragraph 56 of the Framework and advice in the Planning Practice Guidance: *Use of planning conditions*. Where necessary and in the interests of precision and enforceability, I have reworded the suggested conditions.
24. In addition to the statutory time limit condition, I agree that a condition specifying the relevant plans is necessary to provide certainty. Conditions relating to materials and landscaping, including a condition requiring the replacement of any planting that dies or is removed or destroyed within five

years (instead of on-going longer-term maintenance) are reasonable and necessary in the interests of character and appearance.

25. It is necessary in the interests of highway safety to ensure that the parking areas are laid out, and kept available for future resident's parking, as would be achieved via condition 12. However, it appears that an incorrect drawing number has been referenced. I have therefore replaced it with the drawing number of the proposed plan. I have also imposed a condition to secure an electric vehicle charging point to reduce transport emissions in the interests of sustainability and air quality. To ensure adequate drainage, a condition relating to the provision of foul and surface water drainage has been imposed.
26. In addition to a construction method statement, I have imposed a condition for a construction environmental management plan. These are in order to protect the living conditions of nearby residents, in the interests of highway safety, and to safeguard protected species and biodiversity. Conditions are also needed to deal with protected species, through the provision of bat and bird boxes, a bat sensitive lighting plan and to ensure that vegetation is not removed in the bird-breeding season.
27. Given the lack of detail in respect of the operations and activities that are carried out at the larger neighbouring commercial storage building, and the limited period of monitoring that has taken place, I am unable to be certain that the submitted noise survey provides a fully representative picture of the existing background noise. I am also mindful that the edged red line of the site includes the neighbouring commercial storage building and that the supporting statement which accompanied the planning application sets out that the whole site is intended to become a live/work unit, with the bungalow being occupied by the operators of the builder's business that use the storage on site. I am therefore unable to find that an occupational condition to ensure that the residential element of the live/work unit is occupied by a person in connection with the associated business is not reasonable or necessary, to safeguard the living conditions of future residents. As such there are clear and specific circumstances for imposing this condition.
28. The Council has also suggested a condition restricting permitted development rights. However, the proposal is for a live/work unit rather than a dwellinghouse for the purposes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I have therefore not included this condition as it is not reasonable or necessary to do so.

Conclusion

29. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be allowed.

Mark Caine

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:
Drawing No. 002B and Drawing No. 003D
- 3) No clearance of vegetation in preparation for (or during the course of) development shall take place during the bird nesting season (1 March to 31 August inclusive) unless an ecological survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place during the period specified above unless a mitigation strategy has first been submitted to and approved in writing by the Local Planning Authority which provides for the protection of nesting birds during the period of works on site. The mitigation strategy shall be implemented as approved.
- 4) No development shall take place until a strategy for the foul and surface water drainage of the development, including any necessary attenuation measures and maintenance management proposals is approved in writing by the Local Planning Authority. The surface water drainage strategy must take account of the relevant provisions of the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement standards. The MicroDrainage mdx file, if available, should be submitted to aid the checking of design calculations. The drainage scheme shall be completed in accordance with the approved strategy.
- 5) 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 hoardings; 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.
- 6) No works shall take place (including demolition, ground works, vegetation clearance) until a construction ecological management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
 - Reasonable avoidance measures for smooth newts, hedgehogs and water voles during the construction process.
 - Responsible measures for preventing the spread of New Zealand pygmy weed off site.

- Construction vehicle routing to the site, vehicle parking, site compounds, storage of plant and materials used in constructing the development; a scheme for recycling/disposing of waste resulting from the construction works, and measures to prevent pollution into adjacent functionally linked habitats during construction.

The approved CEMP shall be adhered to and implemented throughout the construction period of the development.

- 7) No development shall take place until details of a bat roosting feature and a bird nesting box have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include an implementation timetable. The feature(s) shall be provided in accordance with the approved details and in accordance with the approved timetable.
- 8) No development hereby permitted above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the building 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.
- 9) The development hereby permitted shall not be occupied until a bat sensitive lighting plan has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate how the external lighting shall avoid negative impacts to any bats using the surrounding trees. All external lighting shall be installed in accordance with the approved details and shall thereafter be retained.
- 10) The development hereby permitted shall not be occupied until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained.
- 11) 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 building 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.
- 12) The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with Drawing No. 003D for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that the space shall thereafter be kept available at all times for those purposes.
- 13) The development hereby permitted shall not be occupied until a scheme for the provision of an electric vehicle charging point has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until an electric vehicle charging point has been installed in accordance with the approved details. The approved electric vehicle charging point shall be retained thereafter.
- 14) The residential floorspace of the live/work unit hereby approved (the bungalow) shall not be occupied other than by a person solely or mainly employed, or last employed, in the business occupying the business floorspace of that unit (the adjacent commercial storage building), a

widow or widower or surviving civil partner of such a person, and to any resident dependants.

END OF SCHEDULE