



Appeal Decision

Site visit made on 12 December 2023

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2024

Appeal Ref: APP/N2345/W/23/3324970

17 Whittingham Lane, Broughton, Preston, Lancashire PR3 5DA

- 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 Adam Garner against the decision of Preston City Council.
 - The application Ref 06/2023/0252, dated 3 March 2023, was refused by notice dated 27 April 2023.
 - The development proposed is the erection of a single 4-bedroom 2 storey dwelling and a single 6-bedroom 2 storey dwelling, plus associated landscaping and private driveways.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single 4-bedroom 2 storey dwelling and a single 6-bedroom 2 storey dwelling, plus associated landscaping and private driveways at 17 Whittingham Lane, Broughton, Preston, Lancashire PR3 5DA in accordance with the terms of the application, Ref 06/2023/0252, dated 3 March 2023, subject to the conditions in the attached schedule.

Preliminary Matters

2. On the 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework) accompanied by a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would appear to be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

3. The main issues are:
 - a) whether the location of the development is appropriate and in keeping with the character and appearance of the area, having regard to relevant local planning policies; and
 - b) the effect of the proposed development on the living conditions of the occupiers of 17 Whittingham Lane (No 17) and 19 Whittingham Lane (No 19) with regard to noise; and
 - c) the effect of the proposed development on the living conditions of future occupiers with regard to refuse collection.

Reasons

Location of development

4. The appeal site comprises what is currently the large rear garden of No 17 Whittingham Lane, a detached two storey dwelling. Whittingham Lane is located in an established residential area within the village boundary of Broughton. The appeal site forms part of a row of properties with large rear gardens, which extend over 200m in length.
5. The development plan for the area includes the Central Lancashire Core Strategy 2012 (CS); the Preston Local Plan 2012-2026 (2015) (LP); and the Broughton Neighbourhood Development Plan 2018 (NP).
6. Policy 1 of the CS highlights that growth and investment will be concentrated on well-located brownfield sites and in central Preston, key service centres and other main urban areas. In smaller villages, such as Broughton, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes.
7. Both the LP and the NP were adopted more recently than the CS. Policy AD1(b) of the LP indicates that small scale development within existing villages will be permitted if it is of an appropriate design and scale in keeping with the character and appearance of the area; does not have an adverse impact on residential amenity; and would not lead to an over concentration of non-residential uses or an over intensification of use of the site.
8. The NP was made in 2018, and as such forms part of the statutory development plan. Policy RES of the NP states that housing proposals will be determined in accordance with policies in the CS and LP, as amended and augmented by the NP policies. Policy RES1 allocates specific sites within the village for development.
9. Although the NP does not specifically allocate the appeal site for development, the supporting text to Policy RES1 stresses that there are modest opportunities to help manage pressures for development on open countryside, including through backland development within the existing village settlement boundary. Paragraph 8.5.7 of the NP states that potential opportunities for such development may include lengthy rear gardens to properties on Whittingham Lane. The appeal site would fall into this category.
10. There is clearly a tension between the CS, which does not encourage backland development, and the Neighbourhood Plan, which identifies large rear gardens on Whittingham Lane as a development opportunity. Section 38(5) of the Planning and Compulsory Purchase Act 2004 indicates that in the event of a conflict between policies in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. This is not quite the scenario here, as part of the conflict relates to the explanatory text which does not have the status of policy. Nevertheless, I consider that the explanatory text lends support to the proposals. The Neighbourhood Plan is the more up-to-date document and it reflects local community aspirations, which lie at the heart of the government's Localism agenda. Having regard to this, I am satisfied that the principle of

developing the appeal site is acceptable, subject to detailed considerations of design.

11. The Parish Council have indicated that when identifying garden land suitable for development along Whittingham Lane that they had a preference for dwellings to the east of the bypass (unlike the proposed development) as east of the bypass the road is wider and thus has a higher speed limit. However, the NP does not indicate this preference, and it is notable that the proposal is considered acceptable from a highway safety perspective.
12. Whilst it is more usual for properties along Whittingham Lane to have a road frontage, I observed on my site visit that there are a small number of properties along Whittingham Lane that have housing developments to their rear, and therefore the proposed dwellings would not be wholly dissimilar to the nearby character and pattern of development. Additionally, the proposed development for two large detached properties with sizable gardens would be in keeping with the established house type and low density of surrounding properties.
13. My attention has been drawn to various other permissions for housing development within Broughton, in particular a development at 31 Woodplumpton Road, permitted in February 2023 for the demolition of the existing property and the erection of a dwelling on the original building's footprint, and two dwellings to the rear of the original dwelling. However, given my findings above these have not been determinative and I have assessed this appeal on its own merits, and found that the principle of development is acceptable.
14. I conclude that the appeal site is an appropriate location for development and in keeping with the character and appearance of the area, having regard to relevant local planning policies. Whilst it does not accord with Policy 1 of the CS, it would be in accordance with the principle of development detailed in the more recently adopted LP Policy AD1(b) which highlights that subject to specific criteria small scale development will be permitted in villages. The proposal would also conform with the NP which highlights that there are opportunities for backland development within the village settlement boundary, including the lengthy rear gardens of properties along Whittingham Lane.

Living conditions of neighbouring occupiers

15. The layout of the proposal would see the creation of a new vehicular access to the side of the plot of no 17. The access would give way to a long internal access road featuring a turning head. The road and access would run close to the side elevations of No 17 and No 19.
16. I acknowledge that the proposed development would introduce additional vehicle movements to the side of No 17 and No 19. However, the number of vehicle movements associated with two dwellings would be relatively infrequent and unlikely to result in significant noise and disturbance, above and beyond what is to be expected in a residential area, particularly given the proximity of a bypass to the appeal site.
17. I have included a planning condition ensure that an appropriate low noise emitting surface material is used for the access road. Furthermore, a condition

has been attached to secure an acoustic barrier along the site boundaries to help reduce any noise disturbance to No 17 and No 19.

18. Overall, with the erection of an acoustic boundary treatment and the use of appropriate surface materials, along with the likely low volume of vehicles using the proposed access road, I conclude that the proposal would not result in unacceptable noise or disturbance. Accordingly, the development proposed would not unacceptably affect the living conditions of the occupiers of Nos 17 and 19 Whittingham Lane in regard to noise. In this respect, the proposal would not conflict with AD1(b) of the LP, which seeks to ensure that developments have no adverse impact on residential amenity, particularly by reason of noise. It would also accord with the Framework, which seeks to ensure that developments do not contribute to noise pollution and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Living conditions of future occupiers

19. The proposed dwellings, being located to the rear of No 17, would necessitate the future occupiers of the dwellings having to take their bins some distance from their properties to the bin collection area indicated on the submitted plans, and then further on to Whittingham Lane, the adopted highway, for collection on bin day.
20. Given the nature of the site, which would have a surfaced access road enabling the relatively straight-forward manoeuvring of wheeled bins, I find that the drag distance would not be so substantial as to make it unmanageable for future occupiers.
21. The appellants have indicated their intention to provide private bin collections. However, it would not be possible to assume that future occupiers of the properties would always be willing to use this service. As such, for the proposed development to be acceptable I consider it necessary to attach a condition to ensure that appropriate refuse collection facilities are provided on site.
22. For the reasons above I conclude that the proposed development would not harm the living conditions of future occupiers, with regard to refuse collection. The proposal would therefore not conflict with the National Planning Policy for Waste, which stresses the importance of providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service. It would also comply with the Framework which seeks to ensure a high standard of amenity for future users.

Other Matters

23. I have taken careful consideration of the concerns raised by third parties, and was invited to view the appeal site from neighbouring properties on Willow Tree Avenue. The Council's Officer Report detailed that the proposed dwellings would be separated from the rear of properties along Willow Tree Avenue by a minimum of approximately 35m, and that Plot 1 would be separated from No 17, No 15 Whittingham Lane (No 15) and No 19 by approximately 60m. Additionally, the rear garden of No 15 would be located between properties on Willow Tree Avenue and the proposed development. Whilst the proposed new dwellings would overlook the rear gardens of No 15 and No 19, due to the large

garden size of these properties the occupiers would still benefit from areas of private amenity space. I consider that the distance between the proposal and existing properties is therefore sufficient to ensure that the proposed dwellings could be accommodated without causing any material harm to neighbouring living conditions in relation to privacy, outlook or loss of light.

24. I have noted the concerns raised with regard to noise and disturbance, and refuse collection, which I have dealt with in the main issues. I have also noted concerns regarding potential flooding, loss of trees and wildlife, and highway issues. However, these matters were considered at the planning application stage and found to be acceptable subject to conditions, and I have no substantive evidence that would lead me to conclude differently.
25. Whilst I note concerns regarding the lack of need for new housing due to other new builds nearby, and the possibility that this proposal may set a precedent for similar developments, it is necessary for me to consider the appeal on its own merits and I have found it to be acceptable and in accordance with policy.
26. My attention has been drawn to the fact that a number of supporters of the proposal are from outside the area. However, there are no regulations determining who can and cannot support or object to a proposal, and as such I have not given any weight to this matter.

Conditions

27. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. I have amended a number of the conditions in the interest of clarity. The appellant has confirmed their agreement to proposed conditions where they are pre-commencement.
28. In addition to the standard timeframe condition, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans in the interest of certainty (conditions 1 and 2).
29. A pre-commencement condition regarding the materials to be used is necessary in order to protect the character and appearance of the area and provide certainty prior to the commencement of development (condition 3).
30. Condition 4 is a necessary pre-commencement condition to require a construction and environmental management plan to safeguard the amenity of nearby residents and also to maintain highway safety. The Council had suggested a separate condition regarding the cleaning of construction vehicles' wheels, but as this is included in condition 4 it is not necessary to include this separately.
31. In order to ensure that the site is effectively landscaped having regard to the character of the area, and that retained trees are effectively protected, I have imposed pre-commencement conditions 5 and 6 regarding landscaping and tree works.
32. To minimise the risk of flooding and ensure that the site is properly drained, pre-commencement conditions 7 and 8 are necessary to ensure that ground levels are appropriate, and that satisfactory drainage can be achieved.
33. In order to provide acceptable living conditions for neighbouring occupiers and future occupiers of the proposed development, conditions 9 and 10 are

included to ensure that an appropriate acoustic barrier is erected in order to minimise noise disturbance, and to ensure that adequate waste and recycling facilities are provided.

34. Conditions regarding the construction of the site access and internal access road are necessary in the interests of highway safety and to ensure that noise disturbance is limited (conditions 11, 12 and 13). The Council suggested two conditions with regard to the site access. I have amalgamated these into one condition. I have added a condition regarding the surface material of the internal access road, in order to limit noise disturbance to neighbouring and future occupiers.
35. I have included condition 14 ensuring that certain windows of the proposed development are obscurely glazed, in order to protect the living conditions of future occupiers. The Council had suggested that the condition should require these windows to be non-opening. However, this would not be reasonable as the windows are for bathrooms, and would need to be capable of opening to ensure adequate ventilation.
36. The Council suggested a condition requiring a bird and bat assessment of the trees to be removed. I have attached condition 15 requiring the addition of bat and bird boxes so that the wildlife habitats of these species are maintained.
37. In order to protect the health of occupants of the scheme, and to ensure that any potential effects of ground contamination are mitigated, condition 16 is required.

Conclusion

38. For the reasons given above, I conclude that the development would comply with the development plan as a whole and there are no other material considerations to lead me to find otherwise than in accordance with it. As a result, the appeal is allowed.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and supporting documentation:

Boundary Treatment Plan 112 Rev 6
Site Plan as proposed 110 Rev 11
Location Plan 100 Rev 4
4b House Plans as Proposed 120 Rev 2
6B House Plans as Proposed 116 Rev 2
4B House Elevations as Proposed 121 Rev 3
6B House Elevations as Proposed Sh2 of 2 118 Rev 2
6B House Elevations as Proposed Sh1 of 2 117 Rev 2

Site Clearance Plan 109

Site Plan Co-ordinate Setting Out 119 Rev 1

3. No development shall commence, other than demolition works and site clearance, until precise details of the materials to be used in the construction of the external elevations and roof of the proposed developments have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
4. No development shall commence until a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall provide for: (i) The means of highway access and parking for construction vehicles, plant and construction workers' vehicles and sustainable travel methods for construction workers, (ii) loading and unloading of plant and materials, (iii) storage of plant and materials used in constructing the development, (iv) storage, disposal and removal of spoil and waste arising out of the construction works, (v) hours of working and access, (vi) site security arrangements, including hoardings and other means of enclosure, (vii) piling methods, if used, (viii) wheel cleaning facilities, (ix) measures to control the emission of dust and dirt during construction, (x) measures to control the emission of noise. The approved CEMP shall be adhered to throughout the construction phase of the development.
5. No development 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) details of the proposed boundary treatments; b) indications of all existing trees and hedgerows on the land; c) details of any to be retained, together with measures for their protection in the course of development; d) a schedule of the proposed replacement/compensatory trees and hedgerow, the numbers to be planted, plant species, size and density, and planting locations; e) details of configuration of planting pits, methods of staking or guying; and f) an implementation programme.

All planting, seeding or turfing comprised in the approved landscaping details 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. Any trees or plants which within a period of five 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.
6. No development shall commence until a detailed tree survey and tree removal plan and scheme for the protection of the retained trees in accordance with BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be implemented as approved prior to the commencement of development and retained until the work is complete.
7. No development shall commence until a plan showing the finished ground levels has been submitted and approved in writing by the local planning

authority. The development shall be completed in accordance with the approved details.

8. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority and has been fully installed and completed in accordance with the approved details.

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, and any explanation as to why on ground infiltration may not be possible on site.
 - 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).
 - iii. A timetable for its implementation.
 - iv. Details of how foul and surface water will be disposed of.
9. Prior to any above ground works commencing on the site, a scheme for the height, location and type of materials of the acoustic barrier to be erected along the site boundaries with no.17 and no.19 Whittingham Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved acoustic barrier shall be erected prior to the first occupation of the development hereby approved and thereafter retained.
10. No dwelling shall be occupied until the provision for waste and recycling facilities as shown on the approved plans (Site Plan as proposed 110 Rev 11) shall be made available for use and thereafter retained.
11. No dwelling shall be occupied until the site access and other highway works within the adopted highway have been constructed in accordance with a scheme that shall be submitted to and approved by the local planning authority. The scheme shall include the relocation of the lighting column effected by the access junction radius kerb.
12. No dwelling shall be occupied before the access from the edge of the carriageway has been paved in permanent construction with a sealed surface for a minimum distance of five metres into the site. The proposed access from the site shall be constructed to a minimum width of 5.5m and this width shall be maintained for a minimum distance of 10m measured back from the nearside edge of the carriageway.
13. No dwelling shall be occupied until details of the low noise emitting surface material to be used for the internal access road have been submitted to and approved in writing by the local planning authority. The approved surface materials shall be implemented prior to the occupation of the dwellings and retained thereafter.
14. No dwelling shall be occupied until the window in the first-floor side elevation of dwelling 6B and on the first floor rear dwelling of 4B are installed with obscure glazing only and thereafter shall be permanently retained at all times.
15. No dwelling shall be occupied until the following boxes are erected on the site:

A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

A minimum of 1 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), and/or small birds (32mm hole, standard design).

A minimum of 1 artificial nests, of integrated brick design, suitable for swifts (swift bricks). The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting.

The boxes shall thereafter be maintained for the lifetime of the development.

16. Should contamination be encountered or is suspected in areas where it had not been anticipated, then a scheme for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the local planning authority prior to all but urgent remediation works necessary to secure the area. The remediation scheme shall be carried out in accordance with the approved details.

***** END OF CONDITIONS *****