



Appeal Decision

Site visit made on 1 April 2025 by J Reed MPlan

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2025

Appeal Ref: APP/V4250/W/24/3357496

Land rear of 5 & 7 Peacock Fold, Leigh WN7 5BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kyle Darvill-Hulse against the decision of Wigan Metropolitan Borough Council.
 - The application Ref is A/22/93937/FULL.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of detached dwelling at land rear of 5 & 7 Peacock Fold, Leigh, WN7 5BG in accordance with the terms of the application, Ref A/22/93937/FULL, subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The address on the planning application form includes reference to 'Street record'. Therefore, in the interests of clarity, I have taken the address from the decision notice and appeal form, both of which refer to 'Land rear of 5 and 7 Peacock Fold'.

Main Issue

4. The main issue is the effect of the proposed development with particular regard to risk of crime and anti-social behaviour.

Reasons for the Recommendation

5. The appeal site incorporates an existing access drive which sits alongside the boundary of the site with 5 Peacock Fold. This drive is secured by a metal gate which extends across both the drive and the access point to neighbouring garages.
6. The Council's main concern with regards to the main issue is that the removal of the gates at the site access point will result in an increased risk that neighbouring residents on Peacock Fold would be exposed to instances of crime and anti-social behaviour. However, there is no compelling evidence before me to demonstrate that the area is subject to particularly high-levels of crime and disorder. I am also unaware of any particular instances of crime resulting from security matters relating

to the access point prior to the installation of the existing gate. In the absence of such evidence, it is unclear that any fear of crime and anti-social behaviour is well founded.

7. Moreover, occupation of the site would be likely itself to act as a deterrent to uninvited individuals accessing or loitering on the site. Indeed, occupiers of the proposed dwelling and their visitors would increase active surveillance of the site alongside that which presently occurs from residents of surrounding properties, thereby reducing the risk of crime and anti-social behaviour. These factors further persuade me that the proposal would not undermine quality of life or community cohesion and resilience, having regard to paragraph 135 of the National Planning Policy Framework (the Framework).
8. Through the appeal process the appellant has suggested the provision of a replacement gate via a condition also requiring a locking mechanism accessible for residents of Peacock Fold. However, the management of such requirements would be difficult to enforce in the long term. In any case, in the absence of any objective evidence to suggest that the proposal would have unacceptable effects in respect of crime and anti-social behaviour, a condition requiring a gate would not be reasonable or necessary.
9. For the forgoing reasons, the proposal would not have an unacceptable effect with particular regard to risk of crime and anti-social behaviour. In these respects, there would be no conflict with the Policy JP-P1 of the Places for Everyone Joint Development Plan (2024) and Policy CP10 of the Wigan Local Plan Core Strategy (2013) which amongst other things seeks design which reduces the risk of crime and anti-social behaviour. As set out above, it would also accord with Paragraph 135 of the Framework.

Other Matters

10. Concerns have been raised by third-parties including in terms of the effect on the character and appearance of the area, flood risk, trees and ecology, parking and highway safety, and the living conditions of neighbouring occupiers. There is also the suggestion that there is Japanese knotweed on the site. These matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal. From my own observations, including but not limited to the design, layout and relationship of the proposed bungalow with the appeal site surroundings, there is no objective evidence that would lead me to come to different findings to the Council on these matters. Furthermore, where necessary, conditions can be utilised to ensure that the development does not have an unacceptable effect in respect of these matters.
11. For a development of the scale proposed, site management during the construction period should not be particularly complex and any disruption experienced in the immediate area would likely be short lived. Should there be reports of noise and disruption beyond usually expected levels or outside normal working hours, this is a matter that could be investigated by the Council if necessary.
12. From what I have seen, the proposal does not have any direct influence on public access to Marsh Playing Fields or on a path from Limer Hill through to Peacock Fold.

13. Third-parties have also raised concerns regarding access rights to their properties via the appeal site. However, this is a civil matter which falls outside the scope of the appeal process.

Conditions

14. The Council has suggested a number of conditions in the event that the appeal be allowed. The appellant has not objected to the suggested conditions. I have altered the wording where necessary to better reflect the advice set out in the Planning Practice Guidance concerning the use of planning conditions, without changing their overall intention.
15. In addition to the standard time limit condition (1), it is necessary to impose a condition (2) requiring compliance with the relevant plans for certainty.
16. A condition (3) relating to the provision of a sample of external materials is included in the interests of ensuring that the development is sympathetic to the local vernacular.
17. Conditions (4) and (5) relate to the removal of permitted development rights and the control of additional openings on the dwelling. Due to the site's location to the rear of and in close proximity to existing dwellings, such conditions are justified in this instance, in the interests of protecting the character and appearance of the area and the living conditions of neighbouring occupiers.
18. A condition (6) and (7) controlling hard and soft landscaping as well as boundary treatments are reasonably necessary in order to best assimilate the proposal into its surroundings.
19. I have amended the Council's suggested Condition (8) as it included the words 'that would provide access to the rear of the properties at 5 and 7 Peacock Fold'. Access rights are a private legal matter. In any case, the amended wording utilised will ensure that the proposed path is in place before the development first comes into use.
20. A condition (9) is also necessary in the interests of ensuring the development takes opportunities to improve biodiversity in and around the development in accordance with Paragraph 193 of the Framework.
21. A condition (10) safeguarding the provision of drainage for the site is required in the interests of ensuring the site is satisfactorily drained. It is reasonable and necessary to make this a pre-commencement requirement as drainage will need to be taken into account during initial groundworks.
22. Conditions (11) and (12) securing the provision of parking spaces and EV charging are required in the interests of sustainable transport and parking and to ensure that the parking spaces are suitably drained.
23. A pre-commencement condition (13) relating to unexpected contamination is necessary in the interests of ensuring any potential contaminants are investigated at the outset and treated if necessary.
24. A condition relating to finished floor levels (14) is included to ensure the development achieves the envisaged acceptable relationship with surrounding land and buildings, taking into account the topography of the site and its surroundings.

This is also a pre-commencement requirement in order to ensure that the agreed levels are factored into the build.

25. A condition (15) relating to the provision of recycling facilities has been included in the interests of waste management.

Conclusion and Recommendation

26. The proposal would accord with the development plan, when taken as a whole, and there are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

J Reed

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

M Russell

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Dwelling - 24.029.pl.01.D.
- 3) Notwithstanding the details hereby approved, prior to the commencement in the construction of any external walls of the dormer bungalow hereby approved, particulars or samples of the materials to be used for the external walls and roof shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be constructed only in full accordance with the approved materials.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, AA, B, C, D and E of Schedule 2 Part 1 shall be carried out on the proposed dwelling unless permission is granted by the Local Planning Authority.
- 5) No additional windows and/or openings shall be inserted at any time into any external elevation or roof plane of the building hereby approved, nor shall hereby approved window and/or openings be enlarged or altered in position.
- 6) Notwithstanding the details hereby approved, prior to the commencement of the construction of the building and/or hard surfaces, full details of both hard and soft landscape works for the development, with an associated

implementation plan, shall be submitted to, and approved in writing by, the Local Planning Authority.

These details shall include:-

- Proposed finished ground levels or contours;
- Schedules of plants/trees, noting species, plant sizes and proposed numbers/densities; and
- Details of the materials to be used for hard surfaces.

All planting shall be implemented in accordance with the approved implementation plan, and shall be maintained for a period of 5 years from the agreed date of planting. Any trees or plants which die, become diseased, or are removed during the maintenance period shall be replaced with specimens of an equivalent species and size.

- 7) Notwithstanding the details hereby approved, prior to the commencement of the installation of any boundary treatment associated with the hereby approved development, full details of boundary treatments (detailing their precise location, height and materials) with an associated implementation plan, shall be submitted to, and approved in writing by the Local Planning Authority. Any approved boundary treatments shall be implemented in accordance with the approved details and retained as such thereafter.
- 8) Prior to the development hereby approved coming into first use, the path to the rear of the properties at 5 and 7 Peacock Fold shall be implemented in accordance with drawing reference: Proposed Dwelling - 24.029.pl.01.D and retained thereafter.
- 9) Prior to the commencement of the construction of the building and /or hard surfaces hereby approved, a scheme for biodiversity mitigation and enhancement for the development, including an implementation timetable, shall be submitted to, and agreed in writing by, the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall be retained thereafter.
- 10) Prior to the commencement of the development hereby approved, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The approved schemes shall be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.
- 11) Prior to the development hereby approved coming into first use, the provision of two car parking spaces within the site shall be implemented in accordance with drawing reference: Proposed Dwelling - 24.029.pl.01.D.

Any hard surface used for the car parking spaces shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within site.
- 12) Prior to the development coming into first use, one 'smart' Electric Vehicle' (EV) charging point shall be installed within the hereby approved

development in full accordance with a scheme which has previously been submitted to, and approved in writing, by the Local Planning Authority.

Once installed, the EV charging provision shall be maintained and retained at all times thereafter.

- 13) Prior to the commencement of any part of the development hereby approved, an investigation and assessment of the nature and extent of any contamination of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The assessment shall identify any remedial measures required to deal with any hazards identified and a remediation strategy including remediation options appraisal, verification plan and a Gas Protection and a Remediation Strategy, including remediation options appraisal, verification plan, and a gas protection design report, shall be submitted to and approved in writing. Gas Protection Design Report, shall be submitted to, and approved in writing by, the Local Planning Authority.

The Remediation Strategy and remedial measures shall be implemented in full and a Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority before the occupation of the building hereby permitted.

- 14) Prior to the commencement of any part of the development hereby approved, the following information shall be submitted to, and approved in writing by, the Local Planning Authority:

(i) A full site survey showing:

- the datum used to calibrate the site levels
- levels along all site boundaries
- levels across the site at regular intervals
- floor levels of adjoining buildings

(ii) full details of the proposed finished floor levels of all buildings and proposed levels for external areas.

The development shall be implemented only in full accordance with the approved details.

- 15) Notwithstanding the details hereby approved, prior to the development coming into first use, a refuse/recycling store shall be installed in full accordance with a scheme which has previously been submitted to, and approved in writing, by the Local Planning Authority.

Once installed, the refuse/recycling store shall be maintained and retained at all times thereafter.