
Appeal Decision

Site visit made on 19 April 2016

by Nicholas Taylor BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 July 2016

Appeal Ref: APP/T2350/W/16/3142828

Land to the East of Clitheroe Road, Lawsonstead, Whalley, Lancashire BB7 9AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Jonathan Croasdale (Redrow Homes Lancashire) against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2015/0385, dated 20 April 2015, sought approval of details pursuant to conditions Nos 2, 3 and 4 of a planning permission, granted on 16 October 2013.
 - The application was refused by notice dated 23 December 2015.
 - The development proposed is a residential mixed use development comprising up to 260 dwellings (C3), a primary school (D1), a new vehicular link between Clitheroe Road and the A671 including creation of a new junction both onto the A671 and Clitheroe road, car parking, open space and associated landscaping.
 - The details for which approval is sought are: revised proposal for the surface water attenuation pond following groundwater monitoring, previously approved under outline planning permission 3/2013/0137.
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Decision

1. The appeal is allowed and the reserved matter is approved, namely revised landscaping details incorporating revised proposal for the surface water attenuation pond following groundwater monitoring submitted in pursuance of conditions Nos 2, 3 and 4 attached to planning permission Ref 3/2013/0137 dated 16 October 2013, in accordance with the terms of the application, Ref 3/2015/0385, dated 20 April 2015, and the plans submitted with it, and subject to any relevant conditions remaining extant but subject to the following additional conditions:
 - 1) Notwithstanding details previously submitted, the development hereby permitted shall not commence until a scheme showing details of landscaping in the vicinity of ponds A and B, including any safety fencing around the ponds which may be necessary, cycle and pedestrian routes and the siting and design of play areas, have been submitted to and approved in writing by the local planning authority. The scheme shall specify a timetable for implementation and measures to maintain the landscaping, routes and play areas. It shall include provision for replacement of any tree or shrub which is removed, dies, becomes seriously diseased or is seriously damaged with a species of similar size and type, within a period of not less than five years from the date of first
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use of the development. The landscaping details shall also indicate how existing trees and hedgerows adjacent to the proposed development will be adequately protected during construction, in accordance with BS5837: 2012 'Trees in Relation to Design, Demolition and Construction' or equivalent. Development shall take place and be maintained thereafter in accordance with the approved scheme.

Background and Main Issue

2. In the original outline permission, landscaping, together with layout, appearance and scale, was reserved for future determination. Condition 2 required the development to be carried out in accordance with certain plans. Condition 3 required development of each phase to be implemented in accordance with approved details for that phase. Condition 4 required reserved matters to be carried out in substantial accordance with the design principles and parameters contained within the Design and Access Statement (DAS) and Parameters Plan (PL1158.3.M.101 Rev: D). Among the other conditions attached to the outline permission were requirements for a strategy and, subsequently, details of a system of foul and surface water drainage for each scheme and a detailed surface water drainage scheme for each phase, based on sustainable drainage principles. The Council says that these conditions have been wholly or partially discharged¹. The landscaping scheme subsequently approved² as part of reserved matters for phase 01 made provision for a surface water attenuation pond. A revised proposal with respect to that reserved matter, which included two ponds, identified as ponds A and B, was refused, leading to the current appeal.
3. The appellant states that drawing number 4307-03 'Proposed Pond Locations', was submitted with the application. It is reproduced as Figure 3.1 in the appellant's appeal statement. However, in later comments dated 17 March 2016, the appellant provides a "corrected" version of the plan, showing a location for a play area but with a different red line boundary. The different versions of drawing 4307-03 before me have the same date and there are no revision numbers. Given the lack of clarity, I have not treated the "corrected" version as formally part of the appeal proposal but have taken it into account, as part of the appellant's evidence.
4. The parties refer to more recent decisions which overlap with the application boundary of the current appeal. One (Ref 3/2015/0489), granted approval to reserved matters relating to phase 02 of the overall development. A further application (Ref 3/2016/0064), comprising two ponds identical to those currently at appeal, was refused for a reason which differed from that in the appeal scheme, in that it did not refer to adequate usable pedestrian and cycle linkages/routes. However, the Council explains that this was because the red line application boundary was tightly drawn around the ponds, so that it would have been physically impossible to include pedestrian and cycle routes, and it considered that it would have been unreasonable to refuse the application on that ground. The third application (Ref 3/2016/0066), which concerned Pond A only, was approved, which the appellant suggests indicates that the Council had no objection to pond A as proposed in the appeal scheme.

¹ Refs 3/2014/0228 and 3/2014/0494

² Ref 3/2014/0043

5. In this appeal, I can only deal with the acceptability of the reserved matter or detail before me. There is no scope for me to reconsider other matters, for example, which were, or should have been, dealt with at the outline stage. I have taken account of the views of the main parties on the more recent decisions but, on the basis of all the evidence before me, I consider that they do not alter the main issue in this case, which remains whether the proposal would make acceptable provision for public open space, including pedestrian and cycle routes and childrens' play.

Reasons

6. The overall residential, mixed-use development which has outline planning permission, will, when complete, occupy a large, gently sloping site to the east of Clitheroe Road, on the edge of the small town of Whalley. The scheme, as proposed at outline stage in the DAS and the Parameters Plan, comprised a large area of housing to the north of a west-east distributor road, with a smaller area of housing to the south. The DAS described a "linear country park" as a key element of the proposals, comprising an area of open space stretching roughly west-east between the two areas of housing, providing an ecological and visual link, a new network of footpaths to increase connectivity for both new residents and the existing community and a central play space. A north-south link road is proposed to cross the linear open space, connecting the two main areas of new housing.
7. In compliance with the development plan and national policy, the Council required³ sustainable urban drainage principles applied to surface water drainage within the overall development. The proposed ponds would be situated in the shallow valley which the linear park follows. Pond A, as originally proposed to the west of the link road, was found, following technical investigations which identified unforeseen adverse ground conditions, to be too close to the major Haweswater Aqueduct, which runs in four large underground pipes roughly along the northern edge of the linear open space. Following a re-design, the appellant proposed a re-profiled pond A and an additional pond, B, to the east of the link road. The appellant maintains that this represents the optimum technical solution.
8. Surface water attenuation is a critical aspect of a sustainable drainage scheme, with, I have no doubt, potentially serious consequences for flood risk if a technically sub-optimal solution were to be implemented. Moreover, the structural integrity of the aqueduct is also clearly of very great importance. The Council has accepted a pond in roughly the same location as the now proposed pond A. It has not seriously challenged the detailed technical evidence supporting the revised water attenuation design and I see no reason to doubt its validity. Nor has the Council offered any suggested alternative arrangement or location for surface water attenuation. The Environment Agency and Local Lead Flood Authority do not object.
9. Although the details were clearly described at the time as illustrative, I accept the Council's argument that the inclusion of the country park was integral to the original scheme and, in the light of the policy context, an important consideration in the planning balance which led to the outline approval. However, the additional pond B, even in combination with pond A, would be fairly small in relation to the overall area of the country park and even less

³ Condition 17 of the outline planning permission refers

significant (assessed as a mere 6% by the appellant) in relation to overall open space and woodland within the overall development. I note that pond A, as proposed, would be smaller than in the reserved matter scheme already approved by the Council, which would, on its own, amount to 4% of the total area of open space. The ponds would each occupy discreet areas, either side of the link road, amounting to only a minor proportion of the width of the park at those points. The result would not be an unacceptable reduction in the overall area of useable open space, even without identification of any specific compensatory provision.

10. The submitted sections indicate that the ponds would have a safety fence, suggesting a conflict with the appellant's statement that, as shallow depressions in the ground, they would be available for recreation and open space use for the majority of time when not required for water storage during extreme weather events. Nevertheless, if they would indeed be necessary, provided the fences were not too visually intrusive, they would retain the essential visual openness of the country park.
11. The plans indicate that the mature trees and shrubs following the existing stream, in the south of the country park, would not be unduly affected by the proposed ponds. Additional tree and shrub planting proposed for the area around their edges would help to restore and reinforce landscape quality. The appellant's ecology consultants found no significant ecological impacts.
12. The DAS, including its Illustrative Masterplan, clearly refers to a cycle route following a "green street" through the development. The submitted plans indicate that the "green street" and a new, dedicated cycle route alongside the link road would be unaltered by the appeal proposal. An existing, roughly west-east cycle route and footpath following the stream is shown as to be retained. A network of footpaths would run through and across the linear park, weaving around the edges of the ponds. It has not been made clear to me how those proposed routes would fall significantly short of the sketchy expectations expressed in the DAS or Parameters Plan or in the scheme initially approved as part of reserved matters. In any case, there is scope to address the detailed provision by means of a condition.
13. The DAS also shows illustrative provision for an equipped play space where pond B is now proposed. Whilst one version of drawing no. 4307-03 does not show specific provision for play space, the later "corrected" version shows that a play area could be located to the north of pond B. Whilst that may or may not be the optimum size, design or location for such a play space, it helps to show that alternative, reasonably central locations exist and it satisfies me that the matter could be addressed by imposition of a condition.
14. In the light of the appellant's argument that his company is contractually responsible for delivery of surface water drainage facilities for the whole of the development, the submission of the reserved matters scheme for phase 02 of the development, by a different applicant, showing active recreational facilities where pond B would be located does not weigh heavily against the appellant's case.
15. On the main issue, therefore, I conclude that the revised proposal for two surface water attenuation ponds would be acceptable as part of the overall landscaping for phase 01 of the development, as a reserved matter pursuant to the outline planning permission and in the light of the relevant extant

conditions. Accordingly, the proposal would comply with the relevant policies of the *Ribble Valley Core Strategy*⁴, referred to in the Council's reason for refusal. Those are Policy DMG1, which sets out general considerations, including the use of sustainable construction techniques, regarding the achievement of high quality development, Policy DMG3, which seeks accessibility by sustainable transport modes, including among other things walking and cycling, and Policy DMB4, which requires development to provide adequate, useable open space. There is no strong evidence to lead me to conclude that the proposal would not comply with the development plan as a whole. Nor would there be any significant conflict with the *National Planning Policy Framework*.

Conditions

16. I have considered the Council's suggested conditions, in the light of the appellant's evidence and national policy and guidance and for clarity and conciseness. In view of uncertainty and conflicting evidence regarding the status of differing versions of Drawing No 4307-03 before me, I have not imposed a condition specifying the approved revised plans. However, adherence to the submitted plans is an explicit requirement of the permission.
17. Any un-discharged conditions relating to the outline permission remain extant and it is not necessary or appropriate to repeat or duplicate them here. As the proposed development would entail a variation of previously agreed landscaping, I have imposed a condition requiring details of a revised landscaping scheme, incorporating any safety fencing which may be necessary, together with cycle and pedestrian routes and play areas in the vicinity of the ponds.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be allowed.

Nicholas Taylor

INSPECTOR

⁴ *Core Strategy 2008-2028 A Local Plan for Ribble Valley*

Appeal Decision

Site visit made on 17 May 2016

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 June 2016

Appeal Ref: APP/T2350/W/16/3143090

Barraclough Cottage, Whalley Road, Pendleton, Lancashire BB7 1PP

- 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 David Warbrick against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2015/0886, dated 28 October 2015, was refused by notice dated 24 December 2015.
 - The development proposed is new dwelling following the demolition of existing outbuildings and stables.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - whether the proposal would comply with national and local policy regarding development in the countryside; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is situated approximately half a mile south of Clitheroe and is accessed by a shared drive from Whalley Road. It is within the curtilage of Barraclough Cottage, a substantial property set back from the road which is a significant distance from neighbouring dwellings in the surrounding area. These dwellings are relatively scattered and sit within clusters of properties, surrounded by their own outbuildings giving the area a rural character and appearance. The proposed dwelling would replace a number of ancillary outbuildings which serve Barraclough Cottage.

Compliance with national and local policy

4. The Ribble Valley Core Strategy (the Core Strategy) was adopted in December 2014. Key Statement DS1 identifies the overall development strategy for housing in the area. Policy DMH3 sets out similar criteria to Paragraph 55 of the Framework against which all housing proposals in the defined open countryside are assessed. Furthermore, the Council indicates in its Statement that it currently has a five year supply of deliverable housing land (5.67 years). This is not disputed by the appellant. Given the above, it is clear that, in terms
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of Paragraph 14 of the Framework, the development plan is not absent, silent or out-of-date and is consistent with the Framework. Accordingly, it is the starting point for my assessment of the scheme.

5. The appellant argues that the proposal would be within an existing residential curtilage. Whilst this is so, the curtilage in question is outside of development limits to defined settlements. As a result, the proposal would constitute an 'isolated' home and create a substantial dwelling in the open countryside. It clearly would not comply with the criteria in order for special circumstances to exist, as set out in Paragraph 55 of the Framework. Nor would it comply with the criteria of Policy DMH3, the Council's overall development strategy for housing, or its approach to planning for sustainable growth and a sustainable pattern of development.
6. I have been referred to several planning applications by the appellant with regard to alleged inconsistencies in decision-making by the Council. Notwithstanding each case being considered on its own merits, I note that these were determined within a different policy context, such as prior to the adoption of the Core Strategy. Furthermore, they were considered at a time when the Council could not demonstrate a deliverable five year supply of housing land. Given that both the policy and housing land supply circumstances have now changed, these decisions do not set a precedent to be followed here.
7. Consequently, I conclude that the proposal would be inappropriate development, contrary to Key Statement DS1 and would fail to comply with the aims of Policy DMH3 of the Core Strategy and Paragraph 55 of the Framework. Amongst other matters, these seek to ensure that development is located in sustainable settlements and is also appropriate development when in the defined open countryside.

Character and appearance

8. Whilst the proposed dwelling would be set back from the road and be similar in form, scale, massing, design and materials to its neighbouring property, it would be substantial and larger in terms of floorspace than Barraclough Cottage. Although it would not be particularly visible from the main road due to substantial screening by hedges and planting and the local topography, such a development in this location, and in such close proximity to Barraclough Cottage, would be uncharacteristic and would lead to an unsympathetic development in the countryside. It would not be in keeping with the clustered grouping of outbuildings surrounding their host dwelling which is apparent elsewhere in the locality and would have a harmful effect on the rural character and appearance of the area, contributing towards an urbanising effect on the countryside.
9. Consequently, I conclude that the proposal would be contrary to Key Statement DS1 and would fail to comply with Policies DMH3 and DMG1 of the Core Strategy. These policies, amongst other matters, seek to ensure that development is sympathetic to, and considers its impact on, the character and appearance of its surroundings.

Conclusion

10. Having considered all of the evidence before me, I find that whilst the proposal would provide an additional residential unit and make a modest contribution to the local housing supply, this would not outweigh the harm I have identified. Furthermore, there are no material considerations of sufficient significance or benefit put forward in support of the proposal which would outweigh the harm that would be caused in undermining the established development strategy for housing to which I give substantial weight.
11. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR



Appeal Decision

Site visit made on 15 June 2016

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 June 2016

Appeal Ref: APP/T2350/W/16/3145576

Primrose House, Primrose Road, Clitheroe, Lancashire BB7 1DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J R Stephenson against Ribble Valley Borough Council.
 - The application Ref 3/2015/0910/P is dated 28 October 2015.
 - The development proposed is an extension to provide living accommodation to the converted turbine house including a 60m² single storey building to provide two bedrooms and bathroom to be used for the extended family of the occupants of Primrose House.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to provide living accommodation to the converted turbine house including a 60m² single storey building to provide two bedrooms and bathroom to be used for the extended family of the occupants of Primrose House, Primrose Road, Clitheroe, Lancashire BB7 1DR in accordance with the terms of the application, Ref 3/2015/0910/P, dated 28 October 2015, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: Site Plan and 4789-02A.
 - 3) The materials used in the construction of the external surfaces of the extension hereby permitted shall match those of the existing building.

Main Issue

2. The main issue is the effect of the proposal on the setting of the listed Primrose House.

Reasons

3. The proposal relates to a single storey building adjacent to the river. It appears that this was associated with a mill to its immediate east which adjoined the neighbouring listed residential property, Primrose House. The mill has now been demolished. The building and the land are now used in association with

- the listed property, although they are clearly distinct and separate from the adjacent formal garden.
4. The building was described as being for turbine housing in a previous planning application when permission was granted in 2011 for the conversion of industrial land to residential curtilage and the conversion of the building to a garden room. The conversion was designed to have a garden room adjoining a covered veranda that would look towards the garden of Primrose House. The rear of the building would provide additional accommodation that opens onto a balcony that looks over the river. The works have been carried out. The substantial basement remains largely unaltered and unused.
 5. The turbine house has a long industrial history but the Council acknowledge that it has no statutory protection. The extension would mirror in size and form the original building and it would be linked to it by a short glazed passageway. The existing building has very little prominence within the wider area and it sits unobtrusively away from the boundary with the original garden of Primrose House. It is screened by existing trees and vegetation in long views from the countryside. It is not visible from public vantage points and it is set against the vegetation that is on the rising land beyond the river in the shorter views that exist from the adjacent garden. This situation would remain if the building were to be extended as proposed.
 6. With regard to the listed dwelling, the extension would be screened to a large extent by the intervening wall and vegetation and because of its position, it would be less prominent than the turbine building. It would be visible from the original garden of the property and its roof would be perceptible from the rear of the house. Although it appears that the original mill building would have limited the openness of the aspect of the main elevation of the house, its current open aspect towards the countryside is an important element of its setting. However, the single storey form and position of this proposed extension would ensure that the extended building would continue to be of very limited prominence. It would have no material impact on the open aspect of the house towards the countryside.
 7. The addition of a structure of this nature and in this position would not have a significant impact on the setting of the listed building. Although the house and the turbine building form part of the original industrial complex, both would be retained. The changes proposed would not result in harm to the significance of the heritage asset. I have had special regard to the desirability of preserving the neighbouring building and its setting but I do not find conflict with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or Policy DME4(2) of the Core Strategy 2014 (CS) which relates to the protection of heritage assets. As there would be no harm to the heritage asset or its setting, it would not conflict with the requirements of the *National Planning Policy Framework*.
 8. I have had regard to the impact of the proposal on the existing turbine building as it has some heritage interest in its own right. I consider that the overall design approach has been well thought out as it would retain the historic interest of the original structure. It would also preserve what remains of its functional design and identity. The glazed link would not be a significant feature in views towards it but it would help to retain the integrity of the

original building. I am satisfied that the proposal would meet the general design requirements of CS Policy DMG1 and would also satisfy the similar aspirations of the *Framework*.

9. As I have found the design to be acceptable and as the proposal would not result in harm with regard to the setting or significance of the heritage asset, I allow the appeal.
10. I have imposed conditions relating to the commencement of development and the details of the approved plans for the avoidance of doubt and in the interests of proper planning. The Council have sought specifications and samples of external materials. The details are clear that the materials would match those of the existing building and I am satisfied that a condition requiring this would suffice.
11. Suggestions have been made that the use of the extended building should be restricted by condition. The original permission accepted the use of the building for purposes ancillary to the main house. This development would provide living facilities akin to those of a dwelling but there would be no separate parking or independent vehicular access; residents would access the accommodation by foot from the main house or through its private garden; and the two buildings would remain intimately associated with each other given the relationship of the turbine building to the garden of the main house.
12. The new building would extend the existing ancillary accommodation and provide additional accommodation for the existing residents rather than result in a new independent dwelling. The introduction of more formal living accommodation associated with the main dwelling has not been raised as a concern by the Council. Given these circumstances and the nature of the original permission, I am not satisfied that a condition to limit the future use of the extended building is necessary.

Peter Eggleton

INSPECTOR