



Appeal Decision

Site visit made on 4 September 2018

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th September 2018

Appeal Ref: APP/U2370/W/18/3203884

Bimsons Cottage, Wheel Lane, Pilling, PR3 6HL

- 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 J Crookes against the decision of Wyre Borough Council.
 - The application Ref 17/01022/FUL, dated 7 November 2017, was refused by notice dated 8 March 2018.
 - The development proposed is demolition of existing house and outbuilding and construction of a new detached house and garage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a replacement dwelling (including demolition of existing dwelling) at Bimsons Cottage, Wheel Lane, Pilling, PR3 6HL, in accordance with the terms of the application reference 17/01022/FUL, dated 7 November 2017, subject to the conditions in the attached schedule.

Procedural Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Both parties were invited to comment on whether they consider the revisions to have relevance to their case.
3. The description of development in the banner heading above is taken from the original planning application form. The appellant states on their appeal form that the description of development has changed from that stated on the application form. I have used this amended description, which appears on the Council's decision notice, for the purposes of my formal decision.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is located in a relatively isolated open countryside location, with the nearest neighbouring house being about 200m away. The site is surrounded by mature trees and hedges with agricultural land beyond. Whilst it is relatively well screened, the site is viewed in glimpses, through spaces in the trees and hedging, from Wheel Lane.

6. The Council previously granted planning permission for the demolition of the existing dwelling and outbuildings and the erection of a replacement dwelling with detached garage and extension to the domestic curtilage (16/00019/FUL). Therefore the principle of a replacement dwelling has been accepted. There appears to be no disagreement between the parties that this permission is extant. The appellant has provided and I have had regard to the plans for the approved dwelling, which is a development of a similar character and appearance to the appeal scheme. Given the similarities of this scheme to the one before me, there is a reasonable chance of this scheme being implemented if the appeal were dismissed and on this basis represents a fallback position against which to assess the current proposal.
7. The Council acknowledge that the footprint of the proposed dwelling is similar to that of the previously approved dwelling and the design is relatively straightforward, incorporating features and materials which are similar to those of the previously approved dwelling. The principal differences are the increase in the overall height and volume.
8. The height to ridge is about 1.3m greater than the previously approved scheme, with a resulting increase in volume of about 198cu.m. Whilst the proposed dwelling would be visible in glimpses through the trees and hedging from Wheel Lane, because of the intervening field and established vegetation it would not be prominent in such views. Furthermore, when considered against the fallback position, the proposed dwelling would not have a materially greater impact in any such views as a result of the increase in height and volume. Consequently, in my judgement it would not cause material harm to the character and appearance of the area.
9. For the reasons set out above I conclude that the proposed dwelling would have an acceptable effect on the character and appearance of the area in accordance with saved policies H7 and SP14 of the Wyre Borough Council Local Plan (the Local Plan) which together seek development which is appropriate to the character of the area and high standards of design that are acceptable in the local landscape, in terms of scale, mass, style, siting and use of materials. It would also accord with the design aims of the Framework.
10. The Council have referred to policy SP13 of the Local Plan which sets out the exceptional circumstances under which planning permission for new development in the open countryside will be granted. However, the principle of replacement dwellings in the open countryside is set out in policy H7 of the Local Plan and is the relevant policy against which I have considered this proposal.

Conclusion

11. I have found no material harm to the character and appearance of the area. I therefore conclude, subject to the conditions in the attached schedule, the appeal is allowed.

Felicity Thompson

INSPECTOR

Conditions

12. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance (PPG). As a result I have undertaken some editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity and omitted others. I have also limited the number of pre-commencement clauses to those cases where this is essential for the condition to achieve its purpose.
13. I have imposed conditions limiting the life of the planning permission and specified the approved plans, for certainty. A condition was suggested by the Council in respect of materials being as specified in the application form and Design and Access statement. However, this is not necessary as the application form and Design and Access statement form part of the application that has been approved.
14. The Council have suggested a separate condition relating to compliance with the submitted Flood Risk Assessment. I have included this in the condition specifying the approved plans, for brevity.
15. I have imposed a condition in respect of the protection of retained trees on the site and another in respect of hard and soft landscaping. These conditions are necessary to protect the character and appearance of the area.
16. I have imposed conditions as suggested by the Council in respect of contamination and gas protection measures, pre-commencement due to the nature of the works. These conditions are necessary in the interests of public safety.
17. Three separate conditions have been put forward in respect of ecological matters, one which requires the submission of a further Landscape Ecological Management Scheme and another restricting timing of demolition, tree and hedgerow works. While I am satisfied that a condition is necessary, given the findings of the submitted Ecological Appraisal, that there is no conclusive evidence of any specifically protected species regularly occurring on the site or surrounding areas which would be negatively affected by the proposed development following the mitigation proposed, I have imposed a single condition which requires the development to be carried out in accordance with the mitigation measures outlined in section 7 of the submitted Ecological Appraisal by Envirotech, dated 13 October 2017, for precision and brevity.
18. I have imposed a condition in respect of foul and surface water drainage in the interests of ensuring a satisfactory means of drainage is provided.
19. I have imposed a condition requiring the removal of the existing dwelling and outbuildings as, in the absence of exceptional circumstances; this is not a location where the policies of the development plan would permit an additional dwelling.
20. The Council have recommended a condition removing permitted development rights in respect of alterations and extensions, structures and enclosures and curtilage buildings. However, PPG advises that conditions restricting permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The reason given by the Council is to ensure the Local Planning Authority have control over any future development of the dwelling and in the interests of the character and amenity of the area.

Having regard to the PPG and as no exceptional circumstances have been cited to justify the removal of such permitted development rights, I do not consider that such a restriction is reasonable and as such I have omitted this.

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: no.1687 rev.K, no.1690A revB, no. 1688 rev.J and the Flood Risk Assessment received by the local planning authority on 30 January 2018.
- 3) Any trees on the site which are to be retained or whose canopies overhang the site shall be protected by protective fencing in accordance with the mitigation measures set out in section 5 of the Tree survey/Arboricultural Impact Assessment. The fencing shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 4) Notwithstanding the details shown on the approved plans, the dwelling hereby permitted shall not be occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include the formation of any banks, terraces or other earthworks, hard surfaced areas and materials, boundary treatments, external lighting, planting plans, specifications and schedules (including planting size, species and numbers/densities), existing plants / trees to be retained and new tree / hedge planting.

The landscaping works shall be carried out in accordance with the approved scheme within the first planting season following first occupation of the dwelling hereby permitted, unless an alternative scheme for timing /phasing of implementation works is first approved in writing by the Local Planning Authority.

Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its consent in writing to any variation.

- 5) Prior to the commencement of development a desk study to investigate and produce an assessment of the risk of the potential for on-site contamination shall be undertaken and submitted to and approved in writing by the Local Planning Authority. If the desk study identifies potential contamination, a detailed site investigation shall be carried out in accordance with a written methodology, which shall first have been submitted to and approved in writing by the Local Planning Authority. If remediation measures are then considered necessary, a scheme for

- decontamination of the site shall be submitted to, and approved by, the Local Planning Authority in writing and the approved scheme implemented prior to the development of the site. Any changes to the approved scheme must be approved in writing by the Local Planning Authority prior to any works being undertaken.
- 6) The development shall incorporate suitable gas protection measures, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The measures shall include as a minimum: ventilation of confined spaces within the building, a ground slab of suitable construction, a low permeability gas membrane, minimum (ideally none) penetration of the ground slab by services, and passive ventilation to the underside of the building. The development shall be carried out in accordance with the approved scheme and thereafter be maintained and retained. Alternatively, prior to the commencement of development, a gas monitoring programme and risk assessment of the results shall be undertaken to demonstrate that the above protection measures are not required. The results shall be submitted to and approved in writing by the Local Planning Authority. Any gas monitoring programme must be carried out over a period of at least three months and include at least three readings where the atmospheric pressure is below 1000mb. Gas flow rates must also be provided.
 - 7) The development hereby permitted shall be carried out in accordance with the mitigation measures outlined in section 7 of the submitted Ecological Appraisal by Envirotech dated 13 October 2017 (ref. 3061).
 - 8) The dwelling hereby permitted shall not be occupied until works for the disposal of foul and surface waters have been provided on the site to serve the development, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
 - 9) Within three months of the first occupation of the replacement dwelling hereby permitted, the existing dwelling, garage and sheds, as shown on the Proposed Site Layout and Drainage Plan no.1688 rev.J shall be demolished in their entirety and any materials not required in connection with the development hereby permitted shall be removed from the site.