



## Appeal Decision

Site visit made on 16 July 2019

by **R E Walker BA Hons DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

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**Appeal Ref: APP/T2350/W/19/3228826**

**Seven Acre Bungalow, Forty Acre Lane, Longridge PR3 2TY**

- 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 Ball against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0057, dated 14 January 2019, was refused by notice dated 2 April 2019.
  - The development proposed is the conversion of the existing bungalow into a double garage and store and the creation of a replacement two storey dwelling.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Ribble Valley Borough Council against Mr & Mrs Ball. This application is the subject of a separate Decision.

### Procedural Matter

3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development also comprises an extension of residential curtilage. The Council dealt with the proposal on this basis and so shall I.

### Main Issues

4. The main issues are:
  - the effect of the proposal on the character and appearance of the area; and
  - The effect of the proposal on the living conditions of the occupants of Rock House with particular regard to privacy and overshadowing of the garden.

### Reasons

#### *Character and Appearance*

5. The appeal site contains a modest sized bungalow and a detached dormer annex. The existing bungalow was formerly an annex however, it has lost its original function and connection to its historical host property. The existing

garden curtilage at the appeal site merges into a field, which is also in the appellants' ownership, allowing open panoramic views.

6. The 2 buildings within the appeal site are positioned adjacent to and accessed past a much larger, modern property. The garden associated with another neighbouring property, Rock House, also borders the site and is positioned on a lower ground level. The group of buildings in and adjacent to the appeal site lie within open countryside. This area is characterised predominantly by agricultural land uses and the change in topography as it rises from Longridge. The character of the area is also influenced by the settlement of Longridge and other rural built development such as caravan parks, reservoirs and golf courses.
7. The site lies outside any settlement boundary defined by the Local Plan and therefore for the purposes of planning policy is in the countryside. Policy DMH3 Dwellings in the Open Countryside and AONB of the Ribble Valley Borough Council Core Strategy 2008-2028 (CS) adopted December 2014 states that the replacement of an existing dwelling in the countryside will be permitted subject to three criteria. The first of these requires that the property is not abandoned and thus this criterion is met. The second requires that there be no adverse impact on the landscape. The third requires that there be no need to extend an existing curtilage. Having considered this and other CS policies brought to my attention I am satisfied that they are consistent with the principles of sustainable development within the Framework.
8. The existing dwelling is a small building and its size reflects its previous use as an annex. By contrast the proposed dwelling would be a large 2 storey house with the existing bungalow retained and converted to a garage and store. On the ground floor the house would have an entrance hall, living room, study, a large kitchen/dining room, utility, wc and plant room. The first floor would have a lounge, 4 bedrooms, including one with an en-suite and dressing room, and a bathroom. The replacement dwelling and garage/store would have a substantial footprint. On the basis of both its dimensions and the amount of accommodation, there can be no doubt that the proposal would represent a significant enlargement over and above the existing dwelling.
9. The proposed dwelling would be positioned on land that falls away from the existing bungalow. However, the additional height and bulk of the proposed dwelling would still have a greater visual impact than the existing modest bungalow. The proposals would be seen from small sections of Forty Acre Lane, public footpaths in close proximity to the site and to a lesser degree more distant views from the lower ground toward Longridge Road. Views of the proposed dwelling would mostly be seen in combination with the neighbouring large modern house. I understand that this was a replacement dwelling however I do not have the full details of this scheme such as what building was replaced and so I cannot be certain that the circumstances are the same.
10. I saw during my site visit that the area intended for the proposed dwelling has been informally used as garden land, it appears maintained and contains some domestic features. However, there is no substantive evidence to suggest that this is lawful, and the appellants acknowledge that the proposals do seek to extend the garden curtilage.
11. The design of the house makes use of the views out towards the open countryside at the back and the remaining field. However, the proposed garden

curtilage would comprise of a small paved area around the replacement property. In my view this small garden space would not be commensurate with the scale of the dwelling and would lead to pressure to extend the garden further into the adjoining large field.

12. I have had regard to the appeal decision (ref APP/T2350/W/16/3156329) which allowed the existing annex to be built within the site. As this annex was not a replacement dwelling it would not have been assessed against the criteria laid out in Policy DMH3 of the CS which is relevant to the current proposals. Nevertheless, although that building does not necessarily appear subservient to the bungalow, it is still a relatively small building overall and is positioned in between the existing bungalow and the large modern neighbouring property. As such either individually or cumulatively the relationship with the surrounding built form and countryside is distinct from the current proposals.
13. The combination of factors outlined leads me to conclude that the additional height and bulk of the proposed dwelling alongside the existing buildings, when combined with the extension of the garden curtilage and future pressures would result in an erosion of the countryside. The cumulative effects of which would be to the detriment of the character and appearance of the area. The proposal would therefore fail to comply with the requirements of Policy DMH3 of the CS and the Framework which broadly seek to protect the countryside and deliver sustainable patterns of development.

#### *Living Conditions*

14. Rock House is positioned on a lower ground level to the appeal site and the common boundary comprises of a combination of walling, shrubs and trees. These features intermittently serve to limit views from the appeal site into the garden of Rock House however there are areas where clear views are obtainable. The neighbouring property has a large garden to its front, side and rear and the part facing toward the appeal site includes a paved external seating area, planting and lawn.
15. The introduction of the proposed dwelling would see a dominant built form from the neighbouring garden. Even though this would be set back further than the existing bungalow is, the introduction of a 2 storey dwelling in this location on the higher ground level would lead to an increased level of overlooking from upper floor windows. There is some mitigation from the existing vegetation which will limit the extent of overlooking and some of the windows would serve a bathroom and wc so would realistically be obscure glazed. However, due to the scale of the proposed dwelling and change in ground level from the appeal site to the garden of Rock House the proposals would result in an increased level of overlooking particularly from upper floor windows. This would lead to an adverse impact on the use and enjoyment of the garden by the occupiers of the neighbouring property.
16. With regards to overshadowing, due to the position of the proposals with the garden of Rock House any potential overshadowing is likely to be confined to the latter parts of the day when the sun is at its lowest. Rock House has a large garden and it contains several tall trees which would result in varying degrees of shadowing already. There is no substantive evidence to quantify the level, if any, of shadowing effects from the proposed dwelling. However due to the orientation, the set back from the common boundary and the existing vegetation any shading is not likely to be substantial overall. It would not

therefore result in a significant adverse effect on the use and enjoyment of the garden of Rock House.

17. I therefore conclude, based on my findings on privacy, that the proposed dwelling would harm the living conditions of the occupiers of the neighbouring property. It would therefore fail to comply with the requirements of Policy DMG1 General Considerations of the CS and the Framework which amongst other things seek to secure a good standard of living conditions for existing and future residents.

### **Conclusion**

18. Whilst I have found no significant adverse effects from overshadowing as a result of the proposal, I have found that it would result in a loss of privacy within the garden of the neighbouring property. Furthermore, the proposal in combination with the extension of the garden curtilage would have an adverse impact on the character and appearance of the area. The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. For these reasons, and having had regard to all matters raised, the appeal is dismissed.

*Robert Walker*

INSPECTOR



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## Costs Decision

Site visit made on 16 July 2019

**by R E Walker BA Hons DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 July 2019**

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### **Costs application in relation to Appeal Ref: APP/T2350/W/19/3228826 Seven Acre Bungalow, Forty Acre Lane, Longridge PR3 2TY**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ribble Valley Borough Council for a full award of costs against Mr & Mrs Ball.
  - The appeal was against the refusal of planning permission for the conversion of the existing bungalow into a double garage and store and the creation of a replacement two storey dwelling.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council in making its application cites paragraph 052 and 053 of the PPG. At paragraph 052, the PPG explains that appellants are required to behave reasonably in relation to the procedural matters at appeal. The non-exhaustive list of examples of unreasonable behaviour in the appeal procedures in this paragraph include providing information that is manifestly inaccurate or untrue.
4. At paragraph 053, the PPG explains that the right of appeal should be exercised in a reasonable manner; an appellant is at risk of an award of costs being made against them on substantive grounds if their appeal had no reasonable prospect of succeeding. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate that decisions should have been made otherwise. Alternatively, where other material considerations are advanced, there must be adequate supporting evidence.
5. The Council sought an award of its costs on procedural and substantive grounds. The Council stated that the appellants had provided wrong, incomplete and/or misleading information in that the appellants misrepresented the pre-application advice given by the Council. Also, the Council stated that the appellants' have given little regard to the adopted status of the development plan and its compliance with the National Planning Policy Framework in submitting the original application and appeal, and no

- substantive reasoning has been put forward by the appellants. Therefore, the Council considered that the appeal had no reasonable prospect of success.
6. The Council contends that the appellants misrepresented the pre-application advice given within their statement of case by suggesting that references to concerns regarding the extension of the garden curtilage were not cross referenced with the relevant policy. I have had sight of the pre-application advice given by the Council as part of the appeal and it is evident to me that the Council's position was clear regarding the principle of a replacement dwelling and the relevant criteria laid out in Policy DMH3 of the Ribble Valley Core Strategy 2008-2028 (CS) adopted December 2014. I do agree therefore that the wording within paragraph 4.1 of the appellants' statement of case does provide an inaccurate representation of the pre-application advice.
  7. Whilst this paragraph does inaccurately represent the pre-application advice given, the paragraph appears to me to set the context for the appellants' case rather than forming the basis of the case. Furthermore, the inaccurate representation of the pre-application advice has not in itself demonstrably required the Council to undertake additional work for the appeal. The pre-application advice letter has been provided in full and this evidence confirms the advice provided by the Council. It seems to me that there has been so little extra work involved in responding on this matter that it can be regarded as *de minimis*. In effect the Council has quickly and easily rebutted the appellants' position without wasting expenditure. As such it does not constitute valid grounds for an award of costs.
  8. That I found in favour of the Council on the substantive matters of the appeal does not determine the outcome of this application for an award of costs. I do agree with the Council that references in paragraph 7.5 of the appellants' statement of case that the proposals fully comply with Policy DMH3 of the CS are incorrect. The third criterion of this policy requires that there be no need to extend an existing curtilage. The proposals clearly seek an extension of the existing garden curtilage and it therefore stands to reason that it cannot comply with the third criterion. However, the appellants' case was not without substance.
  9. The appellants' arguments when read as a whole did have some standing and I have had to consider their arguments carefully. Issues relating to character and appearance and any effects on the living conditions of the neighbouring property are largely subjective. The National Planning Policy Framework, the relationship to the neighbouring properties and the extent of works previously approved and undertaken on adjacent sites and their relevance to the appeal proposals were put forward as material considerations. Whilst the case was ultimately unpersuasive, I do not agree that it had no prospect of success.
  10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. It follows that an award of costs is not justified.

*Robert Walker*

INSPECTOR



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## Appeal Decision

Site visit made on 10 July 2019

**by Jamie Reed DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 July 2019**

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**Appeal Ref: APP/T2350/D/19/3227340**

**Wolfen Lodge, Fish House Lane, Chipping PR3 2GR**

- 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 Ballard against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/1148, dated 14 December 2018, was refused by notice dated 18 February 2019.
  - The development proposed is demolition of existing conservatory and erection of a single storey rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing conservatory and erection of a single storey rear extension at Wolfen Lodge, Fish House Lane, Chipping PR3 2GR in accordance with the terms of the application, Ref 3/2018/1148, dated 14 December 2018, 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: Existing Plans, Existing Elevations, Roof Plan and Typical Section, 3074/001 Rev A; Proposed Floor Plans, Elevations, Roof Plan and Section, 3074/002 Rev B; Proposed Rear Elevation, Block Plan and Location Plan, 3074/003 Rev B; Existing Block Plan, 3074/004.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The development hereby permitted shall be carried out in strict accordance with the Method Statement contained within the Reasonable Avoidance Measures document dated 29 November 2018 submitted with the application.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the appeal property and the surrounding countryside, which includes the Forest of Bowland Area of Outstanding Natural Beauty (AONB).

## Reasons

3. The appeal property is a large, former agricultural barn of stone construction with a natural slate roof and was converted to a 2 storey dwelling many years ago. The property is accessed via a long private driveway which leads from Footpath 110 and is set within its own extensive grounds which are enclosed by tall hedgerows. When outside of the site, very little of the appeal property is readily visible, other than a small glimpse of the front elevation, when looking down the private driveway from Footpath 110.
4. The proposal would involve the demolition of an existing conservatory to the rear of the property. This features a slate 'cat slide' roof which ties into the eaves of the original building and effectively forms a continuation of the roof slope, bringing this down to single storey level. Such an arrangement results in the conservatory relating well with the original form of the building. The proposed extension would have a similar 'cat slide' roof and projection as the conservatory and would be about twice its width. Whilst greater in width, the extension would nonetheless be of a similar form that would assimilate well with the original form of the appeal property, much in the same way as the conservatory, which it would replace. Furthermore, due to the proposed extension being located to the rear of the appeal property, which faces onto the extensive enclosed rear garden area, it would not be readily visible outwith the site.
5. The Council have stated that they consider the building to be a non-designated heritage asset as a result of its age and character and have suggested that the proposed extension would detract from the visual quality and traditional appearance of the building as a barn. Due to the well-weathered appearance of the alterations that would have been carried out a significant period of time ago however, the building now has far more of a domestic character and appearance than that of an agricultural barn. When viewed in context with the small amount of other residential buildings that are nearby, the building fits in well with the vernacular and does not appear inharmonious. In addition, the sites extensive mature gardens and landscaping unequivocally characterise the site as a whole as being domestic in nature. As a result, I give this argument only limited weight.
6. The Council also suggest that the scale and appearance of the proposals would introduce overly domestic features that would not be in-keeping with the original building or respect its existing fenestration. As explained above, the appeal building and its site are clearly of a well-established residential nature and whilst the extension would be larger in size than what may normally be seen on a residential property, the original building itself is large and can, therefore, readily accommodate such a proposal. Accordingly, I find that the proposal would not result in harm to the character and appearance of the appeal property or the surrounding area.
7. Consequently, the proposed extension does not conflict with Key Statement EN2 and EN5 and Policies DMG1, DMG2 and DME4 of the Ribble Valley Core Strategy (2014). When read together, these require developments to be of a high quality design that are in keeping with the character of the surrounding landscape and vernacular whilst avoiding any substantial harm.
8. The site is located within the Forest of Bowland AONB. The National Planning Policy Framework (the Framework) advises that great weight is to be afforded



to conserving the landscape and scenic beauty of such areas, which have the highest status of protection. Accordingly, I have also paid special attention as to whether the proposal would conserve or enhance the natural beauty of the AONB. Due to its setting to the rear of the appeal property, within its secluded private gardens, the proposal would not be readily visible and therefore would not harm the AONB, thereby conserving its natural beauty.

### **Conditions**

9. The Council has suggested a number of planning conditions. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty and a condition requiring that the materials used match the appeal property, in order to ensure that the development is in-keeping with the character and appearance of the appeal property. Also, in order that any potential impacts upon protected species are minimised, I have imposed a condition that requires the development to be carried out in accordance with the method statement contained within the Reasonable Avoidance Measures document dated 29 November 2018 that was submitted with the application.

### **Conclusion**

10. For the reasons given above, the appeal is allowed, subject to the above conditions.

*Jamie Reed*

INSPECTOR



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## Appeal Decision

Site visit made on 2 July 2019

**by Sarah Manchester BSc MSc PhD MIEnvSc**

**an Inspector appointed by the Secretary of State**

**Decision date: 31th July 2019**

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**Appeal Ref: APP/T2350/D/19/3226227**

**Wilkins Cottage, Church Street, Ribchester PR3 3XP**

- 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 Frost against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0479, dated 30 May 2018, was refused by notice dated 31 January 2019.
  - The development proposed is replacement of existing conservatory as well as replacement windows and roof of an existing wrap around extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of Ribchester Conservation Area.

### Reasons

3. Wilkins Cottage, 74 Church Street, is a 19<sup>th</sup> century end of terrace property. It is one of several properties designated as Building of Townscape Merits in recognition of their positive contribution to the character and appearance of the Ribchester Conservation Area (the CA). It is adjacent to St Wilfrid's Primary School, with the River Ribble and open countryside beyond. The CA is notable for a variety of features including its Roman remains, listed buildings, former handloom weavers' settlement and cottages, St Wilfred's church complex and good examples of late 19<sup>th</sup> century terraced housing along Church Street and Blackburn Road. The similar ages and styles of terraced properties in this part of the CA results in a harmonious and traditional character and appearance to the street scene.
4. There is an existing conservatory extension to the side and rear of the appeal property. The proposal would retain the existing stone walls. The flat roof would be replaced with a pitched slate-effect roof, which would be more in keeping with the appearance of the host property than the existing flat roof. However, the design, size and expanse of windows, which include top-opening lights in the side elevation, would be out of scale and not in keeping with the host property.
5. Notwithstanding that the windows would be 'timber look' uPVC, plastic is a modern construction material that is not characteristic of the area. In this respect, the Ribchester Conservation Area Management Guidance (2006) (the

- RCAMG) notes the particular importance of using appropriate traditional materials in extensions and alterations to Buildings of Townscape Merit.
6. The RCAMG also clarifies that the increased thickness of plastic frames compared to traditional timber frames results in harm to the character and appearance of historic buildings. While the proposed heritage-style frames appear to come in varying thicknesses, there is little before me to demonstrate that the thickness of the new frames would be in keeping with the traditional wooden frames that are characteristic of historic buildings in the area.
  7. The property is some distance from the Roman Bath House and the proposal would not be visible from this location. However, although the appeal scheme would be set back from the street and partially screened behind a boundary wall, it would be visible from locations in and around Church Street including the adjacent school and the nearby River Ribble. By virtue of its modern design and proportions, and materials, and its juxtaposition with the traditional surroundings, it would be a conspicuous feature that would not be sympathetic to the character of the adjacent Buildings of Townscape Merit or the area.
  8. My attention has been drawn to properties elsewhere in Ribchester where non-traditional construction materials have been used. Full details of those schemes are not before me. However, some are to the rear of properties and do not impact on the street scene, while others are outside of the CA and were assessed in a different policy context. They are not therefore directly comparable to the appeal scheme and they do not provide a justification for it. Similarly, while the bins stored at the adjacent school may be unsightly, they are not directly comparable to the proposed development.
  9. As a result of the harm to the character and appearance of the appeal property and the area, the proposal would fail to preserve or enhance the character or appearance of the Ribchester Conservation Area. However, the proposal is modest and it is not overly prominent in the context of the conservation area as a whole. Consequently, it would cause less than substantial harm to the significance of the conservation area as a designated heritage asset. Nevertheless, the appeal property is a private dwelling and no public benefits have been demonstrated that would outweigh the harm to the conservation area. I therefore conclude that the proposed development would conflict with the National Planning Policy Framework.
  10. By virtue of the harm to the CA, the proposal would conflict with the development plan including Key statement EN5 and Policies DME4 and DMG1 of the Ribble Valley Borough Council Core Strategy A Local Plan for Ribble Valley 2008-2028 Adopted December 2014. These require, among other things, that development makes a positive contribution to local distinctiveness and sense of place and, in conservation areas, that it conserves and where appropriate enhances the character and appearance of the area and those elements that contribute to its significance.

### **Other Matters**

11. I acknowledge that the appellant has sought to overcome the concerns of the Council through the appeal process, including by proposing the replacement of the top-hung lights with fixed non-opening glazing, the erection of a fence to screen the proposal from the street, or the use of an alternative colour or

finish. However, no amended plans have been submitted to the appeal to demonstrate an alternative scheme.

12. In any case, the Planning Inspectorate's guidance<sup>1</sup> is clear that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh application. The appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. For these reasons, I cannot be certain that no interested parties would be prejudiced if I was to accept any or all of the suggested variations to the scheme and therefore I have determined the appeal on the basis of the plans that were considered by the Council.
13. The heritage window brochure submitted to the appeal refers to other local planning authorities where proposals have been approved with plastic window frames. However, there are no details before me of any such schemes which would demonstrate that they are directly comparable to the appeal scheme. Therefore, this is a matter which carries limited weight in my determination.
14. I accept that the existing conservatory is in a relatively poor state of repair and that the appellant, as a long-term resident of the area, has sought to propose a replacement that is sympathetic to the CA while requiring less routine maintenance. However, no compelling argument has been put forward to justify a proposal that would result in harm to the character and appearance of the area.

### **Conclusion**

15. For the above reasons, the appeal should therefore be dismissed.

*Sarah Manchester*

INSPECTOR

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<sup>1</sup> Procedural Guide – Planning Appeals – England dated 19 March 2019