



## Appeal Decision

Site visit made on 17 March 2020

**by M Russell BA (Hons) DipTP MRTPI**

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

**Decision date: 28 April 2020**

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### **Appeal Ref: APP/T2350/Z/19/3236354**

#### **1 - 3 King Lane, Clitheroe BB7 1AA**

- 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 Parker – DJP Domestic Appliances Ltd against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0497, dated 18 July 2019, was refused by notice dated 23 July 2019.
  - The development proposed is refurbishment of existing shopfront.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matter**

2. The decision notice confirms the decision was based on a revised planning application form received by the Council on 19 July 2019. The Council has provided a copy of the revised application forms and they seek planning permission only with no reference to any proposals for advertisements. I have considered the appeal on that basis. I have also taken the application date from the signed declaration on the revised application form.
3. The Council's decision notice confirms that the decision relates to the revised plan received on 24 July 2019. The information submitted with the Council's appeal questionnaire confirms that this is the revised 'Proposed Elevation' drawing ref. 1137-02 Rev C (received 24 July 2019). I have therefore based my assessment on this revised plan.

### **Main Issue**

4. The main issue is the effect of the proposal on the character and appearance of the Clitheroe Conservation Area (CA).

### **Reasons**

5. 1 – 3 King Lane is a two-storey building in use as a domestic appliance shop. The Clitheroe Conservation Area Appraisal (CCAA) identifies King Lane as sitting within the historic core of the CA. King Lane is characterised by a mix of residential and commercial uses. Several features contribute to the significance of the CA including the historic street pattern and numerous buildings of visual merit which often incorporate traditional architectural detailing and materials. Such features make a positive contribution to the character and appearance of the CA and add to its significance.
6. The elevations of the appeal building incorporate a mix of contemporary and traditional materials. However, at street level, features including the single

pane, timber framed windows, decorative pilasters and stone headed brick plinth all positively contribute to the overriding traditional grain of the CA. Timber window frames are also commonly used on the other commercial units on King Lane.

7. Even accounting for the vertical glazing bars included on the revised plan, the double glazed aluminium framed glazing units would be out of keeping with the prevailing traditional context of the CA. The loss of the decorative tops to the pilasters and the removal of a section of the stone headed brick plinth to facilitate a widening of the entrance doors would further erode elements of the building which presently respond positively to its position within the historic core of the CA. As a result of these factors the proposal would neither enhance nor preserve the character and appearance of the CA.
8. My attention has been drawn to modern materials on other shop fronts in the CA. I also noted on my site visit that uPVC window frames have been installed on some of the neighbouring residential properties and at first floor level on the appeal building. However, the CCAA identifies amongst other things the use of inappropriate modern materials as being a threat to the CA. The use of aluminium window frames in the appeal proposal would add to an incremental erosion of the character and appearance of the CA. I do not therefore find these other examples act as justification for the proposals.
9. Taking into account the proposal relates to the shop front of a single retail unit in the CA, the development would result in less than substantial harm to the character and appearance of the CA. Paragraph 196 of the National Planning Policy Framework (the Framework) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
10. The unit is occupied and the business is therefore operational without the proposal. I am therefore not convinced that the proposal is a necessity to secure the optimum viable use of the building or to help retain the vitality and viability of the town centre. There would be modest economic benefits through the construction work required to carry out the proposed works. However, I must pay special attention to the desirability of preserving the setting of the CA. Taking the above issues into consideration, I find that there are no public benefits of a sufficient weight to outweigh the less than substantial harm that would result from the proposal.
11. To conclude, the proposal would have a harmful effect on the character and appearance of the CA. Consequently, in that regard, the development would be contrary to Key Statement EN5 (Heritage Assets) Policies DME4 (Protecting Heritage Assets) and DMG1 (General Considerations) of the Ribble Valley Borough Council Core Strategy 2008 – 2028 A Local Plan for Ribble Valley (2014) and the Framework.

### **Other Matters**

12. The windows and entrance door at the appeal site are fitted with slotted steel shutters which are only open during trading hours. Even so, the alterations would still be visible when the shop and others in the area are open. Consequently, the alterations would be appreciated at times when it is more likely people would be in the area. A lack of objection from neighbouring

occupiers and the Clitheroe Civic Society does not convince me that the proposals preserve or enhance the character and appearance of the CA.

**Conclusion**

13. For the above reasons the appeal is dismissed.

*M Russell*

INSPECTOR



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## Appeal Decision

Site visit made on 10 March 2020

**by Felicity Thompson BA(Hons) MCD MRTPI**

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

**Decision date: 06 May 2020**

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**Appeal Ref: APP/T2350/C/19/3240341**

**Land at 12 Poplar Drive, Longridge, Preston PR3 3HS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Robert Edward Thomas Cooper against an enforcement notice issued by Ribble Valley Borough Council.
- The enforcement notice was issued on 30 September 2019.
- The breach of planning control as alleged in the notice is without planning permission, the infill of four existing windows on the front elevation of the dwellinghouse erected on the Land and replacement with two smaller windows.
- The requirements of the notice are to remove the two windows on the front elevation facing the highway and reinstate the four original windows (or windows matching the original windows in dimensions, style and material).
- The period for compliance with the requirements is 13 weeks.
- The appeal is proceeding on the grounds set out in section 174(2) (c), (a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.**

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### Preliminary Matter

1. Both main parties were invited to provide additional comments in respect of the appeal on ground (g) in light of the current public health emergency. Any comments received have been taken into consideration in my assessment of the appeal on ground (g).

### Application for costs

2. An application for costs was made by Mr Robert Edward Thomas Cooper against Ribble Valley Borough Council. This application is the subject of a separate Decision.

### Background

3. A retrospective application for planning permission was submitted to and subsequently refused by the Council for a single storey flat roof extension, repositioning of front door to include a small overhang, replacement of an existing door with a window, replacement roof, reduction in the size of windows to the front, rendering and materials including grey uPVC guttering/doors/fascia and flat roof EPDM rubber, reference 3/2018/0246.
4. The enforcement notice is only directed at the infilling of the windows on the front of the dwellinghouse and replacement with two smaller windows.

## The ground (c) appeal

5. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
6. There is no dispute between the main parties that the infilling of the existing windows and replacement with two smaller windows amounts to development within the meaning of development as set out in section 55(1) of the 1990 Act, for which planning permission is required. The appellant's contention is that the development constitutes an alteration which is permitted by Article 3 Schedule 2 Part 1 Class A of The Town and Country Planning (General Permitted Development) (England) (Order) 2015 (the GPDO).
7. Article 3 Schedule 2 Part 1 Class A of the GPDO grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse subject to conditions and limitations. Condition A.3. (a) states that *"the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse"*.
8. The Government has published Technical Guidance to aid the interpretation of this condition<sup>1</sup>. It says: *"The condition above is intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials"*. An example is: *"it may be appropriate to replace existing windows with new uPVC double-glazed windows or include them in an extension even if there are no such windows in the existing house. What is important is that they give a similar visual appearance to those in the existing house, for example in terms of their overall shape, and the colour and size of the frames"*.
9. On the basis of the evidence before me, the development subject of the enforcement notice was undertaken at the same time as the other developments subject of planning application reference 3/2018/0246, as a single act of development. Prior to these developments the dwellinghouse had exposed brick walls and although not clear from the submitted evidence either white uPVC or white painted windows of rectangular form with a vertical emphasis.
10. Consequently, the infilling of the windows which included rendering the exterior of the dwellinghouse and insertion of two grey uPVC windows with a narrow, horizontal emphasis, does not comply with condition A.3 (a) as the materials used are not of a similar appearance to those used in the construction of the existing dwellinghouse, that is the dwellinghouse as it existed before the development was carried out.
11. The appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no

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<sup>1</sup> Permitted development rights for householders Technical Guidance Ministry of Housing, Communities and Local Government September 2019

record of planning permission having been granted for it. The appeal on ground (c) therefore fails.

### **The appeal on ground (a) and the deemed planning application**

12. The main issue is the effect of the development on the character and appearance of the bungalow and the surrounding area.
13. The appeal property is a semi-detached bungalow located in a residential area. To one side is a detached bungalow and to the other a pair of semi-detached bungalows. Prior to the extension and alterations being carried out, No.12 and the other three bungalows in this group had a distinctly uniform appearance, each with four white windows on the front elevation of the same appearance and arrangement.
14. In the immediate locality there is a variety of dwelling types and designs including detached, semi-detached and short terraces of houses with their principal elevations facing the road. The bungalows and houses in the area are of relatively modern appearance and the majority are constructed from brick with mostly white uPVC windows, with a small number of exceptions where the frames are brown. Notwithstanding the wider variety, I observed that in those pairs and terraces the houses and bungalows exhibit a strong sense of uniformity in terms of their design and materials which contributes to a pleasing sense of rhythm and harmony.
15. The windows subject of the appeal are located at a relatively high level and are reasonably narrow with a horizontal emphasis. Notwithstanding the colour, they lack any detailing and have an appearance more commonly associated with functional windows found in secondary elevations of dwellings. They do not reflect the proportions or style of windows in the neighbouring bungalow or surrounding dwellings and undermine and unbalance the overall symmetry that exists between this pair and the adjacent pair of bungalows.
16. The windows are readily visible in public views from the street. As a result, the windows cause material harm to the appearance of the bungalow, the pair of which it forms a part and the street scene contrary to Policy DMG1 of Ribble Valley Borough Council Core Strategy 2008 – 2028 Adopted Version. This policy requires all development to be sympathetic to existing land uses in terms of style and features. It also conflicts with the design aims of the National Planning Policy Framework.

### *Other Matters*

17. I have considered the appellant's comments regarding the actions of the Council. However, this is a matter that is between the appellant and the Council and it is open to them, should they wish, to make use of the Council's own complaint procedure to resolve the matter.
18. For the reasons given above, the appeal on ground (a) fails.

### **The appeal on ground (g)**

19. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant stated that due to the uncertainty about when the economy and construction sector will 'start' and as the public health emergency has impacted significantly on the appellant's income, a 15-

- month period would be more appropriate but that they would require a minimum of 12 months.
20. In their response the Council suggested that the 13-week period for compliance should commence with the date upon which the emergency period under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 ends in relation to the restrictions on movement. However, given that it is not known when this will be, it is not possible to derive a 'period' from this and consequently this would not comply with s173(9).
  21. Where an appeal is made against an enforcement notice, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision. If the appeal proceeds on ground (g) and other grounds, the appellant is entitled to assume success in the other grounds, and so it is necessary to start from the date of the appeal decision when considering what the 'reasonable' period for compliance would be. Consequently, it is not relevant that the appellant was aware of the Council's concerns and intentions for a significant period of time before the enforcement notice was issued.
  22. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. The appellant's submissions largely relate to the time before the works can commence - when funds can be raised, and a contractor can be appointed.
  23. Nevertheless, the removal of the windows and reinstatement of four windows are works that would need to be carried out by a builder or suitably qualified tradesperson. Such works, whilst ongoing would undoubtedly have some impact on family life within the bungalow and I have some sympathy with the appellant in this regard.
  24. I am satisfied that having regard to these circumstances, in particular in the interests of minimising disruption to the appellant and their family, that even if account is taken of the need to remedy the harm, given the current exceptional circumstances, the notice does not afford the appellant reasonable time to comply with the requirements of the notice. Looking at the case in the round, the requirements to undertake all the works within 13 weeks would place a disproportionate burden on the appellant.
  25. Taking this and all other matters into account I conclude that the period for compliance should be extended to six months rather than the 15 or 12 sought. A period of six months would be a proportionate response to the breach of planning control and would achieve an appropriate balance between the need to resolve the breach of planning control and the interests of the appellant and their family. To this extent, the appeal on ground (g) succeeds.
  26. I acknowledge the uncertainty regarding the current restrictions associated with the pandemic. However, I note that the Council have powers under s173A(1)(b) to extend any period for compliance, a matter entirely at their discretion, without prejudicing their right to take further action.

**Formal Decision**

27. It is directed that the enforcement notice is varied by the deletion of 13 weeks and the substitution of six months as the period for compliance. Subject to this variation I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Felicity Thompson*

INSPECTOR





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## Costs Decision

Site visit made on 10 March 2020

**by Felicity Thompson BA(Hons) MCD MRTPI**

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

**Decision date: 06 May 2020**

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### **Costs application in relation to Appeal Ref: APP/T2350/C/19/3240341 Land at 12 Poplar Drive, Longridge, Preston PR3 3HS**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Robert Edward Thomas Cooper for a full award of costs against Ribble Valley Borough Council.
  - The appeal was against an enforcement notice alleging without planning permission the infill of four existing windows on the front elevation of the dwellinghouse erected on the Land and replacement with two smaller windows.
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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 where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant's application for costs relies to a significant extent on their view that the development constitutes permitted development and if not permission should have been granted, that the Council failed to substantiate their reasons for taking action, providing only vague, generalised and inaccurate assertions about the impact of the development, and in respect of the Council's approach and quality of its advice.
4. The taking of enforcement action is discretionary. The PPG advises that, for enforcement action, local planning authorities must carry out adequate prior investigation and that they are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation.
5. Comments made by the Council in their response to the applicant's costs application, specifically, that they consider the infilling of the windows and their reduction of size does not require consent are misleading. However, I have considered the appeal on the basis of the evidence before me and on my understanding of the legislation and advice in the Government's Technical Guidance<sup>1</sup>.
6. In this case, my decision explains why the appeal made against the enforcement notice failed. The breach of planning control occurred. The issued

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<sup>1</sup> Permitted development rights for householders Technical Guidance Ministry of Housing, Communities and Local Government September 2019

notice clearly identified the breach and the reasons for taking action which, in my assessment, can be put down to a diligent investigation.

7. Whilst it is evident that the applicant is unhappy about the Council's approach to him and the investigation, I reject any view that this appeal could have been avoided by a more diligent investigation. There is nothing to indicate the Council's lack of negotiation could have avoided the issuing of the notice. Once the Council issued the enforcement notice, the applicant exercised his right of appeal to protect his interest in the land.
8. I appreciate that the outcome of the process will have been a disappointment to the applicant however, sufficient evidence was submitted to substantiate the reasons for taking enforcement action and my decision explains why the development is unacceptable.

### **Conclusion**

9. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Felicity Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 4 February 2020 by Hannah Ellison BSc (Hons) MSc

**Decision by Susan Ashworth BA (Hons) BPL MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 May 2020

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**Appeal Ref: APP/T2350/D/19/3241098**

**Wilkinsons Farmhouse, Simonstone Lane, Simonstone, Burnley, BB12 7NX**

- 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 and Mrs John Ford against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0698, dated 4 June 2019, was refused by notice dated 13 September 2019.
  - The development proposed is the erection of a double garage structure with a first floor home office.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are the effect of the proposed development on:
  - the setting of the Grade II listed building, Wilkinsons Farmhouse, and
  - the character and appearance of the area.

### Reasons

4. The appeal site is located on the western side of Simonstone Lane. It includes a two-storey dwelling with outbuilding to the rear, both of which are Grade II listed. The dwelling has a large side and rear garden, enclosed by a high stone wall and mature planting. This proposal seeks permission for a detached double garage.

#### *Listed Building*

5. Wilkinsons Farmhouse is a Grade II listed building dating from the early 18<sup>th</sup> century. Its significance appears to be principally derived from its linear plan form and the detailing of the front elevation, including the coursed sandstone blocks and flush mullion windows. Located to the rear of the dwelling is a Grade II listed former pigsty with poultry loft. The listing identifies it as being a

good example of this type of agricultural building, which is rare in this area. The two buildings have a group value, derived from the historic relationship of the farmstead and it is symbolic of the importance and hierarchy of the main farmhouse with working building to the rear.

6. The proposed development would be positioned within the setting of the farmhouse. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving the setting of the listed building. The National Planning Policy Framework (the Framework) identifies what is meant by the term "setting" as the surroundings in which a heritage asset is experienced.
7. The farmhouse is set back from the highway within a generous plot with land to the front, side and rear. These areas have been landscaped and are used as a domestic garden. Whilst this somewhat reduces the contribution of the setting to the significance of the heritage asset, the space nevertheless remains large and open and reflects the space historically associated with the front of the farmhouse, which was generally uncluttered by buildings.
8. My attention has been drawn to historic evidence which suggests an ancillary structure existed in a similar forward location to the appeal proposal. I acknowledge the detail provided in the appellant's heritage assessment including the map extracts, however the information is limited. Moreover, it seems to me that the earlier structure was of a single storey scale and existed for a limited time in the history of the site. As such, the open setting around the farmhouse makes a positive contribution and allows the significance of the heritage asset to be fully appreciated.
9. The proposed garage would introduce a large structure in the open space to the front and side of the farmhouse. Whilst it would not be positioned between the two listed buildings, it would be sited within close proximity to the farmhouse and forward of its important front elevation. Its presence in this location would interrupt the linear form and historic connection and narrative of the site, and it would erode the sense of openness which contributes positively towards its setting. Whilst buildings adjacent to the roadside or forward of front elevations may be common in the wider area, such as that opposite at the grade II listed Starkie Farmhouse, the appeal site has a different setting, as noted above. The proposal would therefore detract from the ability to appreciate the significance of the heritage asset.
10. Although the proposal would be positioned at a lower level to the farmhouse, its presence would be further accentuated by its substantial overall height and massing. It would therefore be an overly dominant and incongruous addition to the site and would compete with the heritage asset. It is acknowledged that the proposal has been modelled upon a building of vernacular tradition and the elevations would be finished in stone to match the main farmhouse. However, this does not outweigh the harm caused to the historic setting of the heritage asset as a result of the size and positioning of the proposed garage.
11. Given the above, the proposal would be harmful to the setting of Wilkinsons Farmhouse. The Framework is clear that great weight should be given to the asset's conservation. Due to the scale of the proposal and given that it would only affect part of the setting of the building and would not alter its built form, the level of harm to the significance of the heritage asset would be less than substantial, having regard to the approach set out in paragraph 193 of the

Framework. Where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.

12. The proposed garage could accommodate two vehicles and the appellant notes that this would allow cars to be parked out of sight away from the front elevation of the heritage asset. However, there would be no mechanism to prohibit the parking of vehicles in the existing driveway even if the proposed garage was erected. As such, I consider the benefits of this proposal to be solely private and do not therefore outweigh the harm that I have found.
13. Accordingly, I conclude that this proposal would fail to preserve the setting of the listed building and would not meet the statutory requirements of the Act. Furthermore, it would conflict with guidance in the Framework and policies DME4 and DMG1 and Key Statement EN5 of the Core Strategy 2008-2028, A Local Plan for Ribble Valley (December 2014) (the 'CS'), which collectively seek to ensure proposals conserve and enhance heritage assets and their settings.

#### *Character and Appearance*

14. The proposed garage would be located in the side garden of the host dwelling. This area is well screened from the highway due to a high boundary wall and mature planting. This proposal would include the loss of four trees. I observed that three of the trees were ornamental and set-off the boundary, and therefore do not contribute to existing levels of screening. The fourth is positioned close to the southern boundary of the site.
15. I note the comments of the Council's Tree Officer that, individually, the trees do not have significant amenity value but collectively they do make a contribution. Be that as it may, I am not satisfied that their loss and thus any potential effect on the streetscene could not be mitigated by way of additional tree planting, controlled via a condition. Further, a condition could also seek to prevent any damage to other trees during the construction phase.
16. Consequently, I find that the proposal would not cause unacceptable harm to the character and appearance of the area through the loss of trees. As such, it would not conflict with policies DME1 and DME2 and Key Statement EN2 of the CS which collectively seek to ensure developments protect or do not significantly harm trees and are in keeping with the character of the landscape.

#### **Conclusion and Recommendation**

17. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

*Hannah Ellison*

Appeal Planning Officer

#### **Inspector's Decision**

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Susan Ashworth*

INSPECTOR





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## Appeal Decision

Site visit made on 19 May 2020

by **Paul Singleton BSc MA MRTPI**

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

Decision date: 26 May 2020

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**Appeal Ref: APP/T2350/D/20/3247601**

**Birley Fold Farm, Saccary Lane, Mellor, Blackburn BB1 9DW**

- 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 Webber against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/1021, dated 6 November 2019, was refused by notice dated 23 December 2019.
  - The development proposed is attached double garage, patio and external balcony.
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### Decision

1. The appeal is allowed and planning permission is granted for attached double garage, patio and external balcony at Birley Fold Farm, Saccary Lane, Mellor, Blackburn BB1 9DW in accordance with the terms of the application Ref 2/2019/1021, dated 6 November 2019, subject to the following 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:
    - PHA 350 100 Existing Site Plan, dated 27.06.19
    - PHA 350 200 Proposed Site Plan, dated 06.11.19
    - PHA 350 300 Existing Scheme Design, dated 27.06.19
    - PHA 350 400 Proposed Scheme Design, dated 06.11.19
    - PHA 350 500 Proposed Scheme Design, (Elevations) dated 06.11.19
  - 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 balcony to be constructed as part of the approved development shall not be brought into use until the existing fence to the enclosed garden has been increased in height by 1.2 metres in accordance with the details shown on approved plan PHA 350 200, dated 06.11.19. The fence shall be retained and maintained at the increased height thereafter.

### Main Issue

2. The main issue in the appeal is the effect on the living conditions of the occupiers of the adjacent dwelling in terms of a loss of privacy.

## Reasons

3. The appeal scheme represents a revised proposal following the refusal of planning permission for a scheme with a much larger area of balcony extending over the proposed garage.
4. The appeal property sits level with Birley Fold with its rear garden sloping down to the north, towards the common boundary with the rear garden to the adjacent dwelling (Brigadoon) which sits at a much lower level. An existing raised terraced area and path to the rear of the appeal property stands some 1.6 metres (m) above the immediately adjacent garden level. The topography is such that views are available from this terrace into the rear garden of Brigadoon and that, from the western end of that raised area, there is an oblique view towards the glazed entrance in the rear elevation of that property. This raised terrace is used as a route to and from the appeal property and its garden and is capable of use as a sitting out area.
5. In the appeal scheme a glass balustrade would be erected along the edge of the existing terrace but it would be unchanged in terms of its size and height. The existing views into the rear garden and of part of the rear elevation of Brigadoon would also be unchanged. The new area of balcony would be to the east of this terrace. Although it would effectively fill the gap between the terrace and the garden fence it would not project forward (to the north) of the existing terrace. The new section of balcony would also be set at a level which is some 0.3m below that of the existing terrace.
6. In my assessment the views available from the proposed new balcony area into the curtilage of Brigadoon would be more restricted than those currently available from the existing terrace. From this new area, there would be a direct view only into the bottom half of the adjacent garden. The main patio/ sitting area, located in close proximity to the rear wall of that dwelling, would not be seen. Although there would be a view towards the upper part of the glazed rear entrance to Brigadoon this would be at a relatively acute angle and at 20 or more metres distance. Hence, there would be no loss of privacy in terms of views to the principal windows of that dwelling and no material increase, compared with the existing situation, in terms of overlooking of its rear garden.
7. Due to its greater depth and the proposed installation of a hot tub the new balcony area would be likely to attract a greater level of use and activity than the existing terrace. When sitting in their own rear garden, the occupiers of Brigadoon might hear their neighbours when they are using the balcony and hot tub. This would be unlikely to be at a level which causes disturbance but could affect their sense of privacy when using their garden. However, that increased sense of awareness of their neighbours' activities could be mitigated by means of increasing the height of the adjacent garden fencing as proposed by the appellant. This would provide additional noise and visual screening between the new balcony and the rear elevation of Brigadoon and its patio/outdoor sitting area.
8. The Council has raised no objection to the other elements of the scheme and I saw nothing on my site visit that raised any concerns about these aspects of the appeal proposal.



### **Conditions**

9. Permission is granted in accordance with the standard time limit for commencement of development and I have attached a condition requiring that the scheme be completed in accordance with the approved plans. This condition, and that requiring the use of external facing materials to match those on the existing dwelling, are needed to ensure a satisfactory standard and quality of development. I have also added a condition requiring that the garden fence be increased in height before the new area of balcony is first brought into use and is retained at that new height thereafter. This is needed to ensure the protection of the amenity of the neighbouring residents.

### **Conclusions**

10. For the reasons set out above I find that the proposal would not have a significant adverse effect on the living conditions of the occupiers of the adjacent residential property at Brigadoon and that there is no conflict with Policy DMG1 of the Ribble Valley Core Strategy (2014) as asserted by the Council. I therefore conclude that the appeal should be allowed.

*Paul Singleton*

INSPECTOR