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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