

## Grounds of Appeal

### 1. Matters of appeal

1.1 The matters that separate the appellant and the local planning authority in this appeal are:

- a) The design of the proposed extension.
- b) The size and scale of the proposed extension.

### 2. Site and surroundings

2.1 The appeal site is a detached property, located on the corner of Northacre Drive and Middle Lodge Road, within a modern housing estate of just over 100 dwellings. The appeal dwelling has been in occupation since February 2017 and is constructed of modern brick, with concrete roof tiles and white UPVC doors and windows. The residential estate comprises mostly detached dwellings. The appeal dwelling is not a listed building, nor is the appeal site within a conservation area.

2.2 The rear elevation of the appeal property includes a single storey mono-pitched structure/outrigger, which accommodates a kitchen and dining room, and was part of the original construction of the house. The side boundary includes a laurel hedge next to the back of the pavement, within the appeal site, next to the laurel hedge, there is a green, ivy fence that extends from the two storey rear elevation to a wooden panel fence along the rear boundary. Both the hedge and fence would need to be removed during construction, but would need to be reinstalled to mark and protect the side boundary of the property once the extension is complete.

### 3. Representations

3.1 No representations from surrounding local residents were received in response to publicity of the application. The Local Highway Authority were not consulted. The Parish Council did not respond.

#### 4. Appeal proposal

4.1 Planning permission was sought for the construction of an L-shaped single storey rear extension projecting 5.5m from the existing two storey rear elevation, 4m from an original single storey mono-pitched part/outrigger of the house and measuring 6m in width across the rear garden.

4.2 The proposed extension would extend the original single storey mono-pitched structure/outrigger sideways across the full width of the rear elevation to the side gable facing Middle Lodge Road. This part of the extension projects 1.5m from the two storey rear elevation of the house to be flush with the original single storey structure of the house, would be constructed from brick and covered with a tile facing mono-pitched roof to match the original house.

4.3 The remaining part of the extension would be rectangle shaped, project 4m from the part original/part proposed single storey structure of the house and would be covered with a flat roof, accommodating a lantern roof light. The gable facing Middle Lodge Road would be blank and screened by a hedge (to be replanted as stated in paragraph 2.2 above), the elevation facing into the garden would contain 3 vertically proportioned windows and there would be French doors within the side elevation. This part of the proposal would be an orangery design.

#### 5. Grounds of appeal

5.1 The local planning authority consider the design of the proposed extension would be conspicuous, disjointed, at odds with the linear form of the property and unsympathetic by virtue of its projection, width, and roof profile.

5.2 The proposed extension has been designed to infill a gap at the rear of the house, which is an underused patio and benefits from a limited amount of sunlight due to the orientation of the house. The proposal would infill the gap by extending the original single storey mono-pitched structure/outrigger sideways across the full width of the rear elevation, in attempt to achieve a simple and complementary appearance to the overall proposed structure. The proposed orangery design has been chosen as

a simple, contemporary and low height addition, to not detract or overcomplicate the roof of the original single storey mono-pitched roof at the rear of the house.

5.3 The side extension to the original single storey mono-pitched structure would be in keeping with the existing house in terms of design and appearance. Whilst the design of the orangery part of the appeal extension would be different to the original house, as stated above, the simple, contemporary and low height addition would not detract or overcomplicate the rear elevation, and it would be less visible from the street than a pitch roof covering the orangery style part of the extension.

5.4 Such orangery additions are joined to houses throughout the country and it is not so unusual or unsympathetic to warrant a refusal of permission in this case. The appeal dwelling is not listed, nor is it in a conservation area. The reason for refusal raises no concern in connection with the visual impact of the proposal upon the street scene of Middle Lodge Road, which would in any event be partially screened by a new hedge to be planted between the extension and the side boundary of the property with the back of the pavement (as stated in paragraph 2.2 above).

5.5 The local planning authority consider the size and scale of the proposed extension would be bulky and unsympathetic by virtue of its projection and width. The side extension to the original single storey mono-pitched structure would be in keeping with the existing house in terms of size and scale. Whilst the overall proposed extension would lengthen the side elevation of the house by 5.5m, the height of the proposed structure (mono-pitched to flat) reduces as it extends away from the main house. Furthermore, projections of 4m to 7m are accepted nationally as permitted development and the appeal proposal is comparable. Lastly, the visual impact of the proposal would be reduced by the replanting of a hedge along the side boundary.

## 6. Planning policy

6.1 The reason for refusal states the appeal proposal would be contrary to the aims and objectives of Policies DMG1 and DMH5 of the Ribble Valley Core Strategy.

### Policy DMG1: General Considerations

6.2 This policy applies to all development and is not specific to householder development. It is considered that only the design section of the policy is relevant to this appeal. The appeal proposal has been designed to be sympathetic to existing land uses and the scale, massing and style has been designed to be reflective of the vernacular of the existing dwelling. The orangery design is a modern addition, as most similar orangeries or conservatories are to dwellings, and in this case, it would provide a simple, low-height addition without introducing a new roof profile (such as a gable or conservatory style roof) over an extension that would be at odds with the original single storey mono-pitched structure at the rear of the house.

6.3 In terms of size and scale, the orangery part of the proposal would be similar to that which could be achieved as permitted development. The proposal would be finished in brick and tiles to match the existing house and the flat roof would be similar in colour to the existing roof. The diminishing height of the proposal as it extends from the existing house would ensure it is not over dominant or incongruous in the street scene. The relationships between the appeal dwelling and adjacent properties would not be diminished, and the visual gap between the appeal dwelling and the adjacent dwelling to the north would be retained. It is considered the appeal proposal complies with Core Strategy Policy DMG1.

### Policy DMH5: Residential and curtilage extensions

6.4 Policy DMH5 applies to residential and curtilage extensions. The policy requires proposals to extend residential properties to accord with Policy DMG1 and any relevant designations within which the site is located. The above demonstrates how the appeal proposal complies with Policy DMG1 and the appeal site is not located within a conservation area or any other designated areas.

## 7. Material considerations

7.1 The weight to be attributed to a fall-back position for any development must be determined in accordance with the legal principles set out in case law: *R v Secretary of State for the Environment and Havering BC* [1998] Env LR 189. This established 3 elements to the fall-back test:

1. Whether there is a fall-back (i.e. a lawful ability to undertake the development);
2. Whether there is a likelihood or real prospect of it occurring; and
3. If so whether a comparison must be made between the proposed development and the fall-back.

7.2 This test is referred to in the judgment in *Mansell v Tonbridge and Malling* [2016] EWHC 2832 (Admin) (subsequently upheld in the Court of Appeal).

7.3 In respect of each of the three strands / elements to the test, as mentioned above it is accepted that the appellant has two '*permitted development*' extensions that could be implemented, which are as follows:

- The first is a 4m projecting extension in the same location as the appeal proposal, which would extend 4m from the two storey rear elevation and would extend no more than half the width of the house. Such an extension could be the same design as the orangery in the appeal proposal. Furthermore it could also be covered with a pitched roof of no more than 4m in height which would be more dominant in the street scene than the appeal proposal.
- The second '*permitted development*' extension could be located at the opposite side of the rear elevation. A 4m projecting orangery addition could be added to the original single storey mono-pitched part of the house (part of the original construction), to give the same design and structural effect as the appeal proposal but on the opposite side of the house. The latter of the two '*permitted development*' extensions would provide the same size, scale and design of the appeal proposal.

Given the above it is agreed that the first strand of the above legal test is met.

7.4 The second strand of the test is the most difficult for the decision maker, as it requires a judgement to be made on the prospect of the fall-back development being carried out. The appellant and Whalley Home Improvements have a signed contract for building work to be carried out as per the appeal proposal. A deposit has been paid for the drawings to accompany the appeal and reserving a date for construction. Either the appeal proposal or one of the '*permitted development*' extensions could be implemented. Therefore the second strand is also considered to be met.

7.5 In terms of the third and final strand, and the comparison between the proposed scheme and the potential fall-back position. The first of the two aforementioned '*permitted development*' extensions referred to above would be 1.5m shorter in length than the appeal proposal, albeit the flat roof design and roof lantern would remain the same. The second of the two aforementioned '*permitted development*' extensions referred to above would be the same size, scale and design as the appeal proposal but on the opposite side of the house. This type of development would still be visible in the street scene. In both fall-back positions, the flat roof design and roof lantern, which the local planning authority consider would be at odds with the dwelling, would remain the same as the appeal proposal.

7.6 As such, when judged against the appeal proposal, the two fall-back positions would deliver a comparatively similar or the same development as the appeal proposal that the local planning authority wish to resist. Should the local planning authority wish to protect the appearance of the rear elevation of the house they should have chosen to remove permitted development rights. Thus the third strand is also met.

#### Summary on the fall-back position

7.7 As such and in summary of the above, the appellant has a fall-back position they can implement; it is highly likely that this fall-back position would be implemented if the appeal was dismissed; and the appeal proposal would provide a simple, contemporary and low height addition which would not detract or overcomplicate the rear elevation, and it would be less visible from the street than a pitch roof or other roof design covering the orangery. Furthermore, it would have a reduced amenity impact upon extending adjacent to the boundary with no.4 Northacre Drive. The appellant therefore concludes that a credible fall-back position exists, and this is a very significant material consideration in the determination of this application.

## 8. Conclusion

8.1 It is hoped that this statement explains why the appeal proposal complies with Policies DMG1 and DMH5 of the Ribble Valley Core Strategy. Furthermore, it is hoped that very significant material consideration of the fall-back position demonstrates that

the '*permitted development*' extensions referred to above would deliver a comparatively similar or the same development as the appeal proposal that the local planning authority wish to resist, hence a genuine development of the same design can be achieved at the appeal property and can be weighed in favour of the proposal. Taking all the of the above into account it is the appellant's view that the appeal should be allowed.