



# Appeal Decision

Site visit made on 15 January 2024

**by M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 9 February 2024**

**Appeal Ref: APP/T2350/D/23/3326791**

**2 The Walled Garden, Woodfold Park, Mellor, Lancashire, BB2 7QA**

- 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 Turner against the decision of Ribble Valley Borough Council.
- The application Ref 3/2023/0163, dated 23 February 2023, was refused by notice dated 26 May 2023.
- The development proposed is alterations to existing roof lights.

## Decision

1. The appeal is allowed and planning permission is granted for alterations to existing roof lights at 2 The Walled Garden, Woodfold Park, Mellor, Lancashire BB2 7QA in accordance with the terms of the application, Ref 3/2023/0163, dated 26 May 2023, 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:
    - Location Plan EAD\_188\_P\_01 Revision S1
    - Existing Part Site Plan EAD\_188\_P\_02
    - Proposed Part Site Plan EAD\_188\_P\_03
    - Existing/Proposed South Elevation & Details EAD\_188\_P\_04
    - Existing/Proposed Roof Plans & Side Elevations EAD\_188\_P\_05
  - 3) The external work, materials and finishes of the development hereby permitted shall match those of the existing building in their detailed execution, colour, texture, form, scale and finished appearance except where indicated otherwise on the approved drawings.
  - 4) The proposed roof lights shall be of the Conservation Type, recessed with a flush fitting.
  - 5) The development hereby permitted shall be carried out in strict accordance with the Method Statement and Reasonable Avoidance Measures set out on the final page of the *Method Statement – European Protected Species (Bats); Reasonable Avoidance and Mitigation Measures*, prepared by Dave Anderson of batworker.com and dated 22 February 2023.
  - 6) Prior to the commencement of the approved works two bat boxes (Greenwood Eco Habitats “two crevice” boxes, Kent bat boxes, or similar) shall be mounted on suitable trees at a minimum height of 4 metres. The boxes shall be maintained in-situ thereafter in perpetuity.

## Procedural Matters

2. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. The amendments made did not have any bearing on the main issues in this appeal, and it was not therefore necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

## Main Issues

3. The main issues are the effect of the proposed development on:
  - The character and appearance of the area, with particular regard to the setting of the Grade II registered Woodfold Park and nearby Grade II Listed buildings; and
  - Protected species, specifically pipistrelle bats, or their habitats.

## Reasons

### *Character and appearance*

4. The appeal relates to a two-storey detached dwelling, within the former walled kitchen garden of Woodfold Hall. The proposed development is the replacement of two pairs of existing rooflights on the rear south-facing roof slope with "combination" windows. These would incorporate vertical windows in the wall below the rooflights; the existing pair of rooflights towards the eastern end of the building would be widened to form a triple combination window.
5. The appeal site is within Woodfold Park, a Grade II registered Park and Garden<sup>1</sup>; it does not have statutory protection but is nevertheless a designated heritage asset, and Chapter 16 of the Framework requires great weight to be given to its conservation. The site is also near the Grade II Listed buildings Woodfold Hall<sup>2</sup> and its orangery<sup>3,4</sup>, and I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the buildings or their setting, or any features of architectural or historic interest which they possess.
6. Along with the adjacent No 1 The Walled Garden, the appeal property was erected following a grant of planning permission in 2003<sup>5</sup> and constructed, according to the description in the Council's officer report, using reclaimed brick from an existing ruined building. The two dwellings are simple buildings with long roofs, and were originally designed as mirror images of one another. They have living accommodation at first-floor level within their roof space; this is served by roof lights, so in most views their appearance is one of being single storey buildings.

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<sup>1</sup> List Entry number 1001341

<sup>2</sup> List Entry number 1164542

<sup>3</sup> List Entry number 1072073

<sup>4</sup> The Council's officer report described "the Coach House" as a nearby Listed building; it appears that this was simply an error, as I was provided with the list entry for the orangery as described.

<sup>5</sup> LPA Ref: 3/2003/0692

7. Within the simple form of the appeal property, there are notable variations between the front, north-facing, elevation and that at the rear. The front is characterised principally by its relatively small window and door openings (save for two single garage doors) and its small gabled porch; these give it something of the appearance of a traditional cottage, albeit a fairly large one. At the rear, however, the design is more reflective of what the appellants describe as “a modern interpretation of barn-type structures”; three large sets of aluminium-framed sliding doors extend across most of the main rear elevation, giving it a “lighter” and more modern appearance than the front of the building. The proposed combination rooflights and windows would be seen in this context; they would not be so large as to be dominant, and their contemporary styling would not be at odds either with the rest of the elevation or the overall form and design of the dwelling as a whole.
8. Permitted development rights for the appeal property and No 1 were removed when planning permission was granted for the two houses. The appellants drew my attention to the rear elevation of the neighbouring No 1, where similar combination windows have been installed; I was able to view them when I carried out my site visit. The evidence before me, including the appellants’ statement that “the alteration to the neighbours property is over 4 years old and will therefore be lawful with the passage of time”, is that the development at No 1 was carried out without planning permission. It is not for me in determining this appeal to adjudicate on the lawfulness (or otherwise) of the work carried out at No1, so I give development which *may* not be lawful very little weight in terms of whether it sets any sort of precedent for the appeal scheme in itself. At the same time, however, the rear of No 1 currently provides a practical illustration of how this proposed development would look; to my mind it confirms that it would not be harmful to the appearance of the appeal property.
9. The official list entry describes Woodfold Park as having been laid out towards the end of the 18<sup>th</sup> century, with Woodfold Hall as its centrepiece. The park has an area of around 175 hectares and contains formal gardens, woodlands, and open parkland. The appeal property, and the neighbouring No 1, are in a position where the land levels fall away to the south. As a result their rear elevations can be seen from some fairly expansive areas of open parkland towards the north-western corner of Woodfold Park. For the reasons which I have just set out, however, I disagree with the Council’s assessment that the proposed alterations would “detract from the simplicity of the current form and design of the dwelling”; on the contrary, I consider that the proposed windows would represent relatively limited interventions, which would be in keeping with the simple stylings of the building’s rear elevation. As a result, I also find that it would also not detract from the historic quality of the registered park, the significance and value of which would be preserved.
10. Woodfold Hall was built from 1798 as the focal point of the Woodfold Park estate, while the orangery was added in the early-to-mid 19<sup>th</sup> century. Both buildings are described as having been derelict at the time they were originally Listed (August 1952 and March 1986, respectively), but although I did not carry out a close inspection it was apparent during my site visit that they have subsequently been brought back into use.
11. At their closest, the appeal property and Woodfold Hall are some 190m or so apart, and the orangery is at a greater distance still. There is an area of mature

woodland between the appeal property and the two Listed buildings, and during my site visit (at a time when the trees had minimal leaf cover) direct intervisibility was not possible. The rear elevation of the appeal property, and the proposed alterations, could be seen from a small corner of the formal lawn south of Woodfold Hall, but given the distance, and that it would be seen at something close to a right angle from views of the hall itself, it would not form a significant part of the hall's setting. As I have already described I do not consider that the proposed alterations would be discordant, harmful or otherwise intrusive, but in any event the separation and spatial relationship is such that, in my view, the setting of the two Listed buildings would be preserved.

12. Overall, the proposed development would not be harmful to the character or appearance of the appeal property, or the wider area. The setting of the Grade II registered Woodfold Park, and those of the Grade II Listed Woodfold Hall and orangery, would be preserved. The proposed development would therefore comply with Key Statement EN5<sup>6</sup> of the 2014 Ribble Valley Core Strategy ("the RVCS") which seeks to conserve and enhance the significance of heritage assets and their settings. The Council's decision notice also referred to conflict with Policy DME1 of the RVCS, although that relates to the protection of trees and woodlands, and none of the evidence before me suggests that the proposal would be harmful in that respect; I find no conflict with that policy.
13. The Council's officer report referred to Policy DME4 of the RVCS which seeks to protect registered parks and gardens; this was not referred to in the decision notice, so it may well be that the subsequent references to DME1 were simply a typographical error which was not picked up within the Council. In any case, however, for the reasons I have set out above I also find no conflict with Policy DME3.
14. As I do not find that the proposal would cause harm to or loss of the designated heritage assets or their settings, it is not necessary to apply the public benefit test set out in Paragraph 208 of the Framework.

### *Bats*

15. The planning application included a detailed report in respect of bats ("the bat report"), prepared by Dave Anderson in February 2023<sup>7</sup>. A preliminary bat roost assessment identified a pipistrelle maternity roost in the eastern and western gable ends of the appeal property, with gaps close to each apex giving access to the cavity wall space within.
16. All bat species and their roosts are legally protected from damage or destruction, whether the roosts are occupied or not. The works necessary to carry out the proposed development would affect areas of the roof and walls away from the gable ends, and so would not result in the destruction of the roosts or their entrances. The bat report also proposed measures to avoid any disturbance to bats, including (among other things) carrying out works only between September and March (when bats would typically have moved from summer roosts to hibernation sites), lifting roof slates by hand, and avoiding

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<sup>6</sup> The Council's decision notice referred to this as *Policy EN5*, though it is not described as such within the RVCS.

<sup>7</sup> *Method Statement – European Protected Species (Bats); Reasonable Avoidance and Mitigation Measures*, Dave Anderson *batworker.com* 22 February 2023

installing scaffolding in locations alongside the gable ends where it may interfere with flightlines to or from the roost entrances.

17. The Council considered that the development could only be carried out under a bat mitigation licence from Natural England, and that one would be unlikely to be granted. The appellants' case however is that as disturbance to bats and damage to their habitats would be avoided a bat mitigation licence would not be necessary; indeed, the author of the bat report agrees that Natural England would be unlikely to grant a mitigation licence, but on the grounds that there would be a "lack of any likely offence or negative impact". The appellants also state that the Council's countryside officer appeared to be supportive of the use of a condition to secure avoidance and mitigation measures, although for reasons which have not been explained this internal consultation was not referred to in the Council's officer report.
18. I have had regard to my duties under Regulations 9(1) and 9(3) of The Conservation of Habitats and Species Regulations 2017 (as amended) ("the regulations"), as well as Natural England's "standing advice" for bats<sup>8</sup>. I am satisfied that appropriate survey work has been undertaken, and that the bat report was prepared by a suitably qualified and experienced ecologist. The building work proposed is relatively limited and, having considered the evidence which has been put before me, I am satisfied that measures to avoid disturbance to bats, and any damage to or disturbance of their roosts, can be secured by conditions in line with the submitted bat report.
19. Subject to the imposition of such conditions, the proposed development would not have a harmful effect on protected species or their habitats. It would therefore comply with the requirements of Policy DME3 of the RVCS, which seeks to ensure that development does not adversely affect protected species. There would also be no conflict with the provisions of Chapter 15 of the Framework in relation to habitats and biodiversity.

### **Conditions**

20. I have considered the conditions suggested by the Council in the light of Paragraph 56 of the Framework, and advice in the Planning Practice Guidance. Where necessary I have altered the proposed wording in the interests of clarity and effectiveness.
21. In addition to the standard time limit condition (1), I have specified the approved drawings so as to provide certainty (2). In order to protect the character and appearance of the area I have also included a condition requiring materials matching the existing dwelling to be used, other than where indicated in the approved drawings (3), and the rooflights to be of an approved "conservation" type (4).
22. The Council suggested a condition requiring details of proposed mitigation measures relating to bats to be submitted to them (along with a copy of a mitigation licence from Natural England) and approved in writing before the commencement of development. For the reasons which I have set out in the preceding section, I do not consider that such a condition would be necessary. Instead, I have imposed a condition requiring that the development is carried out in accordance with the avoidance and mitigation measures set out in the

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<sup>8</sup> *Bats: advice for making planning decisions*, Natural England 14 January 2022  
<https://www.gov.uk/guidance/bats-advice-for-making-planning-decisions>

bat report (5); compliance with this condition (and, in any case, other statutory requirements relating to protected species) would require work to be suspended in the event of bats being found. For clarity, I have also separated out the provision of bat boxes proposed by the appellants into a standalone condition (6).

### **Conclusion**

23. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*M Cryan*

Inspector