



# Appeal Decision

Site visit made on 13 May 2024

**by R Major BSc (Hons) MSc MRTPI**

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

**Decision date: 11 June 2024**

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**Appeal Ref: APP/T2350/W/23/3334523**

**Healings Farm, West Bradford Road, Waddington, Lancashire BB7 3JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Ashley Rostron against the decision of Ribble Valley Borough Council.
  - The application Ref is 3/2023/0687.
  - The development proposed is demolition of existing workshop building and replacement with one new two-storey dwelling with basement, including landscaped gardens, access and parking.
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## Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the demolition of existing workshop building and replacement with one new two-storey dwelling with basement, including landscaped gardens, access and parking at Healings Farm, West Bradford Road, Waddington BB7 3JE in accordance with the application Ref 3/2023/0687 and the details submitted with it, and subject to the conditions in the attached schedule.

## Applications for costs

2. An application for costs was made by Mr Ashley Rostron against Ribble Valley Borough Council. This application is the subject of a separate decision.

## Preliminary Matters

3. The description of development in the above banner heading and my formal decision is taken from the Council's decision notice as it accurately describes the development and is more succinct than that provided within the planning application form. I have however removed the words "*prior notification for the*" from the description of development as this does not form part of the proposal.
4. Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development Order) Order 2015 (as amended) (GPDO) permits the demolition of buildings and the construction of new dwellinghouses in their place. However, to be permitted development under Part 20, Class ZA of the GPDO, the development must accord with various limitations and conditions.
5. Paragraphs ZA and ZA.1 both set out a list of limitations and criteria by which development is permitted by Class ZA. There is no dispute between the parties

- that the appeal proposal adheres to these criteria and thus is permitted under paragraphs ZA and ZA.1. I agree and have determined the appeal on that basis.
6. Paragraph ZA.2 then sets out the conditions which development that is permitted by Class ZA is subject to. These include under (2) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required for various matters covered by criteria a–m, including: the (d) design and (e) external appearance of the new building. In the event that the local planning authority deem that prior approval is required, in accordance with Paragraph B<sup>1</sup>(16) of Part 20, the development must not begin before the receipt by the applicant from the local planning authority of a written notice giving their prior approval.
  7. The appellant applied for prior approval which was refused on the grounds that the design and external appearance of the new building was unacceptable. During the Council's consideration of the application, amended plans were submitted and I have determined the appeal on the basis of these amended plans.
  8. Within its decision the Council has referred to the provisions of Class ZA.2, the National Planning Policy Framework (the Framework) and Policy DMG1 of the Ribble Valley Core Strategy<sup>2</sup> (2014) (CS). The appellant asserts that the assessment of the scheme against the Local Plan has resulted in the Council failing to determine the application in accordance with the legislation.
  9. In regard to this matter, paragraph B(15) of Part 20 states that the local planning authority must, when determining an application - (a) take into account any representations made to them as a result of any consultation; and (b) have regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
  10. There is however no statutory obligation to decide a prior approval appeal on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 as the principle of the development is established through the grant of permission by the GPDO. As such, the provisions of Part 20, Class ZA of the GPDO do not require regard to be had to the development plan.
  11. Nevertheless, the development plan policies may still be relevant in prior approval appeals, but only insofar as they relate to the relevant matters, and only as evidence to support, rather than being the basis of, the planning judgement to be made. In reaching this view I have had due regard to the appeal decisions provided by both the appellant<sup>3</sup> and the Council<sup>4</sup> in respect of the relevance of the development plan in relation to prior approval applications.
  12. Subsequent to the Authority issuing its decision the revised Framework was published on 19 December 2023 and updated on 20 December 2023. Both parties, within their respective submissions, had an opportunity to comment on the revised Framework and I have had regard to it insofar as relevant to the subject matters of design and external appearance. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

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<sup>1</sup> Procedures for applications for prior approval under Part 20

<sup>2</sup> Ribble Valley Borough Council Core Strategy 2008-2028 - A Local Plan for Ribble Valley - Adoption Version (2014)

<sup>3</sup> APP/M5450/W/22/3292680

<sup>4</sup> APP/T2350/W/23/3325434 and APP/X1119/W/20/3260797

## **Main Issue**

13. The main issue is the effect of the design and external appearance of the proposed building on the character and appearance of the area.

## **Reasons**

14. The appeal relates to a detached, single-storey, mono-pitched building located within a cluster of former agricultural buildings which now, according to the submitted documents, are in a light industrial use. Based on the evidence before me, and my observations on site, I have no reason to disagree that the appeal building has a light industrial use, and have determined the appeal on that basis.
15. The appeal building is a somewhat bland, utilitarian structure, lacking in any detailing, constructed and finished in concrete blockwork, with a profiled metal roof. It is accessed off, and set back from, the highway of West Bradford Road and is located within the open countryside, with the surrounding area largely characterised by open fields with interspersed woodlands.
16. The former farmstead within which the appeal building is located consists of the two-storey farmhouse fronting onto West Bradford Road, a detached garage and various other single storey outbuildings. These outbuildings include five Nissen huts, a pitched roof building and the appeal building itself, all of which are set back behind the farmhouse. A small cluster of residential properties, and a primary school, are located to the north of the site, fronting onto West Bradford Road. The appeal site is flanked on both sides by Public Rights of Way (PROWs) which connect to West Bradford Road.
17. The height of the proposed building would be within the permitted height parameters as set out in Class ZA. Nevertheless, an assessment of the height of the proposed dwelling and the resulting relationship to the surrounding area is still appropriate in respect of the prior approval matter of design.
18. In this regard, the replacement of the single storey building with a two-storey dwelling, would result in a building that is both higher, and larger in volume, than the adjacent single-storey industrial buildings. However, it is not uncommon to observe buildings of varying size, scale and volume on former farmsteads such as this.
19. Furthermore, the farmhouse is itself two-storey in height, and the other dwellings within the nearby cluster of buildings fronting this highway are predominantly two-storey in height. As two-storey dwellings are very much a characteristic of the immediate surroundings, the proposed dwelling would not appear as an alien feature or dominate the skyline as a result of its two-storey design or volume.
20. The proposed dwelling would be set back from the road, and therefore set behind the nearby cluster of residential properties that front onto this highway. The siting of the dwelling is not in itself a matter for consideration under Class ZA of Part 20. Nevertheless, I note the Council's concerns that the appeal proposal would introduce a two-storey dwelling, with a considerable volume, set back beyond the built form of the neighbouring dwellings within the nearby cluster. However, as mentioned above I do not find the two-storey design and overall volume of the proposed dwelling to be out of keeping with the surrounding buildings, either in terms of the adjacent single storey industrial buildings, or the two-storey dwellings within the vicinity of the appeal site.

21. Additionally, the appeal site already has built development extending back on this side of West Bradford Road and I observed a nearby farm to the northeast has large buildings and structures that currently extend significantly back into the land to the south of West Bradford Road. I also observed two-storey dwellings set back from the highway in the wider area, albeit noting that these were on the northern side of the highway. Nevertheless, their siting set back from West Bradford Road is not harmful to the character and appearance of the area. As such, the two-storey scale and volume of the proposed dwelling, set back from the road, is acceptable.
22. I acknowledge the Council's comments that the proposal would fail to reflect the vernacular of the dwellings in the immediate vicinity. However, the nearby cluster of dwellings vary in age, style, design, size and fenestration details, ranging from the more traditional pitched-roof stone dwellings of considerable age, to the more recently constructed linked-detached dwellings directly to the northeast of the appeal site. As such there is no clear distinct design style or defining house type within this small cluster of nearby houses.
23. Nonetheless, the proposed dwelling, with its pitched roof design and use of traditional materials, including random coursed stone with a slate roof, would be in keeping with the rural character of the surrounding landscape. Moreover, it would be a visual improvement in comparison to the existing building it would replace. The proposed dwelling would include relatively high levels of glazing, but this is not uncommon within modern properties. Overall, the design and external appearance of the proposed dwelling would not be incongruous, unsympathetic or harmful to the character of the area.
24. As a result of the existing two storey-dwellings fronting onto West Bradford Road the proposed dwelling would be well screened from this highway when approaching from the northeast. When approaching from the southwest it is likely that a fleeting view of the proposed dwelling would be possible from short distances, however it would be partially screened by existing mature vegetation and the existing single storey industrial buildings. This vegetation and the industrial buildings would also assimilate the dwelling into the landscape when viewed from the PROW (Footpath Waddington 22) which runs to the west of the appeal site.
25. I acknowledge that there is no guarantee that this vegetation, or the adjacent industrial buildings, will be retained in perpetuity. However, for the reasons given above I do not consider the proposed dwelling to be a visually harmful development that would unduly affect users of this PROW in the event that the vegetation and adjacent buildings were removed in the future.
26. The proposed dwelling would be more prominently viewed when approaching along the PROW (Footpath Waddington 23) which runs to the north and east of the appeal site. However, the existing building on the appeal site, as well as the other buildings within the former farmstead, are currently visible from this PROW. The existing building on the appeal site, and these other adjacent buildings, do not currently make a positive contribution to the experience of users of this PROW, or the character and appearance of the area in general. Thus, given the visual enhancement on the site, the appeal proposal would not negatively affect users of this PROW.
27. In addition, users of this PROW already experience large built development associated with the nearby farm and the appeal proposal includes new

landscaping features within the appeal site which would partially screen the proposed dwelling from this PROW and provide a more attractive view towards the appeal site than that currently experienced.

28. In view of all the above, I conclude that the proposed development would be acceptable in respect of its design and external appearance. It would therefore comply with the provisions of criteria (d) and (e) of paragraph ZA.2, as well as conform with paragraph 135 of the Framework where it seeks to ensure that development is sympathetic to local character, including the surrounding built environment and landscape setting. Furthermore, I find that CS Policy DMG1 supports the appeal scheme, where it states that development should be sympathetic to existing and proposed land uses in terms of size, scale, massing, features and building materials.

### **Other Matters**

29. I note there is a Grade II Listed Building known as Lane Side in the vicinity of the appeal site. This listed building is a significant distance from the appeal site and on the opposite side of West Bradford Road. There are a number of two storey dwellings situated between the appeal site and this listed building. Consequently, the proposed dwelling would not be within the setting of this listed building and it would not harm the designated heritage asset.

### **Conditions**

30. Paragraph ZA.2.(5) states that any development under Class ZA is permitted subject to the condition that it must be completed within a period of 3 years starting with the date the prior approval is granted. Paragraph ZA.2.(6) sets out that prior to commencement the developer must provide the local planning authority with a report for the management of the construction of the development, the proposed use of materials and plans for the disposal and recycling of waste generated by the development. Furthermore, paragraph ZA.2.(9) states that any new dwelling created under Class ZA is to remain as a dwellinghouse within the meaning of Class C3 of the Schedule of the 1987 Order<sup>5</sup>. It is therefore not necessary for me to repeat these conditions in the below schedule.
31. In addition to the standard conditions, amended plans were submitted during the Council's determination of the application and therefore I have attached a condition specifying the approved plans in the interests of certainty (1). I have included a condition which requires details of any external lighting that is to be installed on the dwelling, or within the site, to be approved in writing by the Council. This is necessary in order to reduce light spillage and mitigate potential impact on protected species (2). Additionally, to further mitigate any potential impact on protected species a condition is also necessary requiring the development to be carried out in accordance with the mitigation and enhancement measures detailed within the submitted ecology report (7).
32. A condition requiring details of all boundary treatments has been included in order to safeguard the character and appearance of the area (3). However, a clause stipulating that the residential curtilage be limited to the confines of the red edge, and that it shall not be extended without planning permission, is not necessary because the red edge already defines the curtilage and the planning unit.

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<sup>5</sup> The Town and Country Planning (Use Classes) Order 1987

33. In the interest of clarity, and to safeguard the character and appearance of the area, a condition requiring the submission of the ground levels, of both the existing and proposed buildings, and external areas, has been attached (4). Given that I have concluded that the two-storey design of the dwelling is acceptable, a clause requiring sectional drawings of the eaves and ridge height in relation to neighbouring buildings is neither reasonable nor necessary.
34. A condition requiring the approved access, parking and turning facilities to be provided prior to occupation and retained thereafter is necessary to ensure vehicles can enter and leave the site in a safe manner, to provide off-road parking and in the interest of highway safety (5). A condition requiring the submission of details of the proposed cycle storage facilities, and for the cycle storage facilities to be provided prior to occupation, is necessary to support the use of sustainable modes of transport (6).
35. Conditions are necessary to ensure all retained trees and hedgerows within influencing distance of the proposed dwelling are protected during construction (8), and requiring the approved landscaping scheme to be implemented within the first planting season following occupation of the dwelling (9). These conditions are necessary to safeguard the character and appearance of the area. However, the wording of suggested condition 9 in relation to the satisfaction of the Local Planning Authority is not precise and I consider a period of five years from planting to be sufficient for the replacement of any trees and shrubs which die, are removed, or become seriously damaged or diseased. As such I have amended the wording of this suggested condition accordingly.
36. A condition has been attached which requires a desk study to assess the risk of potential land contamination be submitted to the Council, as well as further investigation and remediation works carried out if necessary (10). In the interest of public safety, I consider this condition to be both reasonable and necessary.
37. A pre-commencement condition has been attached which requires the submission of a sustainable surface water drainage strategy, and this condition also specifies that foul and surface water drainage shall be drained on separate systems (11). This condition is necessary in order to reduce the risk of surface water flooding at the site.
38. A condition requiring the provision of an electric vehicle charging point is not necessary because the provision of access to an electric vehicle charging point is a requirement of S1, Part 1, Schedule 1 of the Building Regulations 2010 (as amended).

### **Conclusion**

39. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

*R Major*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan - October 2023 – Revision A
  - Demolition Plan - October 2023 – Revision A
  - Site plan as proposed - October 2023 – Revision A
  - Floor plans as proposed (Basement and Ground Floor) - October 2023 – Revision A
  - Floor plans as proposed (First Floor) - October 2023 – Revision A
  - Roof plan as proposed - October 2023 – Revision A
  - Elevations as proposed - October 2023 – Revision A
  - Elevations as proposed - October 2023 – Revision A
  - Landscape Masterplan - 3804-100 Rev P1

2. No external lighting shall be installed on the dwelling hereby approved, or elsewhere within the site, until details of a scheme for any external building or ground mounted lighting/illumination have been submitted to and approved in writing by the Local Planning Authority.

For the avoidance of doubt the submitted details shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution and shall include details to demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated.

Any external lighting shall only be installed in accordance with the approved details.

3. Prior to first use of the dwelling hereby approved, details regarding the alignment, height, and appearance of all boundary treatments, fencing, walling, retaining wall structures and gates shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be erected within 2 months of first use of the dwelling hereby approved and retained as such thereafter.
4. Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) including the levels of the proposed access track have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
5. No part of the development hereby permitted shall be occupied until the access and access track arrangements, parking and turning facilities have all been provided in accordance with the details shown on the approved plan (amended) "Site plan as proposed - October 2023 – Revision A". The approved

access, parking and turning facilities shall be retained as such thereafter in perpetuity.

6. The dwelling hereby permitted shall not be occupied until a cycle storage plan for the dwelling has been submitted to, and approved in writing by, the Local Planning Authority. The approved cycle storage facilities shall be provided on site prior to first occupation of the dwelling and retained as such thereafter. The cycle storage facilities shall be kept free of obstruction and available for the parking of bicycles at all times.
7. The development hereby approved shall be carried out in complete accordance with the mitigation / enhancement measures detailed / recommended within sections 5.3 - 5.8 of the submitted Ecological Appraisal titled "Preliminary Ecological Appraisal Bat Risk Assessment, The Healings, West Bradford, Lancashire, September 2023 ref: BOM-R-21-37" (prepared by Bombus Ecology).
8. All trees/hedgerows within influencing distance of the development which are shown as being retained within the approved "Landscape Masterplan - 3804-100 Rev P1" shall be adequately protected in accordance with BS 5837: 2012 'Trees in relation to design, demolition and construction – recommendations', throughout the construction phase of the development.
9. The landscaping proposals as shown on the approved "Landscape Masterplan - 3804-100 Rev P1" shall be implemented in the first planting season following occupation of the development, or the completion of the development, whichever is the sooner. Any existing or new trees or shrubs which, within a period of 5 years from first planting, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species.
10. Prior to the commencement of development, the following information shall be submitted to the Local Planning Authority for approval in writing:
  - (a) A Desk Study which assesses the risk of the potential for on-site contamination and ground gases and migration of both on and off-site contamination and ground gases.
  - (b) If the Desk Study identifies potential contamination and ground gases, a detailed Site Investigation shall be carried out to address the nature, degree and distribution of contamination and ground gases and shall include an identification and assessment of the risk to receptors as defined under the Environmental Protection Act 1990, Part IIA, focusing primarily on risks to human health and controlled waters. The investigation shall also address the implications of the health and safety of site workers, of nearby occupied building structures, on services and landscaping schemes and on wider environmental receptors including ecological systems and property. The sampling and analytical strategy shall be submitted to and be approved in writing by the Local Planning Authority prior to the start of the site investigation survey.
  - (c) A Remediation Statement, detailing the recommendations and remedial measures to be implemented within the site.

Any works identified in these reports shall be undertaken when required with all remedial works implemented by the developer prior to occupation of the dwelling. On completion of the development/remedial works, the developer shall submit written confirmation, in the form of a Verification Report, to the Local Planning Authority, that all works were completed in accordance with the agreed Remediation Statement.

11. No development shall commence until a detailed, final surface water sustainable drainage strategy for the site has been submitted to and approved in writing by the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the sustainable drainage and principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly and for the avoidance of doubt the site shall be drained via separate systems for the disposal of foul and surface water.

The details of the drainage strategy to be submitted for approval should include, as a minimum:

- Details of whether the site is greenfield or previously developed in terms of drainage
- Assessment of the hierarchy of drainage options
- Details of the contributing area
- Restricted discharge rate
- On-site surface water storage
- Allowances for climate change and urban creep
- Above ground, multifunctional SuDS components
- Arrangements for management and maintenance

The sustainable drainage strategy shall be implemented in accordance with the approved details prior to the first occupation of the dwelling and retained as such thereafter.

**END OF CONDITIONS**