



Appeal Decision

Site visit made on 10 April 2024

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

Appeal Ref: APP/T2350/W/23/3335737

Land adjacent to 110 Ribchester Road, Clayton Le Dale, Blackburn, Lancashire, BB1 9HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Skoczen against the decision of Ribble Valley Borough Council.
 - The application Ref is 3/2023/0321.
 - The development proposed is one self-build dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for one self-build dwelling at land adjacent to 110 Ribchester Road, Blackburn, BB1 9HQ in accordance with the terms of the application, Ref 3/2023/0321, subject to the conditions in Annex A.

Procedural Matters

2. The application was made in outline with only access to be determined at this stage. I have determined the appeal on this basis, treating the proposed site plan as illustrative other than in relation to the access.
3. It has been suggested there are restrictive covenants on the land. Whilst if this is the case it may have implications for implementation, in determining the appeal I have only had regard to the planning merits of the case.

Main Issue

4. The main issue in the appeal is whether or not the site is a suitable site for housing having regard to the development plan policies for the location of new development.

Reasons

5. The appeal site is part of an area of agricultural land that forms a gap between 110 and 126 Ribchester Road. It is located outside, but close to, the settlement boundary for Wilpshire as shown on Inset 14 of the Proposals Map that accompanies the *Housing and Economic Development Development Plan Document (adopted October 2019)*. This indicates that the boundary runs between 108 and 110 Ribchester Road. As such, for planning policy purposes the site forms part of the open countryside.
6. Key Statement DS1 of the *Ribble Valley Core Strategy (adopted December 2016)* (CS) sets out the development strategy for the borough. It seeks to direct new housing primarily to the three principal settlements in the districts.

Wilpshire is identified as a Tier 1 Village in DS1. These villages are stated to be the more sustainable of the 32 defined settlements and therefore considered suitable for some housing growth.

7. CS Policy DMG2 indicates that outside of the settlement boundaries development should be for one of a small number of types of development that it lists. In addition, Policy DMH3 of the CS sets out the circumstances when dwellings may be appropriate in the open countryside. It is no part of the appellant's argument that the development would comprise any of the forms of development listed in either of these two policies.
8. As a result, the proposal would be contrary to the development strategy of the CS and would conflict with Policies DMG2 and DMH3.

Other Matters

Self-build housing considerations

9. The proposal would be for a self-build property and is accompanied by a signed Unilateral Undertaking that would ensure that any development of the site would be a form of development that accords with the legal definition of self-build and custom housebuilding as defined in the *Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)* 'the Act'.
10. The Act requires that within the three years following each base period an authority must give development permissions for the carrying out of self-build and custom housebuilding on enough serviced plots to meet the demand for such housing in the authority's area in each base period.
11. I have been provided with differing figures for both the demand for, and supply of, self-build and custom housebuilding in the borough by the appellant and the Council. However, section 123 of the Levelling-up and Regeneration Act 2023 which came into force on 31 January 2024 made changes to the way both the demand and supply of self-build and custom housebuilding are to be calculated.
12. Demand is evidenced not by the number of people on the register at any one time but by the number of entries added to the register in each base period. Whilst authorities may remove individual details from the register, the number of entries remains the same, and retrospective removal of an entry does not reduce the demand figure. Moreover, unmet demand is now cumulative, so any demand that has not been met within the three year compliance period does not dissipate but rolls over and remains part of the demand that an authority has to meet.
13. In addition, the recent amendments mean that a development permission now only counts in meeting the duty if it is actually for self-build or custom housebuilding – a permission is no longer considered suitable if the development could include self-build and custom housing. Whilst regulations are still awaited that will define exactly what can be counted as a development permission, the government have indicated that it is likely to require that for a permission to count it will need to be characterised by a condition or planning obligation making that requirement explicit.
14. As such, it is clear the intention is that only land specifically for self-build or custom housebuilding qualifies towards a grant of permission to meet demand.

This change means that it is no longer reasonable to count extant outline planning permissions as meeting the definition unless they have a mechanism attached to them to secure the development is restricted to self-build and custom housebuilding.

15. I have not been supplied with the number of entries on the register for each of the base periods since the requirements of the Act began, although the appellant has supplied evidence of the number of entries on the register for the 5 base years between 2017/18 – 2021/22. These are 16, 14, 8, 12 and 15 respectively. In addition, they have indicated that only 1 planning permission has been granted for self-build or custom housebuilding secured by a legal agreement or condition. This is for a single dwelling. These figures were all supplied to the appellant by the Council.
16. Consequently, whilst I do not have an accurate figure for the demand for self-build and custom housebuilding in the authority, on the basis of the evidence that is before me in relation to demand and supply, it would appear that demand is significantly greater than the Council estimates. Furthermore, given that only one dwelling has been granted permission that qualifies towards meeting this demand, and unmet demand has to roll over, it is likely that demand is likely to increase in forthcoming years.
17. In the light of this, although the appeal scheme is only for 1 dwelling, I consider that substantial weight should be given to the fact that it is a self-build dwelling that would contribute towards meeting the significant demand for such housing in the borough.

Accessibility to services and facilities

18. Although located just outside the settlement boundary, the appeal site lies within easy walking distance of the primary school, village hall, church, public house and bus stops in both directions. The latter are served by an hourly service to Preston and Blackburn 6 days a week from around 7am to 8pm. There is also a two hourly service on a Sunday from approximately 8.30am to 6.30pm. Thus, future occupiers would not be solely reliant on the private car for all their day-to-day needs.
19. The Council has raised no concerns with regard to the proposed access and the plans show that satisfactory visibility splays can be provided. So, I agree with this conclusion. Whilst in the immediate vicinity of the site there is only a pavement on the other side of the road, as there is adequate visibility people would be able to cross the road to this safely.

Character and appearance

20. Although the appeal site forms part of a wider field and currently has an agricultural character, it is located between two houses that form part of a ribbon of development that on this side of the road continues all the way to the junction of Ribchester Road with the A59. The development of the site would be seen as a natural extension of the row of houses on this side of the road. Whilst it would change the character of this part of the field, visually it would not be seen as an incongruous incursion into the countryside.
21. Although the scale, layout, appearance and landscaping are reserved for future consideration, I see no reason why the development of the site for a dwelling could not be achieved in a way that would respect the character and

appearance of the surrounding area. As a result, in this regard the proposal would not conflict with the requirement in Policy DMG2 that developments in the open countryside should be in keeping with the character of the landscape and acknowledge the special character of the area through its size, design, materials, landscaping and siting. Moreover, the development would be of a scale commensurate to the size of the existing settlement.

Conclusion and Conditions

22. The proposal would be contrary to the development strategy of the CS and would conflict with CS Policies DMG2 and DMH3. However, the proposal would be a self-build dwelling. Given the likely level of unmet demand for such housing in the borough this is a material consideration to which I give substantial weight. Moreover, although outside the settlement boundary the appeal site is within walking distance of a range of services and facilities meaning that future occupiers would not be totally dependent on the private car to meet all their day-to-day needs. The proposal would also not unacceptably harm the character of the landscape or the area. I consider that, in this instance, these material considerations outweigh the conflict with the development plan.
23. I note the evidence from both sides as to whether the policies of the development plan should be considered out of date because they do not take account of the requirements of the Act, and therefore whether or not paragraph 11d of the *National Planning Policy Framework* is engaged. However, in the light of my conclusion above it is not necessary for me to consider this further.
24. For the reasons set out above, I conclude the appeal should be allowed.
25. In addition to the standard implementation and reserved matters conditions (conditions 1 - 3), to provide certainty it is necessary to define the plans with which the scheme should accord (condition 4). Condition 5 is necessary to safeguard the development from any potential contaminated land and condition 6 is required in the interests of ecology. Condition 7 is necessary in the interests of the character and appearance of the area.
26. To ensure the site is satisfactorily drained condition 8 is imposed. Condition 9 is required to ensure any matters of archaeological interest are found and recorded. For highway safety reasons conditions 10-13 are required. However, I have not imposed suggested condition 7 as it relates to a matter that is covered by the Building Regulations.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 2283; Existing Site Plan Drawing No 2283-01; and Proposed Site Plan Drawing No 2283-02; but only in respect of those matters not reserved for later approval.
- 5) No development hereby permitted shall commence until a desk study to investigate and assess the risk of the potential for on-site contamination has been submitted to, and approved in writing by, the local planning authority. If the desk study identifies potential contamination, a detailed site investigation shall be carried out in accordance with a written methodology, which shall first have been submitted to, and approved in writing by, the local planning authority. If remediation measures are then considered necessary, a scheme for decontamination of the site shall be submitted to, and approved in writing by, the local planning authority and the approved scheme implemented prior to the development of the site. Any changes to the agreed scheme must be approved in writing by the local planning authority prior to any works being undertaken.
- 6) Notwithstanding the submitted details, no development hereby permitted, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until details of habitat provisions to be made for protected species (artificial bird nesting boxes and artificial bat roosting sites/provision) have been submitted to, and approved in writing by, the local planning authority. The approved artificial bird/bat box details shall be provided in accordance with the approved details before the dwelling is occupied and shall thereafter be retained as such.
- 7) Prior to the submission of a reserved matters application relating to layout, or simultaneously with that reserved matters application, details of the existing and proposed ground, slab and finished floor levels shall be submitted to, and approved in writing by, the local planning authority. The development shall be constructed and completed in accordance with the approved details.
- 8) No development hereby permitted, other than demolition works, shall take place until full details of the surface and foul water drainage systems for the site have been submitted to, and approved in writing by, the local planning authority. The detailed surface water scheme shall be based

upon the sustainable drainage 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. The drainage system shall subsequently be implemented in accordance with the approved details before the development is completed and shall be retained as such thereafter.

- 9) No development hereby permitted shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological works. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to, and approved in writing by, the local planning authority.
- 10) The visibility splays shown on Proposed Site Plan Drawing No 2283-02 shall be provided prior to first occupation of the dwelling hereby permitted and shall not at any time thereafter be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height of 1 metre above the crown level of the adjacent highway.
- 11) Before the access is first used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be surfaced in tarmacadam, concrete, block paviors, or other permanent hard surfaced material.
- 12) Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), any gateposts and associated mechanisms erected at the point of access shall be positioned within the site outside the adopted highway and any gates shall at all times open away from the highway
- 13) Prior to first occupation of the dwelling hereby approved, the off-site works of highway improvement, namely widening of the site access, shall be carried out.