



## Appeal Decision

Site visit made on 18 August 2021

by **S. Ashworth BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2021

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**Appeal Ref: APP/T2350/W/21/3274950**

**Land adjacent to Woodlands Brook, Whalley Road, Mellor Brook BB2 7HY**

- 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 Derek Hearle, Hearles Builders and Contractors against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2020/0668, dated 3 August 2020, was refused by notice dated 24 November 2020.
  - The development proposed is construction of 2 No. houses and 3 No. apartments.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:
  - Whether the site is a suitable location for housing having regard to local and national policy;
  - The effect of the proposal on the character and appearance of the area, including its effect on trees protected by a Tree Preservation Order.

### Reasons

*Whether the site is a suitable location for housing having regard to local and national policy*

3. The appeal site comprises two separate parcels of land fronting Whalley Road, separated by a recent development of five houses. The appeal seeks permission to construct two further houses on land to the east of that development and a single unit of three apartments to the west.
4. It is not disputed by the main parties that the site lies outside the defined settlement boundary. Therefore, although the site is bound to the front and rear by roads and to the side by housing, the site is within the open countryside for planning purposes.
5. Policy DS1 of the Council Core Strategy, adopted in 2014, sets out a development strategy for the area and indicates that the majority of new housing in the borough will be within allocated sites, principal settlements and Tier 1 settlements which are considered more sustainable than others. Policy DMH3, requires that within areas of open countryside such as this residential development will be limited to development essential for the purposes of

agriculture or residential development which meets an identified local need. Local needs housing is the housing developed to meet the needs of existing and concealed households living within the parish and surrounding parishes. The officer's report indicates that such housing should be affordable.

6. The Council has indicated there are 50 local people on the waiting list for affordable housing, although this is disputed by third parties, and the appellant has submitted a draft planning obligation to demonstrate that the three apartments would be secured as affordable housing. However, it appears that the obligation is in the early stages of preparation and it is not dated or signed. In addition, there is nothing in the documentation that would ensure the occupation of the dwellings by local people in perpetuity. Accordingly, there is no mechanism before me by which the affordable units, to meet a local need, would be secured.
7. Notwithstanding this, even if these matters had been resolved, two of the houses proposed on the site would be open market housing, not available as local needs housing. On that basis, the proposal as a whole does not meet the criteria in Policy DMH3 for development outside the settlement boundary. Whilst I acknowledge the appellant's point that over 30% of the site would be affordable housing, this is not the test of the policy.
8. I understand that the five units on the adjoining site are open market housing despite the site being outside of the settlement boundary. I do not have the full details of the circumstances that led to that decision but from what I have read it seems that at the time permission was granted, the Council could not demonstrate a 5 year supply of housing land. Accordingly, the settlement strategy policies would have been deemed out of date at that time and the balance of considerations would have been different. The appellant does not dispute that the Council can now demonstrate a 5 year housing land supply and as such the 'tilted balance' as set out in the National Planning Policy Framework does not apply to this case. Accordingly, the granting of permission for the dwellings on the adjoining site does not indicate that permission should be granted in this case.
9. I therefore conclude on this issue that the site is not a suitable location for housing and in that respect the proposal is contrary to Policies DS1 and DMH3 of the Core Strategy as set out above.

#### *Character and appearance*

10. Whalley Road is a cul-de-sac with no through traffic. Beyond the settlement boundary development is sporadic rather than continuous and the gaps and views of the countryside beyond as well as trees visible from the street contribute to the area's quiet semi-rural character. The construction of the five substantial dwellings adjacent to the site has undoubtedly changed the appearance of the area. Nevertheless, the drystone walling, the set back of the development from the highway and the well-treed nature of the area has helped preserve the area's character.
11. The site to the east of the new dwellings is elevated above road level and comprises open grassland bound by trees to the rear and a dry stone wall to the front. An oak tree protected by a Tree Preservation Order lies to the eastern end of the site. Two detached dwellings of a similar size and design as

the new dwellings and positioned roughly in alignment with them are proposed on this parcel of land. The dwellings would both have a direct access from the road.

12. I have taken into consideration the Council's concern that the development would appear cramped. Whilst the depth of the rear gardens would be limited, both properties would have some garden space to the front and Plot 1 would have a generous side garden. As such I am unconvinced that the development would appear cramped. However, the proposed development, set in an elevated position and closer to Whalley Road than the existing dwellings, would be highly prominent in the street scene as a result of the significant size and scale of the buildings. I understand that the proposed size of the buildings has been reduced from an earlier scheme. Nevertheless because of their siting they would appear more dominant than the existing development. The development would be constructed away from the protected oak tree, which would thus be preserved. However, this in itself would not mitigate against the effect of the development on the character of the area.
13. The western part of the site comprises a wooded area which slopes steeply down from the new houses towards Mellor Brook. The trees, which are predominantly Hawthorn, Oak and Ash are visible along Whalley Road and make a significant positive contribution to the character and appearance of the area. Several trees have been removed from the site and a small clearing close to the road created. A replating scheme is required as part of a management plan<sup>1</sup> and once the new trees are established, the appearance of the woodland should be restored and provide an ongoing benefit to the street scene.
14. The one-bedroomed apartments would be housed within a part single, part two-storey building sited close to the road behind a shared parking area. No objections have been raised by the Council to the design of the building in itself. However, it seems to me that the development would appear cramped and incongruous against the backdrop of the wood and would not reflect its context. The construction of retaining walls in a woodland setting would also be at odds with the natural, sylvan character of the area.
15. The appellant's Arboricultural Impact Assessment indicates that a number of trees would be removed to facilitate the development. I note the consultant's advice that the trees to be removed are of poorer quality than others and that the Ash may suffer from dieback in the future. However, there is no evidence that all those trees listed are suffering from disease at present and whilst they may be of moderate value in themselves, they nevertheless contribute to the density and depth of the woodland and to biodiversity. It is intended to retain a mature Oak tree close to the eastern boundary of the plot (T6). However, I share the Council's concern that there is insufficient evidence about the depth and siting of retaining walls to draw an accurate conclusion about the impact of the development on that tree. I acknowledge that the appellant intends to replace those trees that are felled elsewhere within the site. Nevertheless, the areas identified for replanting, other than the group at the front corner, are further back into the site and as such, even when

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<sup>1</sup> Planning application ref: 3/2019/0317

established, the replacement trees are unlikely make the same contribution to the streetscene.

16. Moreover, the close proximity of the development to the retained trees will mean that the apartments are likely to be gloomy, particularly at the rear, and this is likely to be exacerbated once replanting is undertaken. For that reason, and as a result of perceived danger from falling trees, the Council is likely to be under pressure from future residents of the apartments to allow more trees to be felled. For these reasons, the integrity of the woodland and its value to both biodiversity and the character and appearance of the area would be significantly undermined.
17. Therefore, considered as a whole, the proposed development would cause significant harm to the character and appearance of the area.
18. For these reasons the proposal would be contrary to Policies DMG1, DME1, DME2, DME3 and EN4 of the Core Strategy which seek, amongst other things, to ensure that development considers its relationship to surroundings including impact on landscape character and features and maintains broadleaved woodland.

### **Other Matters**

19. I have taken into consideration concerns by Balderstone Parish Council and local residents about the impact of the proposal on highway safety and parking provision and on living conditions. Whilst the proposal would generate additional traffic along Whalley Road I am unconvinced on the basis of the evidence before me that it would cause a danger to highway safety. Given the relative positions of the development to existing housing I am satisfied that there would be no undue loss of privacy to local residents.

### **Planning Balance**

20. The proposal would provide 5 additional units of residential accommodation, 3 of which would be affordable houses, as such contributing, albeit to a limited extent, to the supply of housing in the Borough. These matters carry limited weight in favour of the proposal. On the other side of the balance the proposal would not accord with the Council's settlement strategy and would cause considerable harm to the character and appearance of the area including through the loss of protected trees. These matters carry significant weight. Accordingly, the benefits of the scheme do not outweigh the harm. As such material considerations do not indicate that permission should be granted contrary to the Council's adopted policies.

### **Conclusion**

21. Therefore, for the above reasons and taking into account all other matters raised, the appeal is dismissed.

*S Ashworth*

Inspector