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# Appeal Decision

Site visit made on 27 April 2022

**by R Morgan BSc (Hons) MCD MRTPI**

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

**Decision date: 12 May 2022**

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**Appeal Ref: APP/T2350/W/21/3278899**

**2 Whiteacre Lane, Barrow, CLITHEROE, BB7 9BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Westell against the decision of Ribble Valley Borough Council.
- The application Ref 3/2021/0471, dated 30 April 2021, was refused by notice dated 4 June 2021.
- The application sought planning permission for the construction of one new two storey dwelling and associated works without complying with a condition attached to planning permission Ref 3/2020/1017, dated 1 February 2021.
- The condition in dispute is No 2 which states that:

*Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:*

*Location Plan 1337-PL01C*

*Existing Site Layout 1337-PL02C*

*Existing Storage Building 1337-PL03*

*Proposed Site layout 1337-PL04E received 25.01.2021*

*Proposed Ground Floor Plan 1337-PL05B received 25.01.2021*

*Proposed First Floor Plan 1337-PL06D received 25.01.2021*

*Elevations (Sheet 1 of 2) 1337-PL07D received 25.01.2021*

*Elevations (Sheet 2 of 2) 1337-PL08D received 25.01.2021*

*Indicative Site Sections 1337-PL11B received 25.01.2021*

- The reason given for the condition is:  
*For the avoidance of doubt and to clarify which plans are relevant to the consent.*

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## Decision

1. The appeal is allowed and planning permission is granted for the construction of one new two storey dwelling and associated works at 2 Whiteacre Lane, CLITHEROE, BB7 9BJ in accordance with the terms of the application, Ref 3/2021/0471, dated 30 April 2021, subject to the attached schedule of conditions.

## Preliminary Matter

2. The Council granted planning permission on 1 February 2021 for the construction of a new dwelling on land to the rear of 2 Whiteacre Lane, subject to conditions (ref 3/2020/1017). The appeal proposal seeks to alter the design of the approved dwelling to allow the incorporation of a turret feature; the

removal of an existing outbuilding, and the construction of a new double garage, which would be linked to the house. These changes are sought through the variation of condition 2 of the consent scheme, which specifies plans. No changes are proposed to the other conditions.

### **Main Issue**

3. The main issue is the effect of varying the condition on the character and appearance of the area.

### **Reasons**

4. The appeal site is located on land to the rear of 2 Whiteacre Lane in a residential area. The site is enclosed by the surrounding properties and has no direct frontage onto the road.
5. Many of the nearby dwellings are of a simple form characteristic of a rural area, such as the large, detached stone houses nearby on Whalley Road, and the rows of terraced properties on the other side of Whiteacre Lane. Similarly, the new development of bungalows on Stonewater Close, which back onto the appeal site, are uniform and unfussy in appearance. However, this simplicity of form is by no means universal, and the houses currently under construction on the west side of Whalley Road are more suburban in appearance, with prominent gable features and hipped roofs.
6. Indeed, the overall impression of the surrounding area is that there is considerable variation in the age and appearance of properties, with no single style or type predominating. That said, turrets are not a commonly found design feature within the surrounding or wider area.
7. The consented dwelling on the appeal site would be built over two storeys with accommodation in the roof space. The materials would reflect those found in the surrounding area, but the design of the approved dwelling, with its angled plan form and significant glazing in the central section, would be different in appearance from the properties that surround the site. This would be further accentuated by the proposed turret feature. However, the surrounding area already displays significant variation, so is capable of accommodating different design approaches without necessarily causing harm to the character of the area.
8. The proposed turret would be sited within the central courtyard area, partially enclosed by the two arms of the building. The feature would not be excessively large or out of scale with the host dwelling, with the top point of the roof only slightly higher than the main ridge.
9. Owing to the enclosed nature of the appeal site, the proposed dwelling and turret would not be widely visible from the surrounding streets. It would not be seen from Whiteacre Lane, and from Whalley Road, the house would be well set back behind Hill House. Only the very tip of the roof would be visible from Whalley Road, and then only in glimpse views.
10. The consented scheme provides for access to the new house via a gap between the recently constructed bungalows on Stonewater Close. The house and proposed turret feature would be visible through this gap, but the development would be well set back from the street, with adjacent buildings and trees

providing a reasonable amount of screening. As a result, views from Stonewater Close would be brief and restricted.

11. One of the new bungalows on Stonewater Close backs onto the appeal site and faces directly towards the proposed house, in close proximity to it. The turret would be visible from that property, but the existing boundary fence provides screening from the rear windows. In as far as it would be visible from the adjacent bungalow, the turret feature would not be seen as an isolated feature, rather it would be viewed in the context of the building which it would be contained within.
12. Given the variety of building types in the area, and the restricted degree to which the proposed turret would be visible in the wider area, any harm to the character of the area would very limited, and would not justify dismissing the scheme.
13. The Council has confirmed that the proposed garage and link would be acceptable, and I have no reason to disagree.
14. I conclude that the proposed variation to condition 2 would not cause undue harm to the character and appearance of the area. As such, it would not conflict with the design requirements of Policy DMG1 of the Core Strategy 2004.

### **Other Matters**

15. The proposed turret and link formed part of a scheme which was previously refused by the Council (3/2020/0566), in part on the grounds of design. The appellant could have appealed against that decision but chose not to, and instead pursued an amended scheme which was subsequently granted permission.
16. The legislation allows for an application to vary conditions on an existing grant of planning permission, and the appellant were within their rights to take this course of action. Although the application has been submitted under a different part of the legislation, this does not alter the main issue against which the proposal has been assessed, namely the effect on the character and appearance of the area. For the reasons given above, I have found the scheme to be acceptable.

### **Conclusion**

17. I conclude that the appeal should be allowed and condition 2 varied, as set out in the attached schedule. None of the other conditions are disputed, and as they are still necessary, I have restated them in the interests of clarity.

*R. Morgan*

INSPECTOR

## Schedule of Conditions

1. The development hereby submitted shall be commenced before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Location Plan 1337-PL01C  
Existing Site Layout 1337-PL02C  
Existing Storage Building 1337-PL03  
Proposed Site layout 1337-PL04F  
Proposed Ground Floor Plan 1337-PL05D  
Proposed First Floor Plan 1337-PL06F  
Elevations (Sheet 1 of 2) 1337-PL07F  
Elevations (Sheet 2 of 2) 1337-PL08F  
Proposed Garden Areas 1337-PL10E  
Proposed Site Layout – Interface Distances 1337-PL09E  
Indicative Site Sections 1337-PL11C

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. Notwithstanding the submitted details, precise specifications or samples of external facing and roofing materials shall have been approved before their use in the proposed development. The materials shall be implemented within the development in strict accordance with the approved details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the materials used are visually appropriate to the locality.

4. Prior to the commencement of any development, full details of the alignment, height and appearance of all fences and walls to be erected to the site boundaries (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied or land used pursuant to this permission before all walls and fences have been erected in accordance with the approved details. Fences and walls shall thereafter be retained in accordance with the approved details at all times.

Reason: To ensure a visually satisfactory form of development and to protect the amenities of occupiers of nearby property.

5. The garage shown on the approved plans shall be maintained as such and shall not be converted to or used for living accommodation or any trade or business purposes unless otherwise agreed to in writing by the Local Planning Authority.

Reason: In order to safeguard the residential amenity and character of the area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, amending or re-enacting that Order) any future extensions and/or alterations to the dwelling including any development within the curtilage as defined in Schedule 2 Part 1 Classes A to H shall not be carried out without the formal written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents.

7. Prior to commencement of any site works including delivery of building materials and excavations for foundations or services all trees to be retained (as identified in the Arboricultural Impact Assessment Overview by Bowland Tree Consultancy Nov 2020) shall be protected in accordance with the BS5837:2012 [Trees in Relation to Demolition, Design & Construction].

The protection zone must cover the entire branch spread of the trees, [the area of the root soil environment from the trunk to the edge of the branch spread] and shall remain in place until all building work has been completed and all excess materials have been removed from site including soil/spoil and rubble. During the building works no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection/exclusion zone, in addition no impermeable surfacing shall be constructed within the protection zone.

No tree surgery or pruning shall be implemented without prior written consent, which will only be granted when the local authority is satisfied that it is necessary is in accordance with BS3998 for tree work and carried out by an approved arboricultural contractor.

Reason: In order to ensure that any trees affected by development and considered to be of visual, historic or botanical value are afforded maximum physical protection from the potential adverse effects of development.

8. Any removal of vegetation including trees and hedges shall be undertaken outside the nesting bird season [March - August inclusive].

Any removal of vegetation outwith the nesting bird season shall be preceded by a pre-clearance check by a licensed ecologist on the day of removal.

Reason: To ensure that there are no adverse effects on the favourable conservation status of birds.

9. Before the first occupation of the dwelling hereby permitted, the ground floor windows in the south-facing elevation of the existing ancillary garden building associated with 2 Whiteacre Lane shall be fitted with non-opening, obscure glazed units and shall be retained as such at all times thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority.

Reason: To ensure the protection of privacy for neighbouring occupiers, and in the interests of residential amenity.

10. The parking and garaging and associated manoeuvring facilities shown on the plans hereby approved shall be surfaced or paved, drained and marked out and

made available in accordance with the approved plan prior to the occupation of any of the buildings.

Reason: To ensure provision of adequate off-street parking facilities within the site.

11. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include: (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water; (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and (iii) A timetable for its implementation. The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

12. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

13. The first-floor windows on elevations C and H of the dwelling hereby permitted (as identified on the approved plans) shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority.

Reason: In the interests of the privacy of occupiers of neighbouring property.