

**APPEAL BY MR R EMMETT AGAINST THE DECISION OF THE COUNCIL TO REFUSE
(A) DETAILS SUBMITTED PURSUANT TO CONDITION 4 OF PLANNING PERMISSION
19/00472/FUL; AND
(B) PLANNING PERMISSION FOR THE DEMOLITION OF EXISTING DWELLING AND
ERECTION OF A REPLACEMENT DWELLING WITHOUT COMPLYING WITH
CONDITIONS 5, 8 AND 9 OF PLANNING PERMISISON 19/00472/FUL
16 FAIR VIEW, BOON HILL ROAD, BIGNALL END**

<u>Application Numbers</u>	(A) 19/00472/CN04 & (B) 19/00956/FUL
<u>LPA's Decisions</u>	(A) Refused on the 17th March 2020 & (B) Refused on the 3rd February 2020, both under delegated authority
<u>Appeal Decision</u>	(A) dismissed & (B) Allowed
<u>Date of Decisions</u>	21st October 2020

Background

Planning permission, reference 19/00472/FUL, for demolition of existing dwelling and erection of replacement dwelling at 16 Fair View, Boon Hill Road, Bignall End was permitted on 4th October 2019.

The permission including a number of conditions including the following:

- Condition 4 which required prior approval of the external roofing materials, proposed means of boundary treatment, and soft and hard surfacing materials.
- Condition 5 which removed permitted development rights under Classes A (enlargement, improvement or other alteration of a dwellinghouse), B (additions etc. to the roof of a dwellinghouse), C (other alterations to the roof of a dwellinghouse) and E (buildings etc. incidental to the enjoyment of the dwellinghouse) of Part 1, Schedule 2 of the General Permitted Development Order.
- Condition 8 requiring any gates to be located a minimum of 5m rear of the carriageway edge and to open away from the highway.
- Condition 9 requiring that any boundary treatment forward of the visibility splays shown on the approved drawings shall not exceed 600mm in height above the carriageway.

An application for details reserved by condition 4 of planning permission 19/00472/FUL (reference 19/00472/CN04) and an application (19/00956/FUL) for removal of conditions 5, 8 and 9 of planning permission 19/00472/FUL were refused earlier this year.

Appeal Decision (A)

The Inspector identified the main issue as the effect of the proposed roofing materials on the character and appearance of the area.

The Inspector considered that the proposed ceramic roof tiles were an acceptable colour but the reflective surface of the tiles made them appear lighter and markedly different to the roofs of the surrounding houses. It was concluded that the proposed roofing material would cause harm to the character and appearance of the area.

Appeal Decision (B)

Condition 5

The Inspector indicated that there is nothing in the National Planning Policy Framework (NPPF) which indicates that extensions or outbuildings allowed under permitted development rights should be restricted. He noted that there was no particular qualities relating to the area

or to the replacement dwelling, once constructed, which require special protection to the extent that permitted development rights under Classes A, B and C should be withdrawn.

Permitted development rights afforded by Class E could, if used, to their maximum extent allow a large area to be occupied by further outbuildings, enclosures and containers in the Inspector's opinion. Given the size of the site, such buildings and structures could cause harm to the character and appearance of the area, which is identified in Local Plan policy N20.

The Inspector concluded that restrictions of permitted development rights under Classes A, B and C is not necessary or reasonable. However this does not apply to the restrictions of rights under Class E. Condition 5 was revised by the Inspector to make the necessary changes.

Conditions 8 & 9

The Inspector noted that the submitted plans do not show any gates, but if they were installed condition 8 requires they are sited 5m to the rear of the carriageway edge and open inwards. Taking account of circumstances along this stretch of road, in particular the amount of traffic and the narrow carriageway, the Inspector considered that measures to avoid vehicles blocking the road are justified. He therefore concluded that condition 8 is reasonable and necessary and should be retained.

The Inspector considered that the maintenance of visibility splays, as required by condition 9, is important to ensure highway safety for all users given the nature of the road. Condition 9 is necessary therefore, however the visibility splay crosses part of the neighbour's property and as such the Inspector considered the condition as not reasonable, because full compliance with it is beyond the appellant's control. As the condition does not meet the six tests set out in paragraph 55 of the NPPF the Inspector removed it.

The planning decisions setting out the reasons for refusal and the appeal decision can be viewed via the following links

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00472/CN04>

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00956/FUL>