

Planning Appeals Update

Planning Committee

Report of Head of Planning and Infrastructure

DATE OF COMMITTEE

October 2019

PLANNING APPEALS

WRITTEN REPRESENTATION

HEARINGS

HOUSE HOLDER

ADVERTISEMENTS

APPEAL DECISIONS

PA/342434/18	Land adjacent 73 Grains Road, Delph, OL3 5DS
Original Decision	Del
Appeal Decision	Dismissed
HH/342795/19	1 Warwick Road, Failsworth, Manchester M35 0QQ
Original Decision	Del
Appeal Decision	Part Allowed – Part Dismissed
HH/342969/19	19 Cherry Grove, Royton, Oldham, OL2 5YL
Original Decision	Del
Appeal Decision	Dismissed

RECOMMENDATION - That the report be noted.

The following is a list of background papers on which this report is based in accordance with the requirements of Section 100D (1) of the Local Government Act 1972. It does not include documents, which would disclose exempt or confidential information as defined by that Act.

Files held in the Development Control Section

The above papers and documents can be inspected from 08.40am to 4.30pm on level 12, Civic Centre, West Street, Oldham.



Appeal Decision

Site visit made on 20 August 2019

by **E Symmons BSc (Hons), MSc**

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/W4223/W/19/3231084

Land adjacent 73 Grains Road, Delph OL3 5DS

- 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 Alison Broadbent against the decision of Oldham Metropolitan Borough Council.
 - The application ref PA/342434/18, dated 10 October 2018, was refused by notice dated 21 December 2018.
 - The development proposed is for demolition of garages and construction of two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refers to a previous version of the National Planning Policy Framework¹ (the Framework) within its submissions. As the policy content has remained unchanged, I have had regard to the revised Framework in my decision and I am satisfied this has not prejudiced either party.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the Delph Conservation Area;
 - the effect of the proposal on the safety of road users;
 - the effect of the proposal on the living conditions of future occupiers with respect to access to outdoor amenity space; and
 - if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

¹ National Planning Policy Framework, February 2019.

Reasons

Whether inappropriate development in the green belt

4. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, other than for several exceptions. Policy 1 of the Oldham Local Development Framework 2011² (LDF) seeks that the Green Belt is maintained. Policy 22 of the LDF in common with the Framework states that the main purpose of the Green Belt is to keep land permanently open. Paragraph 145 exception (g) states that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development, would not be inappropriate. As the site currently has six derelict garages upon it, and the proposal would involve demolition of the garages and replacement with two dwellings, the land can be considered as previously developed. The issue of openness therefore needs to be assessed.

Openness

5. The appeal site is on the edge of the village of Delph and consists of a level area situated behind a stone wall and hedge at the foot of a sloping hillside. There is access from Grains Road at either end of the area via two gently sloping tracks. The site is to the west of the garden of 73 Grains Road (No 73) which, along with the short terrace of properties opposite, is the last dwelling on entering or leaving the built up part of Delph. Other than the garden of No 73, the appeal site is surrounded by countryside and has an open aspect. To the rear and west the bankside stretches upwards behind and to the side of the site consisting of rough vegetation and scattered trees. To the front, there are panoramic views across the valley stretching into the distance.
6. The proposal would replace six garages however, even if I were to consider that the proposal would sit on the same footprint as the demolished garages, the scale and mass of the proposed dwellings would have a substantially greater volume than that of the existing buildings. Screening provided by the front hedge line and any proposed landscaping would not mitigate this.
7. As observed during my site visit, due to its slightly elevated position, the first house seen on approaching the village from the west is No 73. The proposed dwellings, despite their setback from the road, would be similarly visible so reducing the openness of views from this direction. Additionally, they would extend the built edge of the village in a westerly direction. Their prominence would be increased as they would be somewhat separated from the properties which line Grains Road so setting them apart visually. The screening provided by the existing wall and hedge would not mitigate the scale and mass of the proposed dwellings on this prominent roadside site.
8. The combination of the position, mass and volume of the proposal would have a greater impact on the openness of the Green Belt in comparison with the current development and it would not fall within paragraph 145 (g) despite being on previously developed land. Furthermore, I do not consider that any of the remaining exceptions within paragraph 145 apply to this development. Due to its effect upon openness the proposal would constitute inappropriate

² Oldham Local Development Framework. Development Plan Document-Joint Core Strategy and Development Management Policies. Adopted 9 November 2011.

development in the Green Belt which according to paragraph 143 of the Framework is, by definition, harmful. This would conflict with Policies 1 and 22 of the LDF.

Character and appearance of the conservation area

9. The appeal site is within Delph Conservation Area (CA) and the proposal must be considered within the context of S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay particular attention to the desirability of preserving or enhancing the character and appearance of the CA. The properties in the vicinity are generally stone built and slate roofed although No 73 itself is brick built. Front boundary treatment generally comprises a traditional stone wall with a small front garden above with associated planting. Despite the somewhat derelict nature of the garages which detract from the appearance of the area, the appeal site marks the end of the built environment and provides an open outlook to this part of the CA and ensures its rural character.
10. The proposed materials, design and boundary treatment would be appropriate to the local character. The appellant has drawn my attention to a new dwelling at 33 Grains Road which has been constructed with traditional materials and design. This property differs from the proposal before me as it sits between two other dwellings and forms an integral part of the streetscape. This contrasts with the proposed scheme which, due to its scale and mass, would be an incongruous addition to the CA which would, by virtue of its extension of the built form of Delph into this area of countryside character, harm the setting of this part of Delph. This would be highlighted by its separation from the other houses on Grains Road, the extension of ribbon development into the open countryside and the prominence of the site. Although the garages are currently a negative feature within the CA they are relatively low and partially screened by the hedge. Their removal would be a benefit however, it is possible that this benefit could be achieved in other ways.
11. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a CA, great weight should be given to the asset's conservation. That is still so, irrespective of whether the potential harm is 'less than substantial'. The appeal site makes a positive contribution to the character and appearance of the designated heritage asset and the harm this proposal would have to the significance of the CA would be 'less than substantial'. In accordance with paragraph 196 of the Framework, the public benefit must be balanced against any harm found. The appellant has indicated that the proposal would allow close family to remain in the area. Although I recognise that this is an important benefit to the appellant, there is little public benefit to be gained. Therefore, in accordance with paragraph 196 of the Framework, there would be almost no public benefit to outweigh the harm to the CA.
12. I consider that the proposal would not preserve or enhance the character of the CA. It would conflict with Policies 9, 20 and 24 of the LDF which together and amongst other matters seek that development does not adversely affect the character and appearance of the local landscape including the CA. I attribute this harm substantial weight within my decision.

Safety of road users

13. The proposal shows four parking bays to the front of the properties in a linear formation with an entrance/exit at either end. The proposed driveways would sit at the bottom of a hill on the western approach to the village. Technical advice from the Highway Officer suggests that cars would need to reverse on to the highway from a parallel position which would be unsafe. Drawing SSL:18696:200:1:1 shows a turning 'cut out' for vehicles, however, no substantive evidence has been submitted by the appellant to demonstrate how manoeuvres would be achieved when all four spaces are occupied. In these circumstances it is likely that awkward manoeuvres on to the highway would occur. Although the site has historically provided parking for six cars, these were all within separate garages set at right angles to the highway with each garage being able to gain unimpeded access to the highway as they operated independently. In contrast, the proposed parking would be linear with innermost cars unable to manoeuvre without first moving the outermost cars.
14. During my site visit I observed the current limited visibility splays from the existing site accesses. Technical advice from the Highway Officer suggests that, irrespective of the direction of travel when exiting the proposed driveways, the visibility splays would be obstructed by vegetation and the bankside. Notwithstanding an undertaking by the appellant to cut down vegetation, no substantive evidence to confirm the presence of appropriate visibility splays involving consideration of the bankside and stone walls has been provided.
15. Due to the lack of a footway outside the appeal site the main parties disagree about whether safe pedestrian access would be available. During my site visit I observed the position of the surfaced footway on the opposite side of the road. Should access for the development be made on foot, pedestrians would need to cross the road to access the footway and this would be particularly difficult for those with limited mobility. Although the speed limit at this point is 30mph, the site is at the bottom of a hill on the approach to the village. I have no evidence to assure me that pedestrians crossing at this point would not be at risk. This is not a determinative factor alone, but when combined with the lack of evidence that the parking arrangement and visibility splays are appropriate, I find that the proposal would harm highway safety. It therefore conflicts with Policy 9 of the LDF which requires that development does not harm the safety of road users. I afford this harm substantial weight within my decision.

Living conditions

16. Occupiers of the proposed dwellings would have access to level garden space to the front in addition to some space at the side. However, the space to the front would be adjacent to the car parking area and busy road which would not be ideal, and the usability of the space to the side has not been demonstrated. The Design and Access Statement references "small scale cut and fill works" to the rear of the proposed dwellings to provide a useable level area. However, no detail of this space has been provided and I have no certainty that level access would be possible.
17. I consider that the proposal has not demonstrated the availability of outdoor amenity space and this would conflict with Policy 9 of the LDF which requires that development does not harm the living conditions of future occupiers. Although outdoor amenity space is not specifically mentioned in this policy, its purpose is to ensure satisfactory living conditions across a range of factors. In

any case there would be associated conflict with paragraph 127 (f) of the Framework which seeks that proposals provide a high standard of amenity for future users. I afford this harm limited weight within my decision as it would not be a determinative issue in its own right.

Other considerations

18. Currently the garages do not make a positive contribution to the appeal site and to the character and appearance of the area. I saw evidence of fly tipping during my visit and there is asbestos sheeting within the structures. The proposal would remove the garages and these associated problems however, there may be other ways to achieve this benefit. To this end, an application ref PA/342858/19 for a single dwelling on this site was granted on 31 May 2019.
19. The proposal would have benefit by providing a nearby home for family members however, this would be a private benefit alone. The property would be on the edge of an existing settlement with access to services and facilities and there would be social benefits derived from an increase in housing supply. Additionally, economic benefits during the construction and afterwards through ongoing support for local services that new occupiers would make, would be beneficial. Due to the limited size of the development however, these benefits would not be substantial, and I afford them limited weight in favour of the proposal.

Other Matters

20. Reference has been made to application PA/342026/18 and to development at 28 and 34 Grains Road. The details of these cases are not before me and in any case, each application must be determined on its own merits.

Conclusion

21. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that all development must preserve this openness. The development would harm the openness of the Green Belt and would therefore constitute inappropriate development. The proposal would also significantly harm the character and appearance of the CA and highway safety. This, in combination with the harm to the living conditions of future occupiers is not outweighed by the other considerations presented and therefore very special circumstances do not exist. The proposal would therefore conflict with the local plan policies and those of the Framework when considered as a whole.
22. For the reasons stated above, the appeal is dismissed.

E Symmons

INSPECTOR





Appeal Decision

Site visit made on 16 September 2019

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/W4223/D/19/3232909

1 Warwick Road, Failsworth, Manchester M35 0QQ

- 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 Carl Clarke against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/342795/19, dated 14 January 2019, was refused by notice dated 18 June 2019.
 - The development proposed is a 2-storey rear extension and porch.
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Decision

1. The appeal is dismissed insofar as it relates to the 2-storey rear extension. The appeal is allowed and planning permission is granted for a porch at 1 Warwick Road, Failsworth, Manchester M35 0QQ in accordance with the terms of the application, Ref HH/342795/19, dated 14 January 2019 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: LP10035; 01250; AB01276 Sheet 3; Sheet 5; and, Sheet 6.

Background and Main Issue

2. The proposal has two distinct parts, a porch to the front elevation and a 2-storey rear extension. There is no dispute between the parties that the porch would be acceptable in terms of the character and appearance of the area and the living conditions of nearby occupiers, and I agree.
3. Therefore, the main issue is the effect of the proposed rear extension on the living conditions of nearby occupiers, with particular regard to outlook.

Reasons

4. The appeal dwelling is a traditional 2-storey brick building facing onto Warwick Road. The side elevation is joined to the rear of a similarly designed dwelling to the northwest, that faces onto Alder Road.

5. The rear elevation of the appeal dwelling and the side elevation of its joined neighbour, 42 Alder Road, are in a similar plane, with a brick chimney on the boundary. At first floor level, the windows of No 42 are obscured-glazed and do not, therefore, have an outlook.
6. However, at ground floor level, next to the boundary with No 1, there is a transparent window and part-glazed door to a habitable room, overlooking a side garden area. This side garden also contains a brick-based conservatory with an obscured-glazed roof, which is positioned next to the window and door, away from the shared boundary with the appeal dwelling. The boundary is currently marked by a solid timber panel fence, some 2.0 metres high.
7. The conservatory and boundary fence, together with a separate brick outbuilding to the northeast, largely enclose this side garden area at No 42. Whilst the conservatory has a separate outlook towards Alder Road, the aforementioned habitable room of the dwelling and the side garden area it overlooks have only a limited outlook as a result of this enclosure.
8. The proposed 2-storey extension would project some 3.0 metres from the rear elevation of 1 Warwick Road close to the boundary with No 42. Consequently, the scale, massing and position of the proposed development would be overbearing and would further restrict the limited outlook from the habitable room and the side garden area, to the detriment of the living conditions of the occupiers of No 42.
9. The proposed extension would be to the southeast of No 42 and therefore likely to restrict sunlight to the side elevation, side garden and conservatory to some extent. However, reduced natural light is not a matter of dispute between the parties and I also note the appellant's comments regarding the dual-aspect of the habitable room, which provides it with natural light.
10. The appellant refers to what they consider to be a similar existing arrangement on the Warwick Road elevation of No 42, shown on their Photograph 2. The proposed rear extension would project further than the corresponding feature on Warwick Road. The window on the Warwick Road elevation also enjoys a much better outlook towards the street across a garden area. It is not, therefore, a comparable arrangement and does not cause me to reach a different conclusion with regard to the harm to the living conditions of nearby occupiers I have identified.
11. The current occupiers of No 42 have not objected to the proposal. However, this does not affect the planning merits of the case and does not cause me to reach a different conclusion with regard to this appeal, as set out above.
12. For these reasons the proposed extension would cause unacceptable harm to the living conditions of nearby occupiers with particular regard to outlook. It would therefore conflict with Policy 9 (local environment) of the Joint Core Strategy and Development Management Policies development plan document 2011.

Conditions and Conclusion

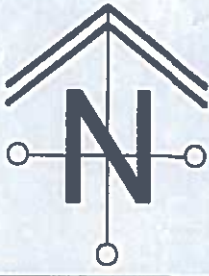
13. For the reasons given above, the proposed rear extension would not be acceptable. However, the proposed porch to the front of the main dwelling would be acceptable and it is clearly severable from the proposed rear extension. I therefore intend to issue a split decision in this case.

14. In addition to the standard time limit condition, the Council has suggested further conditions which I have considered in the light of government guidance, and in relation to the part of the proposed development hereby permitted.
15. A condition requiring the external materials to be used in the development hereby permitted to match the existing building would be necessary, in order to protect the character and appearance of the area. In order to provide certainty, a condition requiring that the development hereby permitted is carried out in accordance with the approved plans would be necessary.
16. I conclude, therefore, that the appeal should be dismissed insofar as it relates to the rear extension but allowed insofar as it relates to the porch.

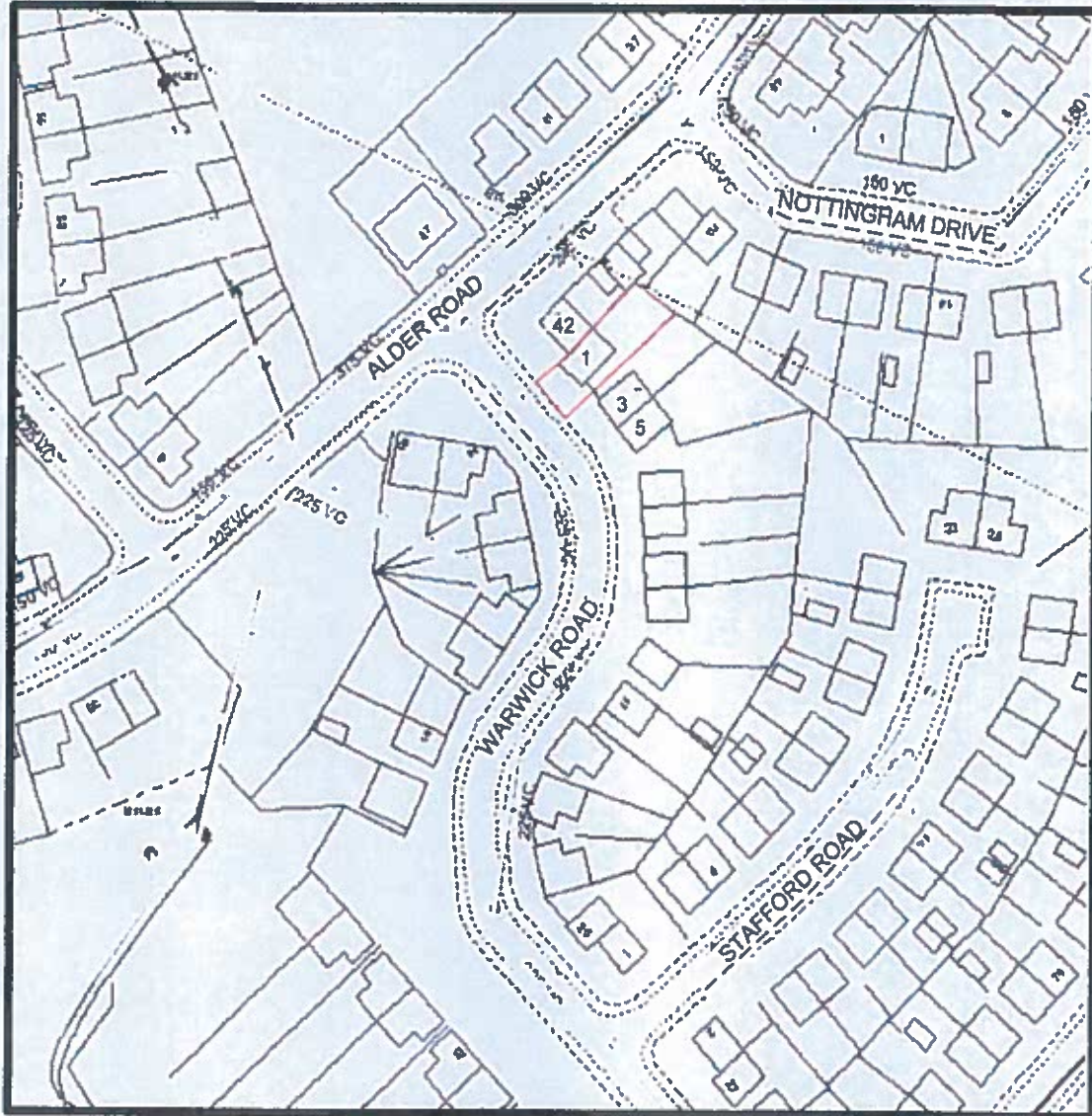
Andrew Parkin

INSPECTOR

15 JAN 2019

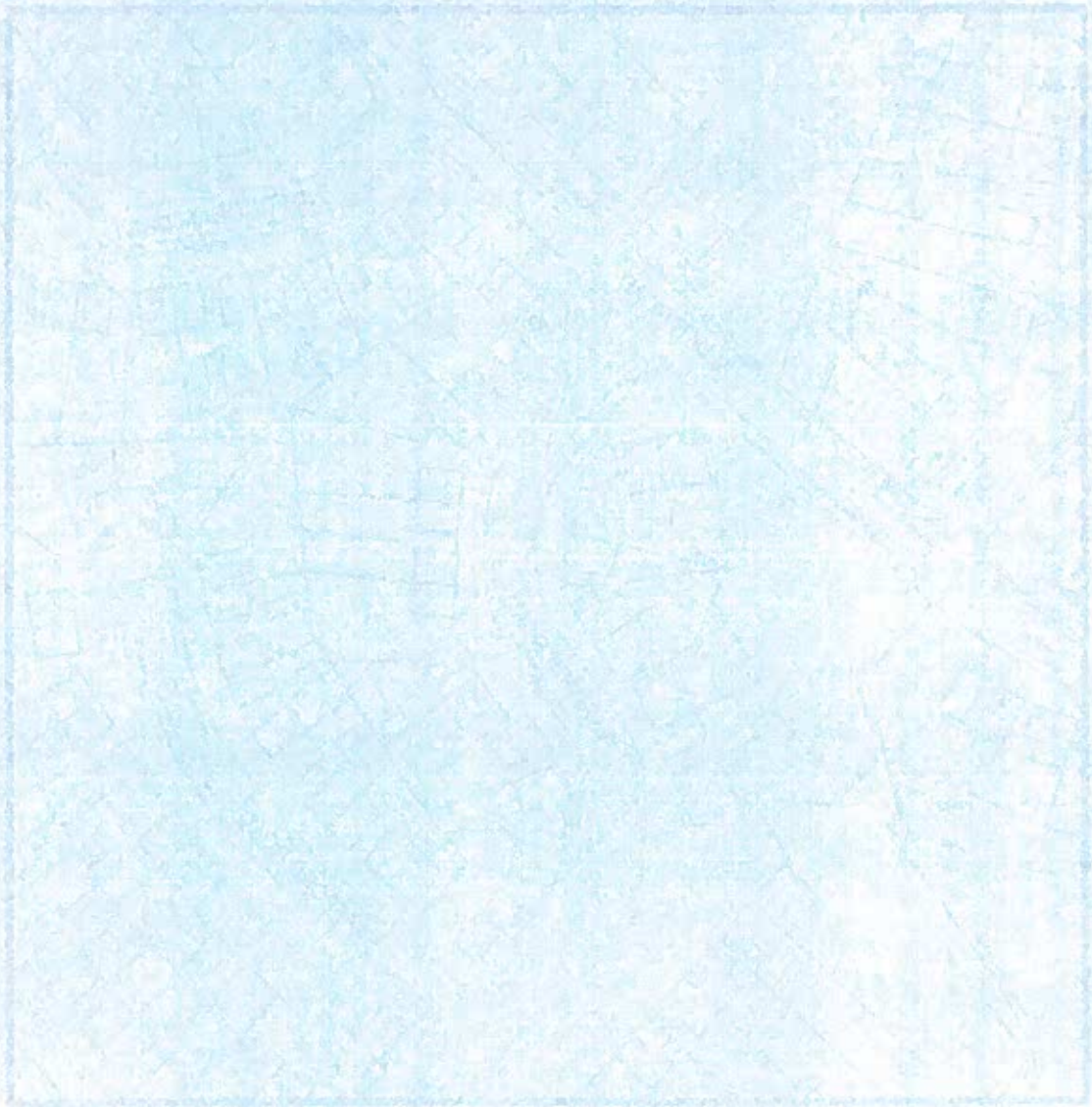


342795



1:1250 SCALE

LP10035



14-00000

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Appeal Decision

Site visit made on 16 September 2019

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/W4223/D/19/3232861

19 Cherry Grove, Royton OL2 5YL

- 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 Paresh Bhudia against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/342969/19, dated 25 February 2019, was refused by notice dated 2 July 2019.
 - The development proposed is described as 'single, two storey and first floor extensions to dwelling.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is located at the southern end of a T-shaped residential cul-de-sac, next to an area of mature woodland. The cul-de-sac contains various detached dwellings of two distinct designs. The northern end of the cul-de-sac contains dwellings with front and rear box dormer windows, whilst the remainder of the street contains gable fronted bungalows with lower roof ridge heights and significantly less massing.
4. All the dwellings are positioned around the cul-de-sac at generally similar distances from the road and contain front gardens and driveways. Whilst many of the dwellings have been altered since their initial construction the area still has a coherent character and appearance, albeit one that is divided into two distinct parts – the northern end comprising the dormer bungalows, and the remainder comprising the gable-fronted bungalows, including the dwelling subject to this appeal.
5. The appeal dwelling has a generally similar appearance to the gable fronted bungalows opposite it and the remaining gable fronted bungalows on the southeastern side of Cherry Grove. It has an existing side extension to the southwest, adjacent to the woodland, and which is set back from the main front elevation with the same ridge height as the original building. The dwelling contains a single bay window on its front gable elevation.

6. The proposed development would raise the roof ridge height by some 0.8 metres; a new hipped roof to the northeast would extend over an enlarged garage at the new ridge height of some 5.8 metres above the ground. These works would significantly increase the massing of the dwelling, making it an over-dominant feature at this end of Cherry Grove. The scale of the works would be emphasised by the introduction of a structural support post to the front gable.
7. The design of the proposal would also significantly increase the amount of fenestration on elevations visible from Cherry Grove, including two pitched roof dormer windows in the enlarged roof of the existing extension and a large window in its front wall. Almost half of the enlarged front gable elevation would now be glazed as part of a two-storey entrance feature, with a new Velux-type window on the eastern roof slope. The extent and position of the new glazing would further emphasise the significantly different appearance of the appeal dwelling, which would be out-of-keeping with the nearby bungalows.
8. The appeal dwelling would be a similar height to the dormer bungalows at the northern end of the street, where there is an acceptable visual relationship between the two existing dwelling types. However, the scale, massing, and design of the appeal dwelling, at the southern end of Cherry Grove, where the gable fronted dwellings provide a coherent character and appearance, means it would be significantly different and in my view, incongruous.
9. The proposed use of a white render to the northeastern elevation and around the extended garage and the new gable entrance would also be a significant contrast to the other dwellings on Cherry Grove. The appellant has suggested that the render could be changed to a different colour or replaced by brickwork and that this could be controlled by a condition.
10. Government guidance is clear that the appeal process should not be used to evolve a scheme, and that *if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application*¹. I have determined this appeal on the basis of the scheme that was refused planning permission by the Council. In any event, such a change would not overcome the harm to the character and appearance of the area that I have identified.
11. The proposed development would occupy a similar corner position relative to Cherry Grove as the existing dwelling, partly screened in some views by the next door dwelling, No 17. The use of stone on the gable front would also replicate the design of the existing dwelling.
12. However, for the reasons given above, the scale, massing and design of the proposed development would significantly detract from the character and appearance of the southern end of Cherry Grove. It would therefore conflict with Policies 9 (local environment) and 20 (design) of the Joint Core Strategy and Development Management Policies Development Plan Document 2011 and with the National Planning Policy Framework 2019 in this regard.

¹ Procedural Guide Planning appeals – England, August 2019 – Paragraph M.1.1

Conclusion

13. For these reasons, and taking into account all matters raised, I conclude that the appeal is dismissed.

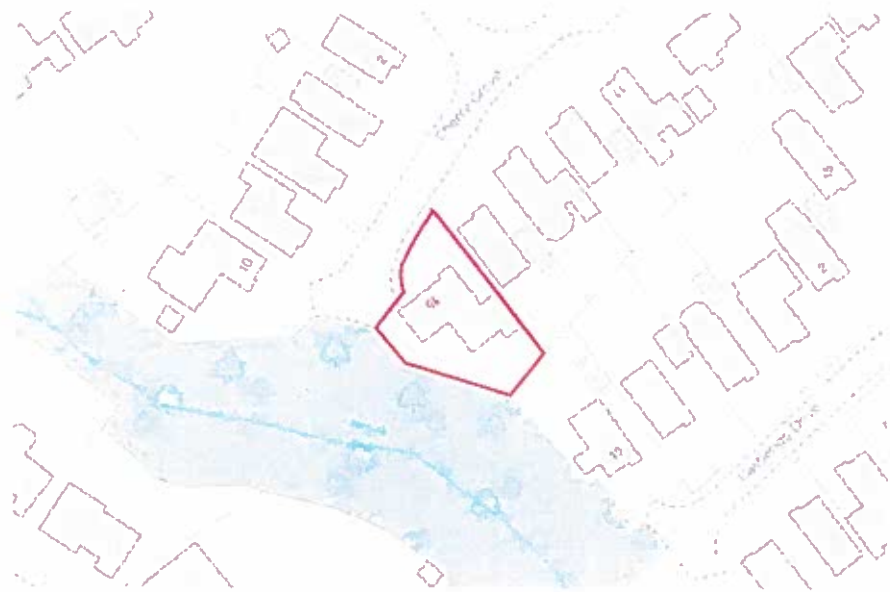
Andrew Parkin

INSPECTOR

dwelling redevelopment
19 Cherry Grove Royton Oldham OL2 5YL

site & location plan

@A3
Existing



Location Plan (Scale - 1:1250)

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