

Planning Appeals Update

Planning Committee

Report of Head of Planning and Infrastructure

DATE OF COMMITTEE

2018

PLANNING APPEALS

WRITTEN REPRESENTATIONS

HOUSE HOLDER

HH/341204/18	14 Pickhill Lane, Uppermill, Oldham, OL3 6BN
HH341013/17	903 Middleton Road, Chadderton, Oldham OL9 0NG

ADVERTISEMENTS

AD/341121/17	363 Ashton Road, Oldham, OL8 1NW
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APPEAL DECISIONS

HH/340379/17	2 Monarch Close, Royton, Oldham, OL2 5AE
Original Decision	Del
Appeal Decision	Allowed
PA/340334/17	44/46 Seville Street, Royton, Oldham OL2 6AN
Original Decision	Del
Appeal Decision	Allowed

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 23 April 2018

by **W Johnson BA (Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st June 2018

Appeal Ref: APP/W4223/D/17/3188571

2 Monarch Close, Royton, Oldham OL2 5AE

- 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 Abid Miah against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/340379/17, dated 20 June 2017, was refused by notice dated 14 August 2017.
 - The development is the erection of a single storey rear extension.
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Decision

1. The appeal is allowed. Planning permission is granted for a single storey rear extension at 2 Monarch Close, Royton, Oldham, OL2 5AE, in accordance with the terms of the application, Ref: HH/340379/17, dated 20 June 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. AM18415 Revision C (21.7.17).
 - 2) Within 3 months from the date of this permission, the extension hereby permitted shall be fitted with obscured glazing in the elevation facing No 3 Monarch Close. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the glazing is installed and once installed the obscured glazing shall be retained thereafter.
 - 3) Within 3 months from the date of this permission, the hipped roof shown on drawing no. AM18415 Revision C (21.7.17) shall be constructed through to completion and retained thereafter.

Procedural Matter

2. I have used the description of the proposal from the Council's decision notice and appeal form. It adequately and simply describes the proposed development instead of the much longer and detailed description given on the application form.
3. A second site visit was undertaken on 1 May 2018, where the appeal scheme was solely viewed from the rear garden of No 1 Monarch Close.
4. At the time of my site visit, I saw that the development of the single storey extension had commenced and was substantially complete. I also note that the

application has been submitted retrospectively. I have dealt with the appeal on that basis.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to light, outlook and privacy.

Reasons

6. The extension would project approximately 5m from the existing dwelling at ground floor level and is sited within close proximity of the boundary with the adjoining dwelling, No 1 Monarch Close. On this boundary between the properties is a closed boarded panel fence that has domed tops. No 1 has two bedroom windows located on the rear elevations that face out towards the rear garden. One of the bedroom windows is close to the fencing on the common boundary.
7. During my visit, and in particular on my second visit where I was able to view the extension from the rear garden of No 1, it was evident that the extension does project above the boundary fence. However, the appeal scheme does not have a harmful impact, as it does not result in significant enclosing or shading effects on the adjoining dwelling given its marginal increase in height, when compared against the existing boundary fencing, and because the roof of the extension slopes away.
8. Additionally, through its orientation, No 1 already experiences some shadowing at the rear, by virtue of its northerly facing elevation, and I do not consider that the appeal scheme harmfully compounds this situation. The presence of other single storey dwellings and the distances maintained between No 1 and the surrounding properties, results in a significant amount of open sky afforded to the rear of No 1, which in turn delivers a significant amount of daylight to the property. The appellant has advised that whilst the scheme currently has a gable on the rear, it will be altered to a hip roof, which will further reduce the massing of the extension. I therefore find that the proposal does not have a materially harmful effect on the living conditions of the occupiers of No 1 with regard to sunlight/daylight or outlook.
9. The conservatory is located on the right hand side of the host property, when viewing it from the rear garden. It was acknowledged that the glazing in the elevation facing No 3 Monarch Close is clear. As the boundary treatment between this property and the host dwelling consist of low panel fencing, there is the potential for overlooking and loss of privacy due to the close proximity of the conservatory to this boundary. However, I agree with both parties that this matter could be easily dealt with by the imposition of an obscure glazing condition.
10. For all of these reasons the proposal does not create any harmful effects to the living conditions of neighbouring properties, in particular No 1 and No 3 with regard to daylight/sunlight, outlook or privacy and therefore accords with Policy 9 of the Development Plan Document – Joint Core Strategy and Development Management Policies 2011, which amongst other things seeks to protect and improve local environmental quality and amenity. Additionally, the proposal is consistent with the core planning principle of the Framework that

seeks a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Conditions

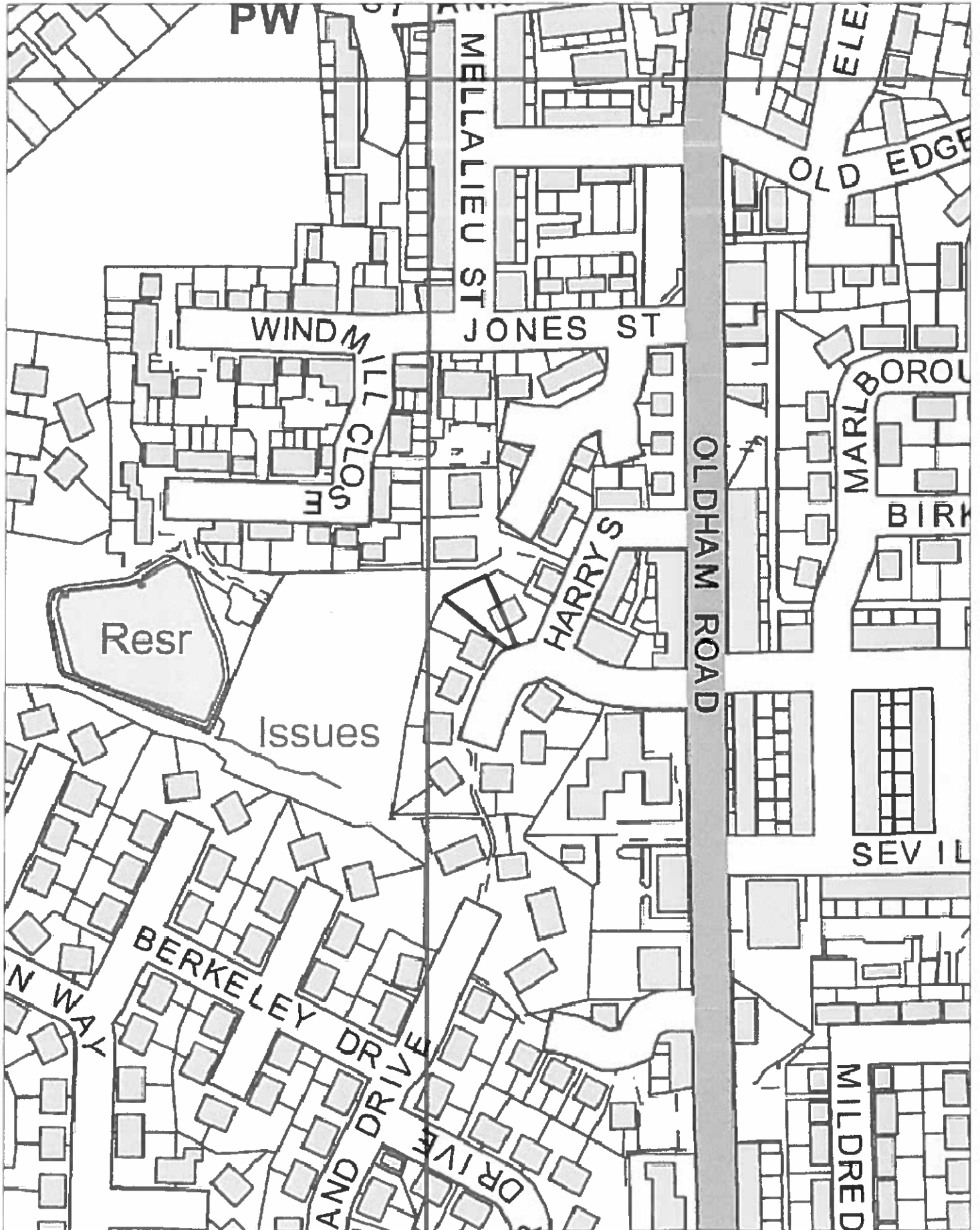
11. The Council has suggested conditions which it considers would be appropriate in their questionnaire. I have reviewed these in accordance with the tests set out in the Planning Practice Guidance (PPG). It is necessary to require compliance with the submitted plans. However, as the development is retrospective, a commencement condition is unnecessary. Additionally, as the extension is substantially complete, where acceptable materials have been used in the construction, this is also superfluous in the context of this appeal.
12. I have included a condition, as suggested by the appellant, to ensure that obscure glazing is fitted in the elevation facing No 3 Monarch Close within 3 calendar months from the date of this decision. The appellant has suggested one month, but I consider that due to the need to submit details of the obscure glazing to the Council, one month is likely to be an unreasonable period of time for both parties. Additionally, I have included a condition regarding the hipped roof, as shown on the submitted drawings for the single storey rear extension. The appellant has suggested that this work will be undertaken to reflect the submitted scheme, but has not suggested a timescale. As the development has commenced, the hipped roof design should be constructed and completed within a reasonable timescale.

Conclusion

13. Having had regard to all other matters raised, it is concluded that the appeal should succeed and planning permission should be granted subject to conditions necessary for the avoidance of doubt and in the interests of proper planning; and that seek to safeguard the living conditions of neighbouring occupiers.

Wayne Johnson

INSPECTOR





Appeal Decision

Site visit made on 23 April 2018

by **W Johnson BA (Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th June 2018

Appeal Ref: APP/W4223/W/18/3193952

Land rear of 44/46 Seville Street, Royton, Oldham

- 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 David Platt against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/340334/17, dated 6 June 2017, was refused by notice dated 14 November 2017.
 - The development proposed is a single detached bungalow and associated works.
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Decision

1. The appeal is allowed. Planning permission is granted for a single, detached, 2 bedroom bungalow with associated hard and soft landscaping creating gardens and parking provision for 2 domestic vehicles at Land to the rear of 44 & 46 Seville Street, Royton, OL2 6AN, in accordance with the terms of the application, Ref: PA/340334/17, dated 6 June 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 3269/01A; 3269/02D; 3269/03; 3269/04B and 3269/05.
 - 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the dwelling, path and driveway hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
 - 4) The dwelling shall not be occupied until space has been laid out within the site, in accordance with drawing 3269/05 for 2 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Class A of Schedule 2, Part 1 of this Order shall be undertaken at any time.

- 6) Before the development is first occupied or brought into use a gate management plan, including long term design objectives, and management responsibilities, shall be submitted to and approved in writing by the local planning authority. The gate management plan shall be carried out as approved.

Procedural Matter

2. I have taken the address of the appeal site from the appeal form, as it more accurately describes the location of the scheme than the address on the application form.
3. I have used the description of the proposal from the Council's decision notice. It adequately and simply describes the proposed development instead of the much longer and detailed description given on the application form.
4. The Council in their suggested conditions refer to drawings 3269/02B and 3269/04A, but also 3269/02D and 3269/04B. Confirmation has been sought from the Council to explain why they have listed these drawings, and it has been confirmed that only 02D and 04B should be considered.

Application for costs

5. An application for costs was made by Mr David Platt against Oldham Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers in terms of noise, disturbance and loss of security.

Reasons

7. The appeal site is located within a defined settlement boundary of Royton and so has good access to the range of services and facilities the town has to offer. As a result, I agree with the parties that it is in an accessible location and in principle is suitable for residential development. Additionally, I note that the Council raise no objections with regard to the design or appearance of the dwelling, which I too consider the case to be in this instance.
8. The site is situated to the rear of 44 and 46 Seville Street, which forms part of a traditional terrace. This land once served No 44 as an extended garden, until the dwelling was sold in isolation. Access to the site is from a private road between No 42 Seville Street and no 44. The rear alley behind the properties is enclosed by a metal gate, which in turn has a further gate at the other end of the alley after No 70 Seville Street. These have been installed as part of an official gating scheme. On the opposite side of the public footpath is a similar, albeit, slightly larger bungalow.
9. The proposal is for a single storey, 2 bedroom detached bungalow that would be of brick construction with a tiled hipped roof. When viewing the proposal from the front, the dwelling would be in close proximity of the boundary with the public footpath to the right, but a side space would be provided on the opposite side, where access to the rear garden would be gained. In front of the dwelling is an area of hard standing for the parking of 2 vehicles, which is the same when it served No 44.

10. I noticed on my visit that the alley had grassed over and that some of extended garden areas had garages present. Although it appears that vehicles do not regularly use this alley, there would be nothing stopping existing residents doing so. It would appear that the appeal site had been used in the past for vehicular parking when it was attached to No 44. The scheme proposed is modest in scale and size and as such would not provide a large amount of accommodation for future occupiers. I consider that the scheme would not have the ability to attract an excessive amount of pedestrian or vehicular movements. Therefore, in my opinion the scheme would not create any harmful effects in regard to noise and disturbance over and above existing levels.
11. It is acknowledged that the area of which the appeal site forms will still be gated, albeit slightly set within the alley. I note that the scheme was initially deferred by Members on 20 September 2017, so that further details of the function of the existing gates could be considered, to ensure the safety of users in this area. Further comments were received from the Traffic Section in the committee report dated 25 October 2017, which acknowledges that the appellant has proposed an automated system to the gates with a key code and key fob provided for all residents.
12. I consider that this measure would ensure that the alley is still gated and that it would be still be available for all residents that currently have access. I do not believe that the scheme would increase the possibility of the gates being left open, when compared to the current situation, as it was obvious on my visit that residents already ensure that both sets of gates are closed and locked, and there is nothing substantive to indicate that this would change if the scheme was to be constructed. Additionally, I consider that the scheme would introduce an element of natural surveillance to the benefit of the neighbouring properties in terms of their security.
13. For all of these reasons the proposal would not create any harmful effects to the living conditions of neighbouring properties with particular regard to noise, disturbance and security, and therefore accords with Policy 9 of the Development Plan Document – Joint Core Strategy and Development Management Policies 2011, which amongst other things seeks to protect and improve local environmental quality and amenity, whilst promoting community safety. Additionally, the proposal is consistent with the core planning principle of the Framework that seeks a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17) and create safe and accessible environments, where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion (paragraph 58).

Other Matters

14. In addition to those matters considered above, neighbouring occupiers on Seville Street have raised concerns relating to loss of privacy and highway safety. Additionally, I note that the Council raises no objections in this respect. I have considered these concerns, but have judged them to be unfounded. I have had regard to various other matters raised by the neighbouring occupiers including condition of the outbuildings and ownership of the alley, but these do not alter my conclusions on the main issues.

Conditions

15. I have imposed standard conditions relating to the commencement of development. It is necessary to require compliance with the submitted plans. A condition for the submission of materials has been included in the interests of visual amenity. Ensuring the construction of the parking area is also necessary in the interests of highway safety.
16. Given the small size of the back garden, which would be the only private outdoor amenity area serving the proposed house, permitted development rights in relation to the enlargement, improvement or other alterations of the dwelling should be removed in order to protect the living conditions of future occupiers. Given, the concern of local residents, I include a condition to submit a gate management plan. I note details on drawing 3269/05 in this respect, but I consider that a formal management plan is necessary to ensure that all effected residents are accommodated by the development and that it is clear who to contact in the event of any future maintenance issues.
17. Conditions were suggested in relation to landscaping and maintenance. However, as the scheme is only for a single dwelling it is a small scale development and so it would be unreasonable to attach such conditions. Additionally, a condition relating to contamination was suggested. However, the site would appear to have been used in connection with a residential use for many years and there is nothing substantive to suggest that the land is contaminated and therefore I consider such a condition to be unreasonable.
18. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Planning Practice Guidance (PPG).

Conclusion

19. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed

Wayne Johnson

INSPECTOR

