

Planning Appeals Update

Planning Committee

Report of Head of Planning and Infrastructure

DATE OF COMMITTEE

February 2019

PLANNING APPEALS

WRITTEN REPRESENTATION

PA/341373/18 Land to the rear of Rochdale Road, Royton, Oldham, OL2 5UT

HEARINGS

HOUSE HOLDER

HH/342033/18 146 Green Lane, Oldham, OL8 3BB

ADVERTISEMENTS

APPEAL DECISIONS

PA/341435/18 922 Middleton Road, Chadderton, Oldham, OL9 9SB
Original Decision Del
Appeal Decision Dismissed

PA/341206/17 Land adj 6 Owen Fold, Lees, OL4 3DT
Original Decision Del
Appeal Decision Dismissed

HH/341537/18 25 Lovers Lane, Grasscroft, OL4 4DT
Original Decision Del
Appeal Decision Dismissed

PA/341272/18 36 Haigh Lane, Chadderton, Oldham, OL1 2TJ
Original Decision Del
Appeal Decision Dismissed

PA/339852/17	Asda Supermarket, Greenfield Lane, Shaw, OL2 8QP
Original Decision	Del
Appeal Decision	Allowed
PA/341619/18	Land adjacent to 83 Coppice Street, Oldham, OL8 1TP
Original Decision	Del
Appeal Decision	Dismissed
PA/340929/17	318 Oldham Road, Royton, Oldham, OL2 5AS
Original Decision	Del
Appeal Decision	Dismissed
PA/340691/17	The Old Stables, Lee Cross, Diggle, Oldham, OL3 5JX
Original Decision	Del
Appeal Decision	Dismissed
PA/339752/17	Land at Arncliffe Rise, Oldham, OL4 2LZ
Original Decision	Del
Appeal Decision	Dismissed
PA/341496/18	16 Pole Lane, Failsworth, M35 9PB
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

Item number: 00



Oldham
Council

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 December 2018

by **Felicity Thompson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th January 2019

Appeal Ref: APP/W4223/D/18/3207343

922 Middleton Road, Chadderton, Oldham, OL9 9SB

- 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 Arif Mohid against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/341435/18, dated 10 February 2018, was refused by notice dated 8 June 2018.
 - The development proposed is described as 'to drop the kerbs in front of the house to allow cars to be parked in the front driveway. A new driveway will be created on a hard surface once we have planning permission.'
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety with particular regard to the safety of pedestrians.

Reasons

3. The appeal property is located in a predominantly residential area, adjacent to and fronting a relatively busy road. The appeal site is located to the front of the house and the proposal would enable cars to be parked off the road. Given the absence of turning space within the site, the proposal would result in vehicles either reversing out into or manoeuvring in the highway to reverse onto the site.
4. The site is located in close proximity to a pedestrian crossing which consists of dropped kerbs on either side of the road and a refuge area in the centre of the road. Whilst the appellant contends that pedestrians have to pass dropped kerbs regardless of how far away a crossing is, in this case the pedestrian crossing would be in the direct path of any vehicles reversing out of the site into the road.
5. Based on my observations I consider that pedestrians crossing the road, from the same side as the appeal site, would be looking to the right for approaching vehicles and would not necessarily be aware of vehicles reversing out of the appeal site. I find that this would pose an unacceptable risk to the safety of pedestrians.

6. The appellant also contends that the proposal would create safer driving conditions, as it would take cars off the busy road and allow for the safe offloading of children from car seats. At my site visit I noted that on-street parking occurs along the road. Nevertheless, this does not interfere with the free flow of traffic along the road. Whilst there may be some limited benefit in respect of the offloading of children, as they can be offloaded onto the pavement, this does not outweigh the identified harm to pedestrian safety.
7. I have sympathy with the appellant's circumstances as they have been a victim of car crime. However, there is little evidence that the proposal would significantly reduce the risk from such crime, particularly as cars would be parked in close proximity to the pavement. As such this is a matter of limited weight which does not outweigh my earlier findings.
8. For the reasons given above, I conclude that the proposed development would have an unacceptable impact on highway safety contrary to Policies 9 and 20 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies which require that development provides for the safety and security of all sections of the community and meet design principles relating to safety and inclusion. It would also conflict with the National Planning Policy Framework which requires development to create places that are safe, secure and attractive – which minimise the scope for conflict between pedestrians and vehicles.

Other Matters

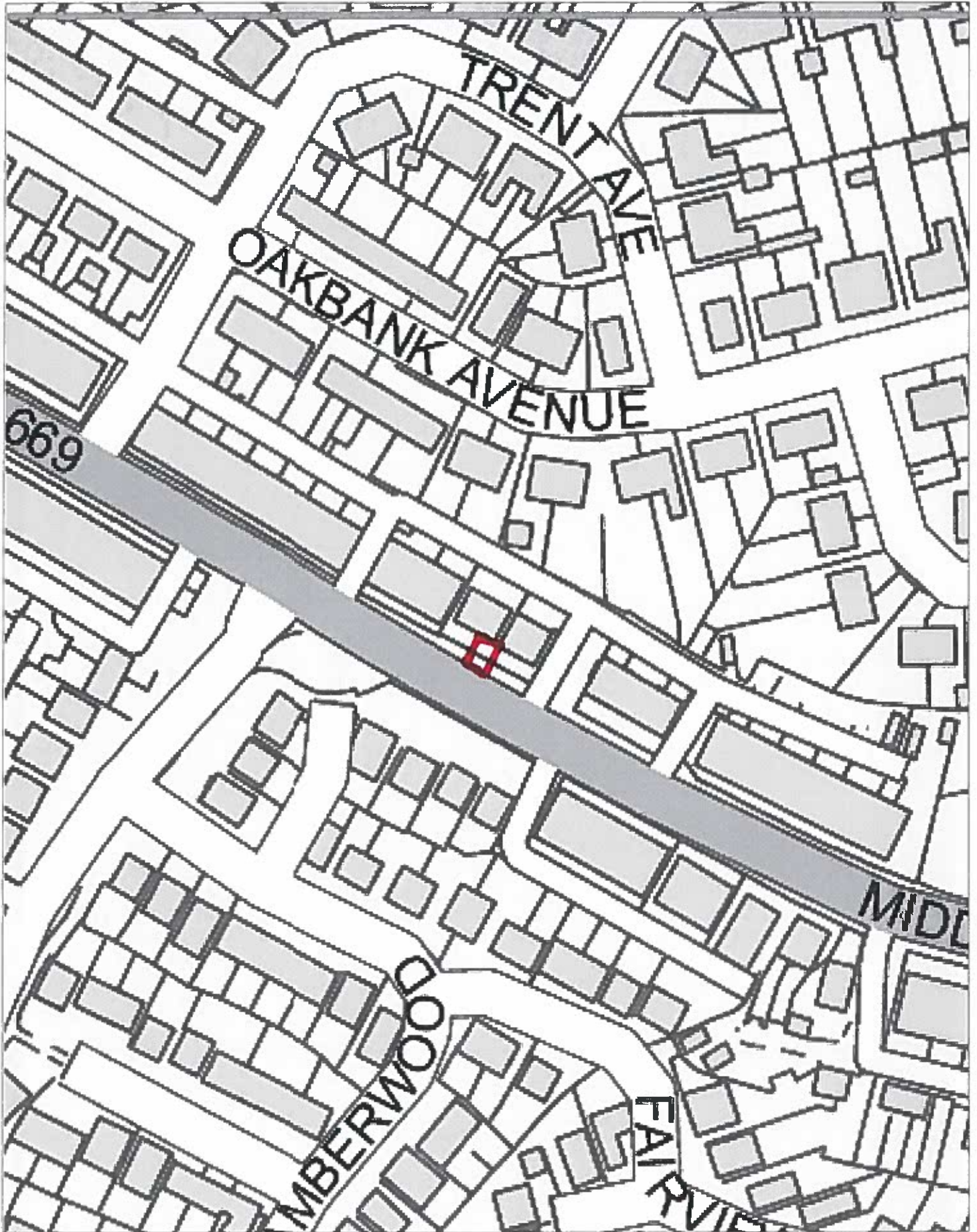
9. I noted no other similar developments in the immediate vicinity of the appeal site however; the appellant has provided photographs of other dwellings elsewhere in the Borough with driveways close to pedestrian crossings. I do not know the circumstances of those developments being permitted and therefore I give this limited weight. In any event I have considered the appeal scheme on its own merits. The existence of other off road parking areas does not justify the harm I have identified above.

Conclusion

10. For the reasons given above, having regard to all other matters raised, the appeal is dismissed.

Felicity Thompson

INSPECTOR



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Appeal Decision

Site visit made on 20 December 2018

by **Felicity Thompson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th January 2019

Appeal Ref: APP/W4223/W/18/3209880

Land adjacent 6 Owen Fold, Lees, OL4 3DT

- 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 I McMahon against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/341206/17, dated 16 December 2017, was refused by notice dated 24 April 2018.
 - The development proposed is erection of one pair of semi-detached dwellings.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of 6 Owen Fold with particular regard to outlook.

Reasons

Background

3. The appeal site has a planning history which includes a number of planning applications for dwellings including one which was dismissed on appeal. The most recent being application PA/337939/16 which was refused on the basis of design and siting, which the Council considered would fail to preserve or enhance the character or appearance of the Hey Conservation Area. The current proposal is for a pair of semi-detached dwellings in more or less the same position as those previously proposed.

Living conditions

4. The appeal site is an elevated parcel of land which is overgrown with vegetation, located between dwellings in a residential area. The proposal would introduce a pair of semi-detached two storey dwellings which would be located parallel with and close to the side boundary of 6 Owen Fold.
5. The site is elevated above the garden of no.6 and therefore the ground level of the proposed dwellings would be about 2.3m higher than that of no.6. Whilst the dwellings would be sited to the other side of the garage at no.6, because of their elevated siting and proposed height, around 8.4m to ridge, they would project significantly above the garage.

6. I acknowledge that the proposed site plan does not accurately show the position of no.6. Nevertheless, whilst the proposed dwellings would not unacceptably impact on the privacy of the occupants of no.6, because of their overall height, depth and positioning close to the boundary with no.6, they would create an imposing built form which would have a dominant and overbearing effect upon the outlook from no.6 and their garden. I consider the effect would be that the living conditions of the occupants of no.6 would be harmed and the amenity value of the garden would be significantly compromised. The absence of objection from the neighbour does not alter my judgement.
7. Given the proposed siting to the east of no.6, whilst there may be some overshadowing of the garden earlier in the day, I consider the result would not be so unacceptable as to justify refusing the appeal for this reason.
8. For the reasons set out above, I conclude that the proposed development would cause unacceptable harm to the living conditions of the occupants of 6 Owen Fold in respect of outlook, contrary to the overall amenity protection aims of Policy 9 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies. It would also conflict with national policy in the National Planning Policy Framework which seeks to ensure a high standard of amenity for existing and future occupiers of buildings.

Other Matters

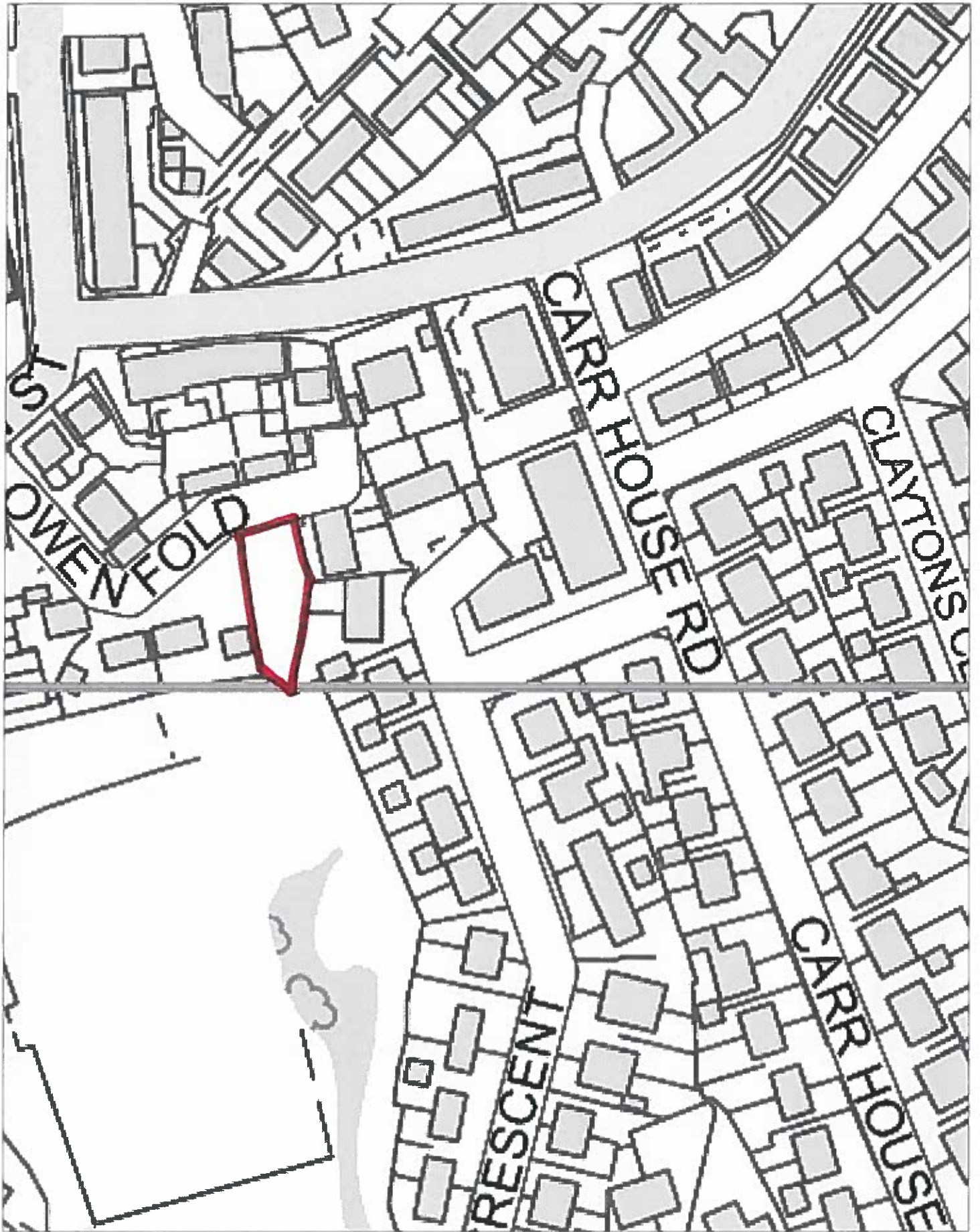
9. The appellant has referred to the previously approved application pointing out that this did not include harm to living conditions as a reason for refusal. However, whilst the siting may be similar I have little information to be certain that the proposals are sufficiently comparable in terms of their design; therefore I give this limited weight. In any event I have considered the appeal scheme on its own merits.
10. I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The proposed dwellings would have a straightforward appearance and would be located between dwellings of varying design. Overall, I consider that they would preserve the character and appearance of the Conservation Area. However, this is a neutral matter which cannot therefore outweigh my earlier findings.

Conclusion

11. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

Felicity Thompson

INSPECTOR



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Appeal Decision

Site visit made on 7 January 2019

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 January 2019

Appeal Ref: APP/W4223/W/18/3211216

25 Lovers Lane, Grasscroft OL4 4DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs D Windle against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/341537/18, dated 12 March 2018, was approved on 20 July 2018 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a single storey rear extension, a rear dormer and a detached garage.
 - The condition in dispute is No 3 which states that:
*"3. Detailed drawings showing the following alteration to the scheme shall be submitted to and approved in writing by the local planning authority prior to the commencement of the construction of the single storey extension hereby approved:
- No part of the flat roof section of the approved single storey extension shall be used at any time as a sitting out area or for any similar recreational or amenity purposes.
The development shall be implemented in full accordance with the approved details to ensure no use of the flat roof as a sitting out area or for any similar recreational or amenity purposes takes place at any time."*
 - The reason given for the condition is:
"In order to prevent overlooking and protect the amenity of the occupiers of neighbouring properties."
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning permission has been granted for a single storey rear extension, a rear dormer and a detached garage. The appeal seeks removal of condition 3 which requires submission of a scheme prior to the commencement of the construction of the single storey extension to prevent use of its flat roof as a sitting out area or for amenity purposes. At the time of my visit, the rear dormer had been part completed, but commencement of works to construct the single storey extension had not started. I determine the appeal on that basis.
3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment on the revised Framework during the appeal process.

Main Issue

4. The main issue is whether the disputed condition is reasonable and necessary in terms of the effect on the living conditions of occupiers of neighbouring properties, with particular regard to matters of privacy.

Reasons

5. The appeal property is a detached bungalow in a generous plot that lies within a residential area of mixed character. There are significant differences in land levels within the site and relative to those surrounding due to the progressive slope of the land downwards in a southern and eastern direction. The rear elevation of the property is south facing and is at a lower level than No 27 Lovers Lane (No 27) a bungalow to the western side. However, the bungalow is in an elevated position relative to No 23 Lovers Lane (No 23), a two storey dwelling at the other side, and Nos. 2 and 4 Beech Hill Road which are bungalows that are located beyond the rear boundary.
6. The Council has not expressed any specific concerns that the single storey rear extension, rear dormer and the detached garage would be unacceptable in terms of the character and appearance of the host building and the area. Based upon the evidence before me and my observations, I have no reason to take a different view on those particular matters, as the extensions would be subordinate additions to the property with limited prominence from public vantage points due to their siting relative to the bungalow.
7. The rear dormer would have no direct views towards Nos. 23 and 27 which would avoid it overlooking those properties, whilst the rear extension and its facing side window toward No 23 would be sufficiently distant with an intervening boundary treatment that would ensure no loss of privacy or outlook. The detached garage would be closer to No 27 but its siting on reduced land levels would prevent any unacceptable impact on the outlook from that property. Furthermore, even when taking account of differences in land levels, on balance, the separation distance and orientation of windows in the rear dormer, rear extension and detached garage relative to Nos 2 and 4 Beech Hill Road would be sufficient to prevent unacceptable overlooking or loss of outlook relating to those features. In reaching those findings, I have taken account of the views above boundary treatments that are already available in closer proximity from the rear garden of the appeal property and those from the upper floor windows of No 23 albeit at a more oblique angle.
8. Notwithstanding the above, the proposal within the submitted plan (drawing no. 09/17/161 Rev B) also includes a sitting out area identified on part of the flat roof of the extension that would be located behind a roof lantern and parapet walls, and accessed from the rear dormer. The sitting out area, although a relatively small section of the flat roof located close to rooflights and the rear dormer, would provide opportunities for users to sit and linger in an elevated position with a much wider field of vision that would offer direct views of the rear elevations and rear gardens of Nos. 2 and 4 Beech Hill Road.
9. In that context, the use of the sitting out area in an elevated position above the rear extension would occur in circumstances where land levels at No 25 are already considerably higher. Consequently, based on my observations, its relationship with Nos. 2 and 4 Beech Hill Road would significantly increase the perception and awareness of the occupiers being directly overlooked. The

sitting out area, therefore, would introduce an unacceptable relationship with Nos. 2 and 4 Beech Hill Road and their rear gardens with a resultant loss of privacy that would significantly harm the living conditions of occupiers.

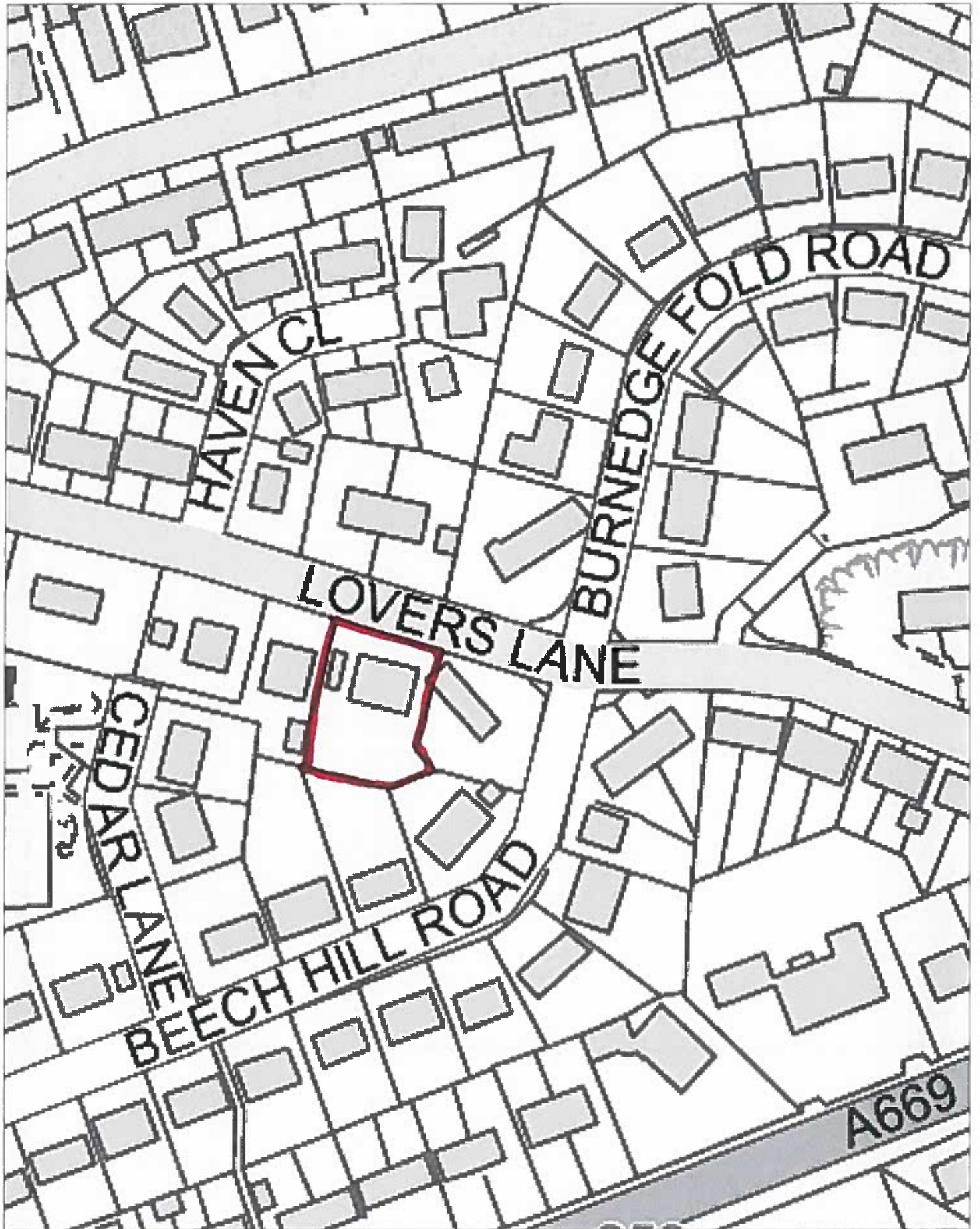
10. In reaching the above findings, I have taken into account that the sitting out area could also introduce an opportunity for increased overlooking of the rear gardens of Nos. 23 and 27 to each side above existing boundary treatments. However, the potential loss of privacy in those respects could be mitigated by a condition to ensure that the sitting out area is restricted to the location indicated on the submitted plan and that obscure panels of not less than 1.6m high are installed to the western and eastern side of the area. The obscure panels would be sufficiently distant from neighbours to ensure no overbearing effect or loss of outlook for Nos. 23 and 27.
11. I have considered whether a similar condition would overcome the harm identified with respect to the relationship of the sitting out area with Nos. 2 and 4 Beech Hill Road. However, to my mind, it would not be reasonable to require installation of obscure panels to enclose the southern edge of the sitting out area due to the effect upon the outlook from the rear dormer and the resultant impact upon the living environment of the bedroom that it would serve.
12. It follows from the above, that I find that the disputed condition in seeking to prevent the use of the flat roof of the rear extension is necessary to make the development acceptable, whilst relevant to planning and to the development permitted. I also consider that the wording of the condition is enforceable, precise and reasonable in all other respects in seeking the submission and approval of that scheme before commencement of work on the single storey extension, and therefore, it complies with paragraph 55 of the Framework.
13. The appellant has drawn to my attention that planning permission has been granted in the surrounding area at properties in Burnedge Lane and Haven Close for sitting out areas, some of which were indicated as in elevated positions relative to neighbouring properties. However, I do not have the full details of the circumstances which led to those proposals being accepted and so cannot be certain that the circumstances are the same. In any case, I have considered the proposal before me on its own merits.
14. I conclude that the disputed condition is reasonable and necessary in terms of the effect of the development on the living conditions of occupiers of neighbouring properties, with particular regard to matters of privacy, and to ensure compliance with Policies 9 and 20 of the Oldham Joint Core Strategy and Development Management Policies Development Plan Document, adopted November 2011. When taken together, the policies seek that development is of a high quality design including not causing significant harm to the amenity of existing and future neighbouring occupants through impacts such as upon privacy. The policies are consistent with the Framework in so far as it seeks a high standard of amenity for existing and future users of developments. The removal of the disputed condition, therefore, would be unacceptable.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR



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Appeal Decision

Site visit made on 7 January 2019

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **15 January 2019**

Appeal Ref: APP/W4223/D/18/3213276

36 Haigh Lane, Chadderton OL1 2TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr I Hall against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/341272/18, dated 11 January 2018, was refused by notice dated 4 July 2018.
 - The development proposed is '*formation of a vehicular access to a classified road to create an off street parking area*'.
-

Decision

1. The appeal is allowed and planning permission is granted for formation of a vehicular access to a classified road to create an off street parking area at 36 Haigh Lane, Chadderton OL1 2TJ in accordance with the terms of the application, Ref PA/341272/18, dated 11 January 2018, 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 development hereby permitted shall be carried out in accordance with the following approved plans: 3538.1; 3538.2 Revision B & 3538.3.
 - 3) The materials to be used in the construction of the retaining walls hereby permitted shall match those used in the existing building.
 - 4) No shrubs, trees or other vegetation shall be allowed to grow above 1 metre in height within the visibility splay in an eastern direction, as identified in drawing no. 3538.2 Revision B, when measured from the land levels at the access hereby permitted.
 - 5) Only one car or other vehicle shall be parked or stored at any time within the parking and turning area hereby permitted.

Procedural Matter

2. The description of development provided by the application form has been amended in subsequent documents. I have adopted the description of development provided by the appeal form accordingly as it is precise and provides certainty in terms of the proposal before me.

Main Issue

3. The main issue of the appeal is the effect on highway and pedestrian safety.

Reasons

4. The appeal site consists of an end-terrace property within a wedge shaped plot between Haigh Lane and Melling Avenue. Haigh Lane (B6195) has a 30mph speed limit in the vicinity of the appeal site which lies on its southern side on a section of the road between the junctions with Middleton Road (A669) and Kenilworth Avenue. The latter road is a one-way street providing access from Haigh Lane to Middleton Road, together with other residential streets which include Melling Avenue.
5. The appeal property faces Haigh Lane in an elevated position and is partly screened by a hedge which is set back from the road. The dwelling and hedge sit above a grass embankment that slopes steeply upward from the road edge where there is no pedestrian footway. The pedestrian footway and street lighting along this section of Haigh Lane are located on the opposite side of the road. There are pedestrian pathways that provide crossing points to the footway opposite, but no existing driveways or vehicular accesses serving the terraced row from Haigh Lane. There are also no road markings to indicate parking restrictions. Nonetheless, on-street parking is not an evident feature presumably due to the risk of damage from passing vehicles.
6. The proposal would involve the formation of a new access with a car parking and turning area adjacent to the road edge of Haigh Lane at the front of the property and to the side of an existing pedestrian access with steps that also serves the adjacent No 34 Haigh Lane. The submitted plans demonstrate that a car could either be parked parallel to the road edge or perpendicular to the road, with space within the parking area to enable drivers to enter and leave in forward gear so as to prevent reversing manoeuvres onto the classified road.
7. With regard to the above, the proposal includes removal of a section of the existing embankment and associated hedging as indicated on the submitted plans. As a result, there would be sufficient space for a vehicle to drive into the parking area and conveniently turn within it to ensure an exit in forward gear as illustrated within the plans. Furthermore, it is reasonable that the space would be used on a regular basis by the same drivers and that they would quickly become familiar with the optimal positioning of the vehicle when entering the site to enable an efficient turning manoeuvre in the parking area. Consequently, provided that the use of the parking and turning area is limited to one vehicle, I am satisfied that it would not be necessary for vehicles using the off street space to reverse into or out of the site on to Haigh Lane.
8. Based on the submitted plans and my observations, vehicles leaving the access in forward gear would have adequate visibility in each direction both of and for vehicles and other road users travelling on the nearside and far side carriageways, together with any pedestrians crossing to and from the footway on the opposite side of Haigh Lane. This would include available views above the height of the remaining sections of the grassed embankment up to a distance of 2.4m from the road edge within the visibility splay toward the nearside carriageway. However, to ensure suitable visibility is maintained in the future, a condition would be required to prevent shrubs, trees or other vegetation growing above the typical eye level of drivers at the access (i.e. 1 metre in height) on the section of grass embankment within the visibility splay that lies within the site.

9. During my visit in the afternoon of a weekday, I observed regular gaps in traffic on Haigh Lane that would provide adequate opportunity for a vehicle to leave the parking area in forward gear in either direction. Furthermore, it is reasonable that a vehicle when entering the parking area in forward gear would be capable of signalling appropriately and in a timely manner to ensure other vehicles and pedestrians are aware of any subsequent manoeuvre. I, therefore, consider that the use of the access by vehicles to enter and exit in forward gear would not result in an unacceptable risk of accidents for vehicles and pedestrians.
10. It is common ground that the removal of part of the landscaped embankment and replacement with grass pavers, tarmac and retaining walls would not harm the character and appearance of the area or have a detrimental impact upon the living conditions of occupiers of neighbouring properties. I have no reason to take a different view, as the grass pavers would assist the assimilation with surrounding landscaping adjacent to the road edge. Furthermore, the set back position of the permeable tarmac finish and retaining walls would ensure a discreet parking area of limited prominence, provided that the brick walls are built from materials that match the dwelling.
11. Having regard to all of the above, I conclude that the development would not have a harmful effect upon highway and pedestrian safety. The proposal, therefore, would not conflict with Policy 9 of the Oldham Joint Core Strategy and Development Management Policies Development Plan Document, adopted November 2011. The policy, amongst other things, seeks that development does not harm the safety of road users. The policy is consistent with the objectives of the National Planning Policy Framework in that respect.

Conditions

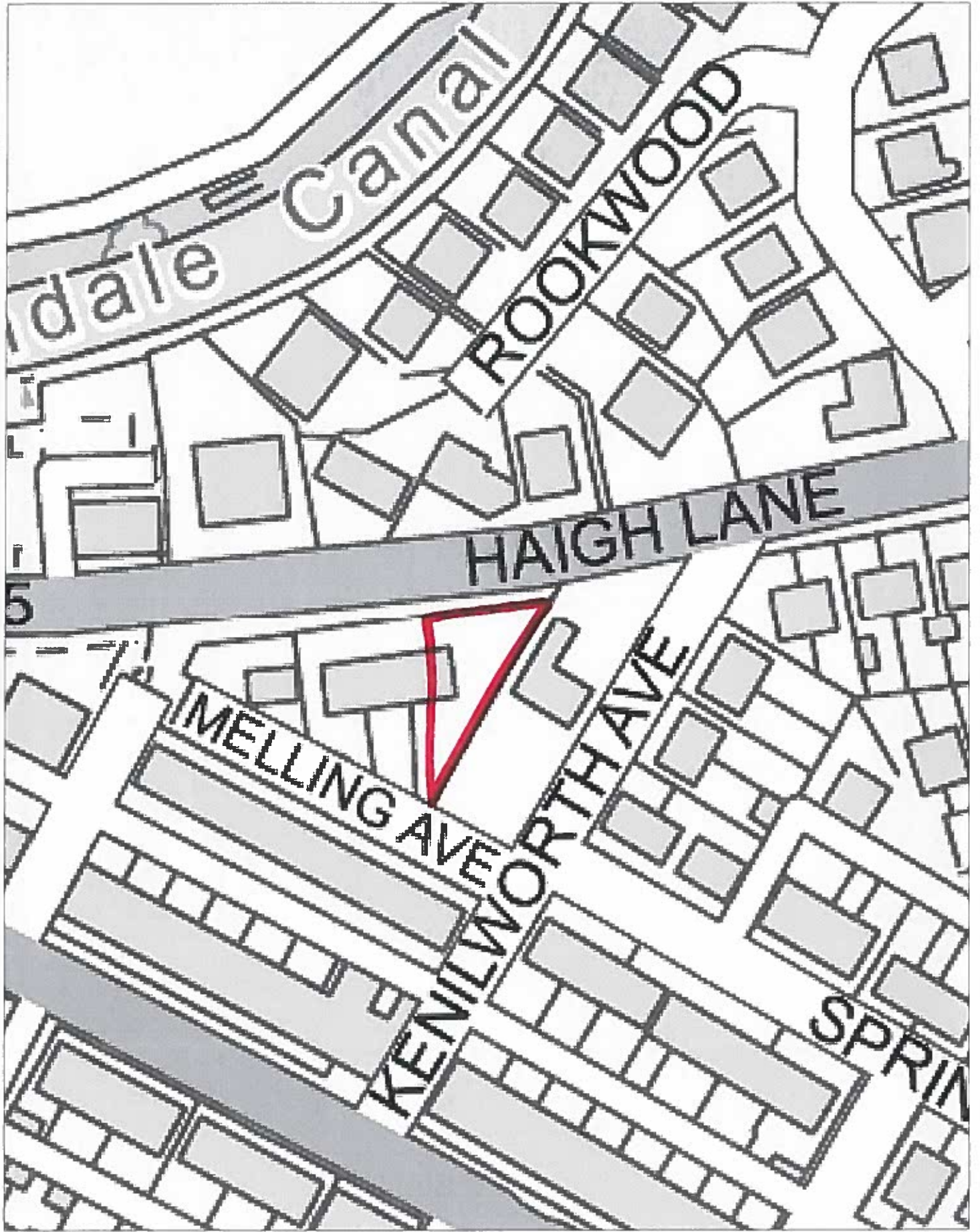
12. I have had regard to the conditions suggested by the Council. Conditions relating to the time limit for the permission and plans compliance are imposed in the interest of certainty as to the development hereby permitted. A condition is also imposed to ensure that the construction of the retaining walls have materials that match the existing building to ensure no detrimental impact on the character and appearance of the area.
13. As previously mentioned, conditions are also necessary to prevent shrubs, trees or other vegetation being grown above 1 metre in height, relative to the land levels at the existing access, on the remaining grass embankment located within the visibility splay to the east and also that only one car or other vehicle shall be parked or stored at any time within the parking and turning area permitted. The conditions are necessary in the interests of highway safety to ensure adequate visibility for road users at the access and along the nearside carriageway, and that sufficient space is retained at all times within the parking area to enable a vehicle to safely enter and exit in forward gear.

Conclusion

14. For the reasons given above, I consider that the proposal is consistent with the development plan and therefore, conclude that the appeal should be allowed.

Gareth Wildgoose

INSPECTOR



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Appeal Decision

Hearing Held on 24 October 2018

Site visit made on 24 October 2018

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2019

Appeal Ref: APP/W4223/W/18/3195812

Asda Supermarket, Greenfield Lane, Shaw, OL2 8QP

- 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 Asda Stores Ltd against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/339852/17, dated 1 March 2017, was refused by notice dated 26 September 2017.
 - The development proposed is a petrol filling station.
-

Decision

1. The appeal is allowed and planning permission is granted for a petrol filling station at Asda Supermarket, Greenfield Lane, Shaw OL2 8QP in accordance with the terms of the application, Ref PA/339852, dated 1 March 2017, subject to the conditions on the attached schedule.

Procedural Matter

2. The appellant has asked me to consider four amended plans which are revisions to the plans before the Council when it made its decision. The revised plans are all dated 19 January 2018, which is after the date when the Council issued its decision notice. Two of those plans show a proposed site for the relocated recycling facility, and one other shows more detail in relation to the proposed layout of that facility. The other plan shows some minor alterations to the proposed petrol filling station layout. After hearing from the parties, including some of the local residents present, and having regard to the *Wheatcroft* principles, I have decided not to accept them. I have therefore considered the appeal on the basis of the plans before the Council's Planning Committee when it made its decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - highway safety;
 - the living conditions of neighbouring residents with particular regard to noise; and,
 - the provision of recycling facilities within the supermarket site.

Reasons

Highway Safety

4. The appeal site is an area of an existing car park of the Asda supermarket in Shaw. It is occupied by around 36 car parking spaces, and a recycling facility.
5. The car park is accessed from Greenfield Lane via a give way junction at a point at which Greenfield Lane makes a sharp bend into Moss Hey Street. The access road bends round to the left and then to the right into the main part of the Asda car park. The appeal site is a smaller and separate part of the car park and lies between the access road and Greenfield Lane, and is the part of the wider car park furthest away from the entrance to the supermarket.
6. The surrounding area is in mixed use with residential and commercial uses nearby. The supermarket lies close to Market Street, the main shopping street in the district centre, and close to the Metrolink station. There is another supermarket just off Greenfield Lane close to the appeal site. There is an engineering business on the sharp bend of Greenfield Lane adjacent to the car park entrance, and a short terrace of two storey houses on Greenfield Lane immediately opposite the appeal site.
7. The proposed development is to construct a petrol filling station. This would involve the loss of the existing car parking spaces and would require the relocation of the recycling facilities. The petrol filling station would have a one way system, with an entrance off the access road and an exit, onto the access road, beyond it. The petrol filling station would have eight filling points.
8. The proposal would reduce the total number of car parking spaces on the car park from around 316 to around 280. There would be a further very slight reduction if, as is proposed, the recycling facility was located on existing spaces. The Council does not consider that the reduction in car parking spaces would in itself lead to harm to highway safety but is concerned that there would be insufficient space for the stacking of vehicles within the car park which would cause queuing which in turn could be detrimental to highway safety. Some of the local residents consider that the reduction would have a significant impact on queuing as shoppers would be waiting and looking for car parking spaces in the car park.
9. The appellant submitted a car parking survey which shows that the surplus of available spaces at peak times would reduce from around 62 to around 26. This would increase the maximum rate of demand during peak periods from 80% to 91%. Although some residents express concern with the period of the observed survey, it was undertaken over a six week period and I have no reason to doubt its findings.
10. The petrol filling station would lead to an increase in the number of trips, although a proportion of users of the facility would be customers of the store who would buy fuel on the way to or from the supermarket. The appellant has provided trip rates based upon both a 70/30 and a 50/50 split of fuel customers visiting the store/fuel customers only. The Council does not dispute the trip generation figures. A local resident considers that in his experience of managing a petrol station, the figures significantly underestimate likely demand. He considers that the rates should have been calculated on litres of fuel to be sold per week basis. He also considers that the hourly trips could be

as high as 108 vehicles at certain times. I consider that such a high hourly rate is not supported by evidence. I have no other alternative figures before me however, and given that the trip rates are not disputed by the Council, I have given them significant weight in my consideration.

11. The peak trip generation hours would be early morning and late afternoon on a weekday and late morning on a weekend. In accordance with the submitted evidence, the highest hourly rate would 39 vehicles and as the petrol filling station could accommodate 16 vehicles, I consider that the proposed development would be unlikely to, lead to vehicles queuing on the access road to get in even at peak times. The entrance to the petrol filling station would be only a short distance from the junction of the access road and Greenfield Lane, but for the reasons above I consider that the forecourt area would have sufficient capacity to accommodate vehicles so as to avoid the likelihood of queues on the access road which would block access to the car park. I therefore consider that the proposal would be unlikely to lead to harm to highway safety as a result of queuing.
12. The local business immediately adjacent to the appeal site is concerned that the proposal could lead to queuing on Greenfield Lane which would hold up deliveries of materials to that business, and another local business is concerned about the potential impact of queuing on Greenfield Lane on the operation of the business. For the reasons above however, I consider that the proposal would be unlikely to lead to queueing on Greenfield Lane.
13. The proposal includes some alterations of the layout of the junction of the access road and Greenfield Lane. I consider that this alteration will assist with the movement of tankers through the junction and around the immediate left hand bend. I have taken into account the concerns of residents in relation to tanker deliveries, but on the basis of the evidence before me, including the submitted swept path analysis, I consider that this would not cause harm to highway safety.
14. I have also taken into account that the petrol filling station would be designed for non- commercial vehicles in terms of pump type and payment facilities, and so it is unlikely that large commercial vehicles, other than deliveries, would be attempting to get onto the forecourt. I was referred to a proposal for a housing scheme nearby but on the basis of the evidence before me, I am not persuaded that its development would alter my conclusions.
15. Paragraph 109 of the National Planning Policy Framework (the Framework) indicates that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. I consider that the proposal would not lead to either, on the evidence before me.
16. For the reasons set out above, I conclude that the proposed development would not cause harm to highway safety and would accord with Policy 9 of the Council's *Joint Core Strategy and Development Management Policies Development Plan Document 2011* (the DM DPD) which seeks to ensure that development protects local environmental quality and amenity.

Living conditions with regard to noise

17. Four properties lie immediately opposite the appeal site on Greenfield Lane and face towards it. The properties are two storey houses within a short row. They are separated from the appeal site by the carriageway and pavements either side. The appellant has calculated that these properties would be around 25m away from the petrol filling station. This was disputed by residents at the hearing and a figure closer to around 18m separation distance was put forward as being a more realistic estimate of the separation distance between the houses and the location of the proposed pumps.
18. The appellant accepts that it is likely that some of the pumps could be around 18m away and some around 30m away. However, the appellant contends that this would not result in an unacceptable increase in noise levels experienced by the occupants of the houses as that in the worst case scenario of refuelling at night, the noise levels would still not reach more than +5dB over the existing background noise levels. +5dB is the appropriate British Standard BS4142:2014 at which point there would be an adverse impact.
19. I have no technical evidence to the contrary and it would appear to me that given the findings in the report and the evidence presented that the figure would be +3dB at night, it would be unlikely that there would be an increase of more than +2dB as a result of the revised distance estimate. Conditions are imposed to control hours of operation and delivery, and to ensure that noise generating activity would be prevented from taking place at unreasonable hours.
20. For the reasons set out above, I conclude that the proposed development would not cause harm to the living conditions of the occupants of neighbouring properties with particular regard to noise, and would accord with Policy 9 of the DM DPD.

Recycling facility

21. The proposed development would remove the existing recycling facility. This facility is considered to be an important community asset by local residents and by the Council. The submitted plans included an alternative site for the facility on the car park, but a revised plan without it shown was submitted prior to the determination of the application by the Council. Although I have not accepted the appellant's further amended plan once again showing a location of the replacement recycling facility, I am of the view that a suitable location could be found.
22. Therefore I consider that a condition could be imposed to require the appellant to submit details of such facility and that these details would have to be agreed by the Council and the facility provided in accordance with those approved details to ensure compliance with Policy 7 of the DM DPD which seeks to secure appropriate waste management facilities in the borough. At the hearing one of the Councillors present suggested that these details could be subject to consultation with local residents before being agreed by the Council and I have no reason to believe that could not happen.

Other matters

23. Residents have expressed concerns about the safety of the facility and its operation. I have no evidence to indicate that the proposal would present an

unacceptable risk to health and safety or would lead to unsocial behaviour. I have taken into account the measures which the appellant intends to undertake, including CCTV monitoring, and which are set out in the Council's Committee Report. I have also imposed conditions relating to hours of operation. Residents have also expressed concerns about light spillage and I have imposed an appropriate condition to control the design and operation of the floodlights.

24. The existence of recently erected signs on the car park has been brought to my attention. The signs relate to hours of stay. I do not consider that the signage concerned, which the appellant indicated would be removed in any case, is a matter which is particularly relevant to the planning issues before me.

Conditions

25. I have considered the conditions suggested by the Council having regard to the Framework and the Planning Practice Guidance. I have made some minor amendments to some of the conditions for conciseness and clarity. In addition to the standard condition relating to the time period for implementation, there is a need for a condition specifying the relevant plans as this provides certainty.
26. There is a condition needed to ensure that the details of the floodlighting are agreed by the Council and implemented accordingly, in the interests of the amenity of the occupants of nearby residential properties.
27. Conditions are required to control the hours of operation of the proposed petrol filling station and the hours of when fuel can be delivered to the site, both in the interests of residential amenity. I have taken into account the comments of the Council made at the hearing, but consider that the hours of operation in both cases should be as set out in the Council's Committee Report. There is also a need for a condition to control the hours of operation of non-fuel services on the site, in the interests of residential amenity.
28. There is a need to ensure that the proposed development cannot become operational until the junction with Greenfield Lane has been widened in accordance with the approved plans, in the interests of highway safety. There is a condition required to ensure the protection of retained trees on the site and a condition requiring the approval of landscaping details in the interests of the character and appearance of the area. I have however not referred to the specific landscaping plan highlighted in the suggested condition, as it is not before me and is not listed as one on which the Council made its decision.
29. A condition needs to be imposed to secure the relocation of the recycling facility, in the interests of appropriate waste management. I have made a minor change to the condition agreed by the parties, primarily to make it clear that the facility shall be implemented in accordance with agreed details.

Conclusion

30. For the reasons given above I conclude that the appeal should be allowed.

Mike Worden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Keith McGillivray	Systra
Rebecca Dennis	Pegasus Group
John Stamp	Noise Solutions Ltd
Adam Meakins	Noise Solutions Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Hannah Lucitt	Oldham Council
Wendy Moorhouse	Oldham Council
Councillor Steven Bashforth	Chair, Planning Committee, Oldham Council

INTERESTED PERSONS:

Councillor Howard Sykes	Ward member, Oldham Council, & Parish Council member
William Bowes	Local resident
Wendy Bowes	Local resident
Muaaz Munshi	Local resident
Julie Hughes	Data Precision Components
Anne Pickersgill	Local resident
M. Leach	Shaw Tyre and Exhaust Ltd
Mr P. Dutton	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Final Statement of Common Ground
- 2 Tree Constraints Plan Drawing number 02

SCHEDULE OF CONDITIONS

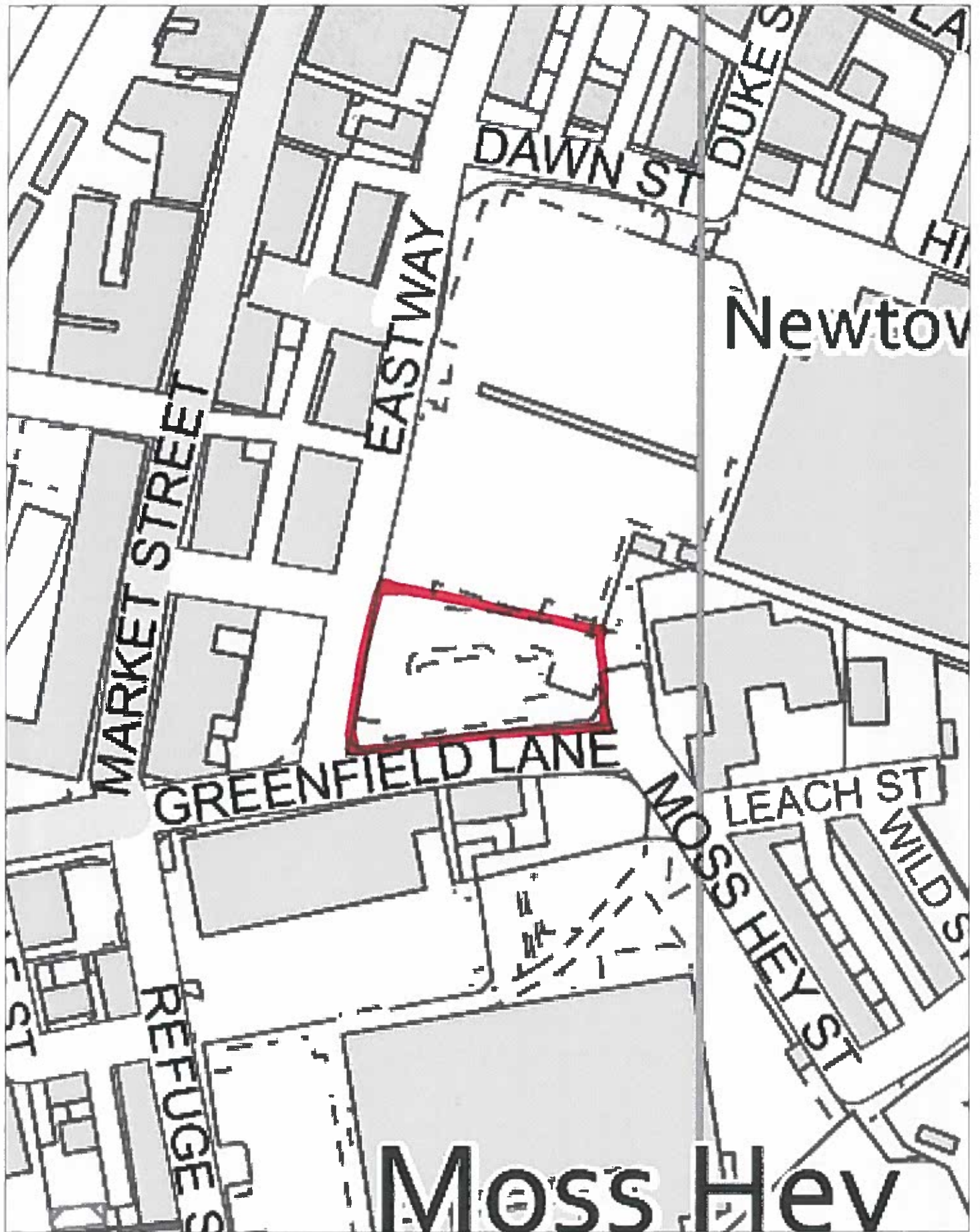
- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing number (PA) 01 Rev A – Site Location Plan; Drawing number 02 Tree Constraints Plan; Drawing number (PA) 03 (Rev B) Proposed Store Plan; Drawing number (PA) 04 (Rev B) PFS Scope of works; Drawing number (PA) 05 Rev B PFS Elevations; Drawing number (PA) 06 (Rev A) Forecourt Sections, Drawing number (PA) 07 Proposed Kiosk Elevations; Drawing number (PA) 08 Proposed Kiosk and Roof Plan; Drawing number (PA) 09 Lighting Column and CCTV details.
- 3) Notwithstanding the plans hereby approved, the floodlights shall not be erected unless and until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority providing the following information: i) a specification of the lighting unit, ii) details of light spillage, iii) operational times.

The floodlights shall be installed and operated in full accordance with the approved scheme in the positions identified on Drawing number (PA) 04 Rev B PFS Scope of works.
- 4) No fuel delivery vehicles shall enter, leave, be loaded or unloaded within the site outside of the hours of 07:00 to 22:00 Monday to Saturday and 09:00 to 17:00 on Sundays and Bank/Public holidays.
- 5) The proposed air and water unit identified on Drawing number (PA) 04 (Rev B) shall only be allowed to operate during the hours of 07:00 to 23:00 Monday to Saturday and 09:00 to 20:00 on Sundays and Bank/Public holidays.
- 6) No development shall commence until the Root Protection Areas of all trees to be retained on the site (identified on drawing number 02) have been protected by fencing in accordance with the specifications set out in section 17.4 of Appendix C supplementing the Tree Survey Report (ref. A3197) by Encon Associates. Thereafter, no equipment, plant, machinery, or materials shall be operated or stored within the Root Protection Areas at any time. The protective fencing shall only be removed once the development has been substantially completed in accordance with the approved plans and specifications but must be removed prior to the petrol filling station first being brought into use.
- 7) The development shall not be brought into use until a scheme of hard and soft landscaping has been carried out in accordance with the details and a programme submitted to and agreed in writing with the local planning authority. Any trees or shrubs which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced in the next planting season with others of a similar size, number and species.
- 8) The petrol filling station hereby approved shall not be brought into use until the existing vehicular entrance to the car park has been widened

and all new directional markings on the access road have been provided in full accordance with drawing number PA (04) Rev B.

- 9) The petrol filling station hereby approved shall only be open to customers between the following hours: 07:00 to 23:00 on Monday to Saturday, and 10:00 to 18:00 on Sundays and Bank/Public holidays.
- 10) The details of the proposed replacement recycling facility shall be submitted to and approved in writing by the Local Planning Authority before any works commence on the part of the site where the facility currently exists. The recycling facility shall be implemented in accordance with the approved details and shall remain available to the public at all times and in perpetuity.

END OF CONDITIONS



339852

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Appeal Decision

Site visit made on 7 January 2019

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2019

Appeal Ref: APP/W4223/W/18/3213334

Land adjacent to 83 Coppice Street, Oldham OL8 1TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Mohammed Yaseen against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/341619/18, dated 9 April 2018, was approved on 19 July 2018 and planning permission was granted subject to conditions.
 - The development permitted is the erection of 3no. dwellings.
 - The condition in dispute is No 5 which states that:
"5. No development shall commence until details of the arrangements for preventing on-site vehicle parking have been submitted to and approved in writing by the Local Planning Authority. Such works that form part of the approved scheme shall be implemented before the development is brought into use and shall be retained thereafter."
 - The reason given for the condition is:
"In the interest of highway safety."
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning permission has been granted for the erection of 3no. dwellings within the site. The appeal seeks removal of condition 5 of the planning permission which requires the submission of details to prevent on-site vehicle parking prior to the commencement of development.
3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment on the revised Framework during the appeal process.

Main Issue

4. The main issue is whether the disputed condition is reasonable and necessary in terms of the effect of the development upon highway and pedestrian safety.

Reasons

5. The appeal site consists of land on the eastern side of Coppice Street that lies between existing terraced rows of properties at each side. At the rear, there is

an alleyway serving rear yards of a terraced row of properties that face Penn Street and are located at a significantly higher land level.

6. Coppice Street is a residential setting with on-street parking restrictions denoted by double yellow lines along the site frontage which extend beyond the junctions with Napier Street East and Werneth Hall Road. The site frontage, beyond the pedestrian footway and road edge, includes traffic calming measures which slow traffic and restrict two way flows by limiting the space between on-street parking bays that are marked on the opposite side of the road. A bus stop is located further to the north beyond those marked bays where parking restrictions are also denoted by double yellow lines. Street lighting is present at regular intervals.
7. The three dwellings would have front building lines that would align with those of the adjacent terraced rows which are approximately 1 metre from the footway edge. The submitted plan identifies space at the side of each dwelling which would be accessed from Coppice Street and could accommodate up to two off-street parking spaces for vehicles without overhanging the footway. However, there would be insufficient space to turn within the curtilage of each property to enable an access to and exit from the parking areas in forward gear. As a consequence, reversing manoeuvres onto or from Coppice Street would be required.
8. When there are gaps in traffic on Coppice Street, the cumulative space on the footway and on the road between the parked cars opposite would allow a vehicle to manoeuvre in and out of the spaces at the side of each dwelling in forward gear or when reversing. Those manoeuvres would be feasible despite the available turning area being more constrained when close to the traffic calming measures. Furthermore, once a vehicle has emerged from the site onto the footway, there would be suitable visibility of vehicles and cyclists travelling along the road in either direction due to the relatively straight alignment of the road and the absence of on-street parking on the eastern side of Coppice Street.
9. Notwithstanding the above, a vehicle when leaving each driveway would have restricted visibility along the footway due to the limited set back of the building lines of the dwellings and the adjoining terraced row to the south. In such circumstances, either the front or rear of a vehicle would have to emerge for a considerable distance onto the footway before its driver could obtain suitable visibility of any pedestrians. Whilst some pedestrians may be able to react to and avoid an emerging vehicle, it may not be the case that all users of the footway would be able to do so. Furthermore, those situations could encourage pedestrians to step out onto the carriageway where space is already limited for cars and buses to pass in both directions between parked cars along the opposite side of the road. As a result, the use of the spaces at the side of the three dwellings as an access and driveway would increase the risk of accidents between pedestrians and vehicles. The removal of the disputed condition would, therefore, have a harmful effect upon highway and pedestrian safety.
10. In reaching the above findings, I have taken into account that there are existing accesses between the terraced rows along Coppice Street, including closer to the junctions with Napier Street East and Werneth Hall Road. I observed that some of those accesses require either reversing manoeuvres when entering or exiting in locations where visibility along the footway is

constrained. There is no evidence before me in terms of the use of those accesses and parking areas as to whether they have resulted in any previous accidents between vehicles or with pedestrians. Nonetheless, the presence of existing accesses with sub-standard visibility along the footway should not be seen as a precedent for the introduction of new accesses onto Coppice Street that would increase the risk of accidents between vehicles and pedestrians.

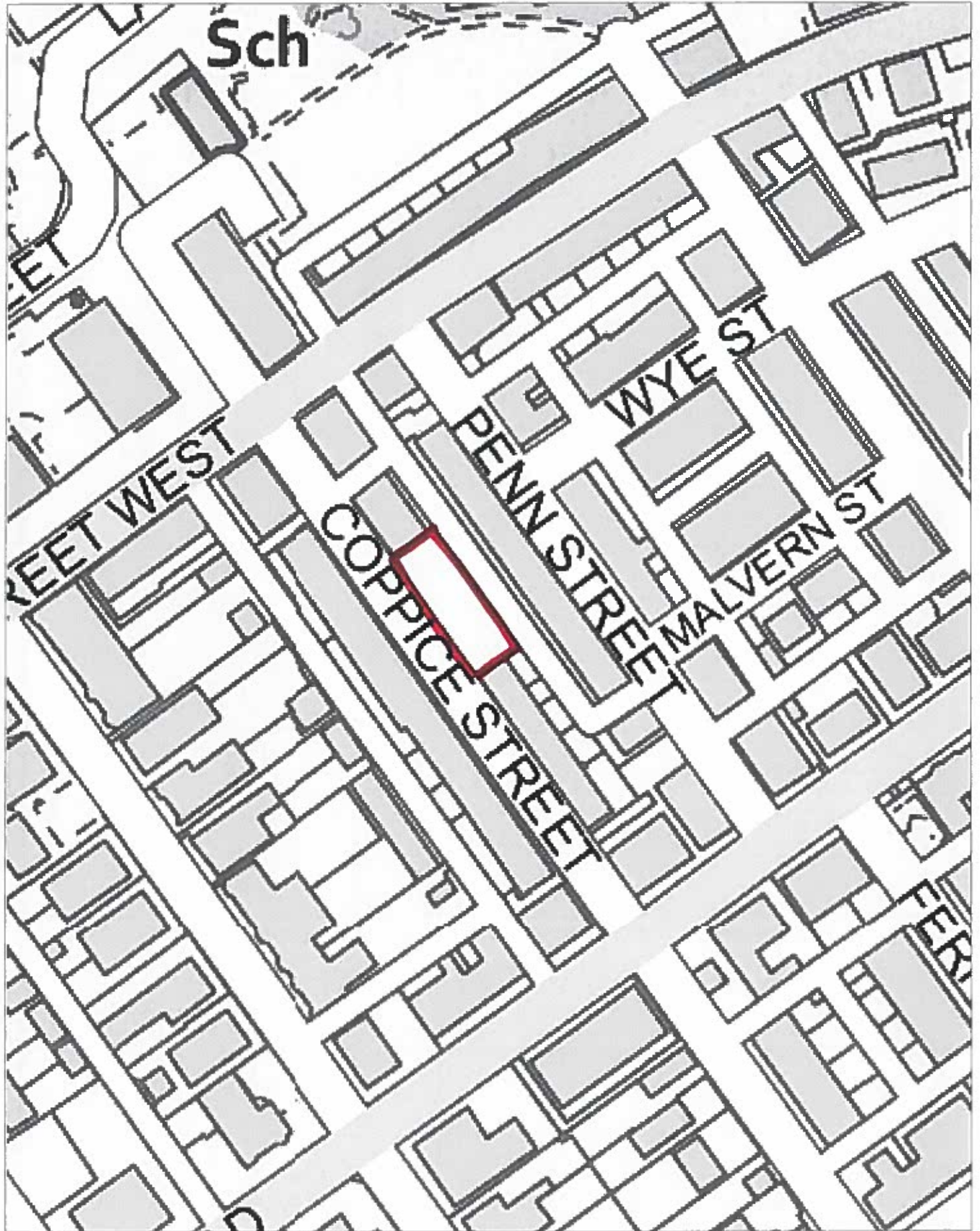
11. The appellant has stated that the provision of off-street parking to serve the development would prevent an increase in demand for the limited on-street parking provision that is available along Coppice Street. That may be the case, but there is no evidence that the increase in parking demand would have a detrimental impact upon highway safety on Coppice Street when taking account of the parking restrictions that are in place. Furthermore, based upon my observations and the limited evidence in terms of local parking conditions, I have no reason to consider that on-street parking availability in surrounding streets could not safely accommodate any parking demand that exceeds the capacity available in Coppice Street. Whilst an inability of existing residents of Coppice Street and future residents of the development to park close to their properties would be inconvenient, such matters do not justify the provision of new accesses on Coppice Street that would unacceptably increase the risk of accidents between vehicles and pedestrians.
12. I conclude that the disputed condition, when taking account of paragraph 55 of the Framework and Planning Practice Guidance, is reasonable and necessary with regard to the effect of the development upon highway and pedestrian safety and to ensure no conflict with Policy 9 of the Oldham Joint Core Strategy and Development Management Policies Development Plan Document, adopted November 2011. The policy, amongst other things, seeks that development does not harm the safety of road users. The policy is consistent with the Framework that seeks to ensure that safe and suitable access to the site can be achieved for all users and indicates that development should only be prevented or refused on highway grounds if there would be, amongst other things, an unacceptable impact upon highway safety. The removal of the disputed condition would, therefore, be unacceptable as it is necessary to make the development acceptable given the harm upon highway safety that would otherwise result.
13. I have considered the other conditions attached to the planning permission. However, there is no evidence before me relating to their status or that would lead me to conclude that it is necessary to vary them.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR



341619

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Appeal Decision

Site visit made on 7 January 2019

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 January 2019

Appeal Ref: APP/W4223/W/18/3212543

318 Oldham Road, Royton OL2 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Ashik Hussain against Oldham Metropolitan Borough Council.
 - The application Ref PA/340929/17, is dated 13 October 2017.
 - The development proposed is change of use from office to 9 bed HMO (*sui generis*), including minor elevational changes.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. If the application had proceeded to determination, the Council advises that planning permission would have been refused due to the loss of an office use and the failure to demonstrate that it is no longer appropriate or viable to continue the premises being used for business use.

Main Issue

3. In light of the above, the main issue is the effect of the development on employment provision and the local economy.

Reasons

Employment provision and the local economy

4. The appeal property consists of an end terraced building located at the corner of Oldham Road and Arlington Close which is currently in use as offices. The front elevation of the building which faces Oldham Road is two storey in height with a bay window at the front. However, land levels in Arlington Close reduce at the side toward the rear of the building. From those perspectives, the rear section of the building and a rear outrigger have three storeys, including basement accommodation that is part visible at street level and an integral rear garage accessed from Arlington Close at the side.
5. The proposed house in multiple occupation (HMO) would consist of nine bedrooms with associated shower rooms / en-suite bathrooms which would occupy the ground and first floor of the building, together with a shared living room and kitchen in the existing basement that would be served by two windows inserted in the side elevation facing Arlington Close.

6. Policy 14 of the Oldham Joint Core Strategy and Development Management Policies Development Plan Document (CS&DMP), adopted November 2011, seeks to support Oldham's Economy. In doing so, the policy requires that development proposals which would result in the loss of a site currently or most recently used for employment purposes to other uses should include measures to outweigh the loss of the site and support Oldham's economy and the regeneration plans of the borough.
7. The above policy includes a list of business and employment uses which reflect key economic sectors, with the existing office use falling under B1 - Business. The change of use to a HMO as proposed would mean that the use of the premises would no longer fall within a business and employment use and would fall outside of the list of uses in Policy 14 of the CS&DMP. However, Policy 14 includes an exception that uses other than those listed will be permitted on sites currently or most recently use for employment purposes, provided that the applicant can clearly demonstrate that it is no longer appropriate or viable to continue the existing use. In that regard, the policy includes specific requirements to demonstrate unsuccessful marketing of the site, or a lack of viability for continued use for employment purposes, or that alternative uses would benefit regeneration areas or the community of the area.
8. With regard to the above, at the time of my visit, the offices within the property were fully occupied by an existing business. Furthermore, there is no evidence before me in terms of a lack of viability for the continued use of the premises as offices or that any marketing has taken place to demonstrate unsuitability for its occupation for those purposes or the other business and employment uses listed in Policy 14 of the CS&DMP. In that context, the supporting text of the policy sets out that evidence in 2009 indicated that the borough may require an additional 30,000 sq.m of office floorspace by 2026.
9. There is no evidence before me that Oldham would no longer require additional office floorspace to meet its employment needs. The size of the existing office floorspace is approaching 120 sq.m and therefore, reflects a relatively small scale premises. Nonetheless, the proposal would result in a loss of employment premises and even jobs, should the existing business be unable to relocate to suitable alternative premises. In that regard, there is no evidence before me that the existing business intends to vacate the premises if this appeal were dismissed or that the proposal would assist its relocation or expansion if displaced from the site. Furthermore, there is no indication that the proposal would alternatively support other employment uses or opportunities so as to meet any of the other criteria listed in Policy 14 of the CS&DMP. I, therefore, find that the development proposal resulting in the loss of an employment premises to other uses does not include sufficient measures to support for Oldham's economy, so as to outweigh the loss of the existing employment premises within the site.
10. In reaching the above findings, I have taken into account that there would be some benefits arising from the proposal in terms of the contribution to housing choice in Oldham through the provision of a HMO. Furthermore, the other properties within the terraced row are currently in residential use and the evidence before me indicates that the site was previously converted from a dwellinghouse into the current office use. However, based on my observations and the totality of evidence, I do not consider that the relationship of the existing use with surrounding residential properties results in unacceptable

living conditions for occupiers of neighbouring properties in a location where other commercial uses are also present nearby. It appears that occupiers of neighbouring properties can currently live, if not happily, at least tolerably with the established employment use. I, therefore, find that there would be no significant benefits to the community of the area arising from the removal of the office use as part of the proposal or the provision of the HMO that would outweigh the loss of the employment provision.

11. When having regard to all of the above, I conclude that the proposal has failed to demonstrate that the development would not result in a harmful loss of employment provision and a detrimental impact upon the local economy. The proposal, therefore, fails to meet the requirements of Policy 14 of the CS&DMP and conflicts with it. The policy is consistent with the National Planning Policy Framework (the Framework) in so far as it seeks that planning policies and decisions help create the conditions in which businesses can invest, expand and adapt, together with the significant weight placed on the need to support productivity taking into account both local business needs and wider opportunities for development, and its approach relating to alternative uses of land which is currently developed.

Other Matters

Living conditions - occupiers of neighbouring properties and future residents

12. The appeal property adjoins an existing dwelling at No 320. In that respect, there would be potential for an increase in internal noise associated with the occupation of the property as a HMO when compared with office uses that are generally closed during the evening and overnight. However, I am satisfied that a condition could secure a scheme with adequate noise mitigation measures to be implemented prior to the first occupation of the HMO which would ensure no unacceptable impact upon the living conditions of occupiers of No 320. The separation distance to the existing NHS premises at Nos. 314/316 Oldham Road and the public house opposite would be sufficient to avoid an adverse effect on those properties.
13. The existing clear glazed rear windows at ground floor and first floor level of the property already have a close relationship with the front windows of Nos. 2 and 4 Arlington Close that is below normal privacy standards. The occupation of the HMO would extend the periods of each day where occupiers of those neighbouring properties could have a perception of being overlooked. However, a condition could be imposed to permanently obscure those rear windows with gradual line window film as indicated on the submitted plans. To my mind, as the existing situation is less than ideal, such an approach would reflect an appropriate balance between reducing the perception of the neighbouring properties being directly overlooked and ensuring a satisfactory living environment for future occupiers of those bedrooms by providing some outlook and light.
14. The proposed HMO would also likely result in an increase in activity and comings and goings close to the appeal property, particularly later in evenings. However, the location is close to the heavily trafficked Oldham Road and there are non-residential uses close by, including some that would be open during late evenings. In that context, the activity associated with the HMO would not have an unacceptable impact in terms of noise and disturbance for occupiers of neighbouring properties when compared with the prevailing noise environment.

15. The submitted plans indicate two domestic cookers within the kitchen with extraction of fumes provided by a mechanical system that would be taken through an outside wall above ceiling level to a recessed area which faces onto Arlington Close and away from neighbouring residential properties. Those arrangements would be suitable to avoid any detrimental impact upon existing occupiers of neighbouring properties or future occupiers of the proposed development.
16. The living environment for future residents would otherwise be suitable in terms of individual bedroom sizes, provision of bathrooms and other living space and kitchen facilities. A condition could be imposed to provide an occupancy limit for the HMO to reflect the size of the accommodation, whilst the licensing regime for HMOs under the Housing Act 2004 would provide appropriate controls over management and maintenance arrangements. In addition, issues relating to means of escape for bedrooms in the event of a fire and ventilation for the kitchen and bathrooms without windows are matters that can be suitably addressed through Building Regulations. I am, therefore, satisfied that the development would provide for a satisfactory living environment for future residents.

Character and appearance

17. A residential use consisting of a HMO would not appear out of place in its surrounding context of a mix of residential and commercial uses along Oldham Road. The proposal includes only minor external alterations, including the two windows serving the basement and the replacement of a door with a window on the side elevation facing Arlington Close, which would not harm the character and appearance of the area.

Highway safety and parking arrangements

18. The site is in an accessible location close to a range of local services and facilities and with good public transport and pedestrian links. The frontage of the property onto Oldham Road has parking restrictions marked by double yellow lines up to the junction with Arlington Close. In addition, Arlington Close at the side and rear of the site and an adjoining car park are located within a residents parking scheme that covers a number of surrounding streets with those restrictions imposed between 0800-2000 hours on Mondays to Saturdays.
19. With regard to the above, the use of the existing garage for storage and cycle parking as proposed would involve the loss of the only off-street parking space within the site. However, based upon the evidence before me, the existing office use of the property also has eight permits which have been issued for the residents parking scheme and would be cancelled if the office use ceases and they are no longer required. In that context and based on my observations, I am satisfied that there would be sufficient capacity within the streets and car park covered by the residents parking scheme to safely accommodate any parking demand arising from the development should future residents of the HMO apply for and be issued with a permit. I, therefore, find that the proposal would not have a harmful effect on local parking arrangements or highway safety.

Waste storage and collection arrangements

20. The submitted plans include a basement floor layout with an internal door which would link to the existing internal garage with sufficient space for an internal bin store. Those arrangements would be adequate to serve the waste storage requirements of the future occupiers of the building. The door onto Arlington Close would include an external keypad to allow independent access into the garage when occupiers are not present with the lowered kerb providing a safe route for the bins to be brought to the street. In that respect, a condition could be imposed to secure full details of suitable collection arrangements by either the Council or a private waste management contractor to ensure that the footway on Arlington Close would not be unacceptably obstructed by bins. I am, therefore, satisfied that the development could be served by suitable waste storage and collection arrangements.

Other issues

21. There is no substantiated evidence before me that the development would have an adverse impact in terms of anti-social behaviour and as previously mentioned, appropriate management arrangements for HMOs would be separately controlled through the licensing regime. Whilst the issue of impact on property values has been raised, it is a well-founded principle that the planning system does not exist to protect private interests such as the value of land and property.

22. The appellant has referred to the Council's approach when dealing with the application, but such matters are not an influential factor upon my assessment of the proposal and determination of the appeal which is necessarily undertaken on its merits.

Conclusion

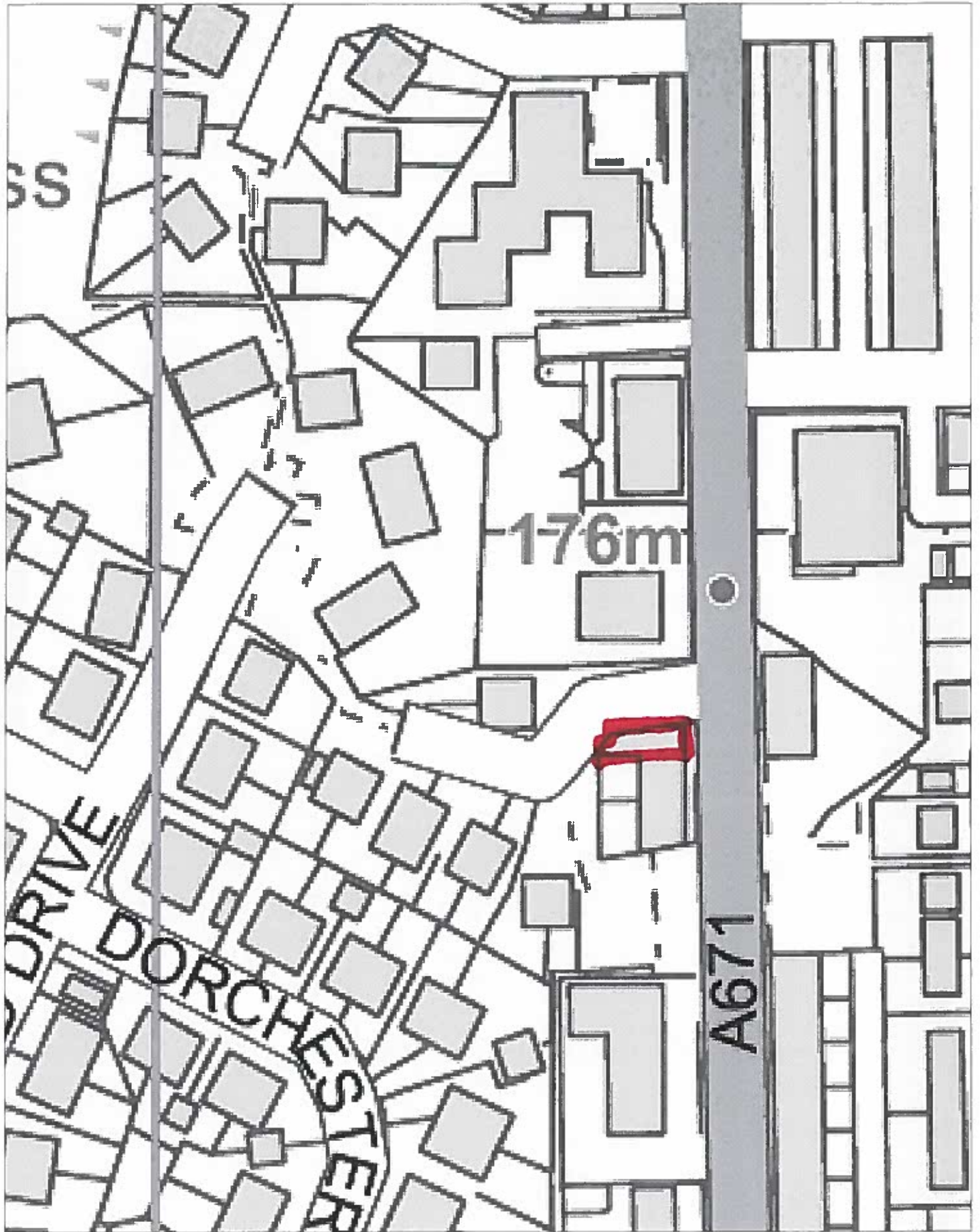
23. I have taken account of the benefits of the provision of a HMO, including the contribution to housing choice in an accessible location close to local services and facilities. I have also found no harm in terms of the effect on the living conditions of occupiers of neighbouring properties, the living environment for future residents, the character and appearance of the area, highway safety and local parking arrangements and waste storage and collection arrangements for the reasons previously given. However, the absence of concern in those respects is a neutral factor.

24. Notwithstanding the above, I have found that the proposal has failed to demonstrate that the development would not result in a harmful loss of employment provision and a detrimental impact upon the local economy. That matter is a decisive factor upon the outcome of this appeal as it reflects conflict with the development plan that is significant and overriding, and which is not outweighed by the other material considerations in this case.

25. For the reasons given above, I conclude that this appeal should be dismissed and planning permission should be refused.

Gareth Wildgoose

INSPECTOR



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Appeal Decision

Site visit made on 2 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 25 January 2019

Appeal Ref: APP/W4223/W/18/3206019

The Old Stables, Lee Cross, Diggle, Oldham OL3 5JX

- 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 N Green against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/340691/17, dated 24 August 2017, was refused by notice dated 19 January 2018.
 - The development proposed is a new access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. I have had regard to the Revised Framework in reaching my decision.

Main Issues

3. The main issues in this case are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt and Green Belt purposes; and
 - If the proposal 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.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

4. The Old Stables is situated within the Greater Manchester Green Belt. The appeal site is a thin wedge of land that is sited off Lee Side between the Public Right of Way (PROW) and the open fields. The scheme involves the creation of a 3 metre wide access track, the removal of approximately 2 metres of the stone wall facing Lee Side to provide this access, which will then be lowered to improve visibility. The access will be surfaced in 'grasscrete' or a similar base.

It is proposed to change the use of a parcel of agricultural land to residential land associated with the host property.

5. By virtue of paragraph 145 of the Framework, the construction of new buildings in the Green Belt is inappropriate subject to a number of specified exceptions. Under the previous version of the National Planning Policy Framework (2012), a garden extension fell outside the exceptions to inappropriate development. However, paragraph 146 of the revised Framework provides that other forms of development including material changes of use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
6. Consequently, the change of use would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate.

Openness of the Green Belt and Green Belt Purposes

7. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The development involves the material change of use of land that forms part of the open countryside, which is used for grazing. The appellant acknowledges at 5.10 in their statement that 'encroachment on the countryside will be minimal'. Currently the area of land is open, where a section of long grass separates the site from the raised access to the adjacent detached garage. A timber post and rail fence/gate form the entrance to the PROW, then 2 lines of post and wire fencing separate the PROW from the residential garden/field to the stile, where the PROW continues across open fields.
8. The area behind the stone wall is rough grass, with a maintained grassed area between the gate and the stile on the PROW, which is noticeable when compared to the agricultural appearance of the adjacent field. To facilitate the proposal, the existing entrance to the PROW from Lee Side would be re-located away from the road, but still on the line of the PROW, where the stile would be repositioned. Additionally, the section of the post and wire fencing that separates the PROW from the adjacent field would then be removed.
9. The scheme would introduce a man-made feature where one does not exist and openness would be reduced. The hard standing would be clearly visible from Lee Side and the PROW and would constitute a suburban feature that contrasts unfavourably with the greenery that generally fringes the road and the surrounding land. The appellant points out that hard surfacing could be installed under permitted development rights within the original curtilage of the property. Whilst this may be the case, a new area of extended hard surfacing would not extend beyond the curtilage of the property into open land, as in the case before me.
10. The physical extent of the access is not fully known, as it is not clear on the submitted drawings whether the access track will end at the new gate or will continue in to the formal garden. Regardless of this matter, even if the access track was only up to the new gate it would still form an extension of the residential garden. As a consequence, although not currently proposed, the access track could potentially be used for the parking of motor vehicles and/or

the storage of domestic paraphernalia, which would impact on openness and increase the sense of encroachment of residential development into the Green Belt, and could not reasonably be controlled by condition. This encroachment into the countryside would result in the extension of a domestic garden into previously open Green Belt land.

11. Whilst the appeal site is only small, even small incursions into the Green Belt can erode it, meaning that it's lost forever. There is no definition of "openness" in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development rather than being primarily about visual effects. I conclude that the proposal would have a harmful effect on the openness of the Green Belt and would, therefore, represent inappropriate development.

Whether other considerations amount to the very special conditions necessary to justify the development

12. I have concluded that the proposal harms the openness of the Green Belt and that consequently the proposal represents inappropriate development in the Green Belt. Substantial weight should be given to this harm. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I now turn to consider whether there are any factors in support of development such that very special circumstances arise.
13. The appellant is suggesting as part of this proposal the removal of the post and wire fencing, which separates the PROW with the open field, as well as the side gate from the garden. The appellants states that the PROW is within the curtilage of the host dwelling, which differs from the Council's observations in the Officer Report, where it considers the PROW separated from the residential curtilage. Regardless of this matter, I noted on my site visit that the area of PROW enclosed by the post and wire fencing is physically separated from the garden of the host dwelling. This will remain unaltered as part of the proposal, apart from the removal of the fencing with the adjacent field.
14. In this respect I noted that the when walking along this section of the PROW, due to the height and the lightweight nature of the post and wire fencing that the adjacent fields were readily visible and that there was no feeling of enclosure. I note the appellant considers the current fencing to restrict views in this location, but I do not consider that the removal of the post and wire fencing separating the field from the PROW would significantly improve the experience of walkers using this section of the PROW from Lee Side. Consequently, I can only attach very limited weight to these matters.
15. Taking all of the above findings into consideration, I conclude that the above factors do not clearly outweigh the harm to the Green Belt which I have identified both in terms of inappropriateness and the harm to openness. Accordingly, very special circumstances do not arise.

Conclusion

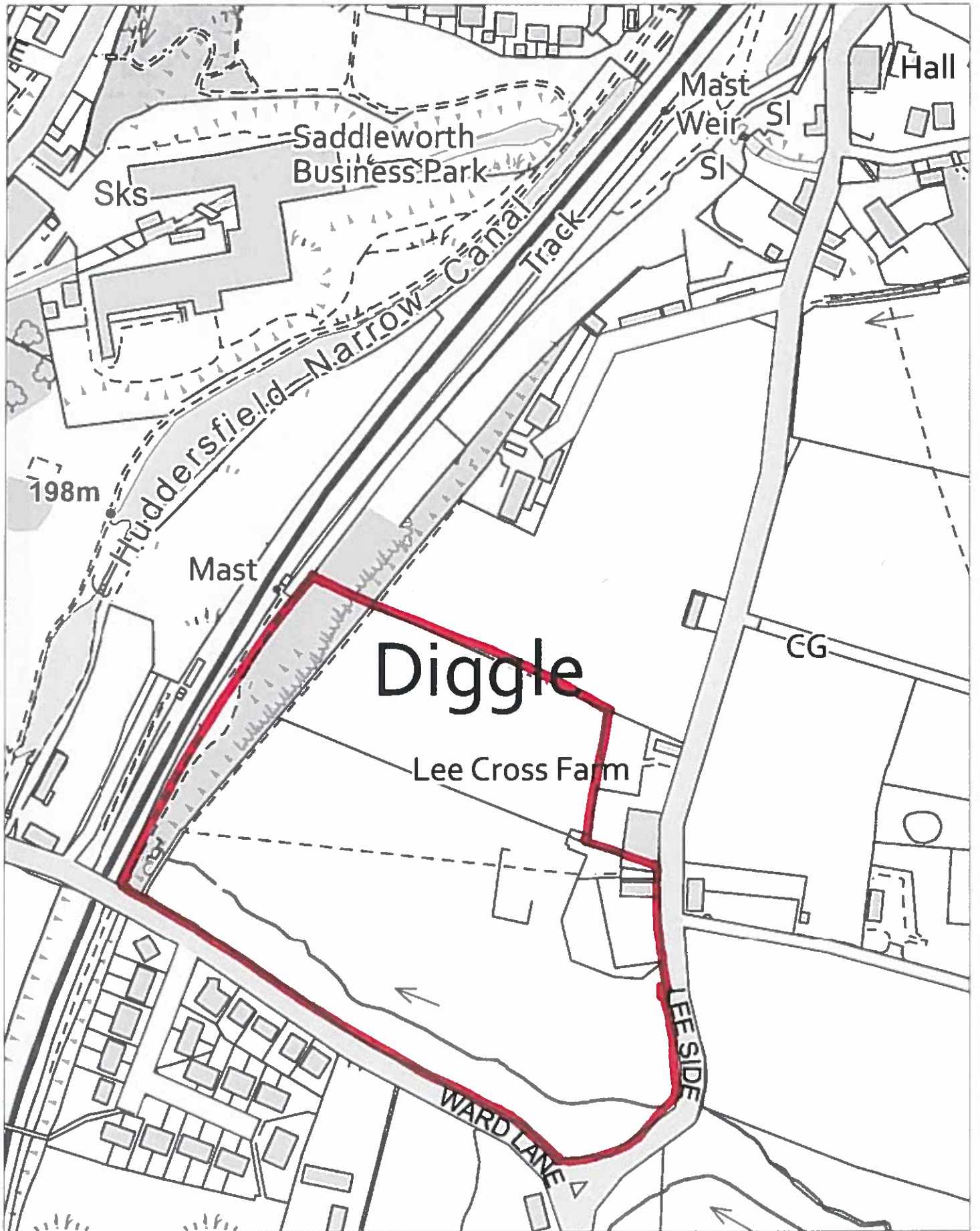
16. I must attach significant weight to the harm to the Green Belt by way of inappropriateness and the harm to openness. All other considerations, taken either individually or cumulatively, do not outweigh the significant harm which I have identified. Therefore, very special circumstances do not arise and

permission should not be granted. The proposal is contrary to the Framework as outlined above.

17. Conflict also arises with Policy 1 and 22 of the Oldham Local Development Framework, Development Plan Document – Joint Strategy and Development Management Policies 2011 (DPD), which requires planning applications to maintain the borough’s Green Belt; and protect open land in line with national policies on Green Belt. I note that these policies were drafted under previous Government guidance, which has since been superseded. However, I consider the policies relevant to this appeal in DPD to be broadly consistent with the Framework.

W Johnson

INSPECTOR



340691

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Appeal Decision

Hearing Held on 8 January 2019

Site visit made on 8 January 2019

by **Mike Worden BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st February 2019

Appeal Ref: APP/W4223/W/18/3197577

Land at Arncliffe Rise, Oldham OL4 2LZ

- 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 Paterbridge Limited against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/339752/17, dated 9 February 2017, was refused by notice dated 10 January 2018.
 - The development proposed is described as: 'residential development comprising nine two-storey dwellings'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Following submission of the application, the appellant submitted amended plans and reduced the proposal from nine to six two storey dwellings. I have based my decision on the amended plans which were those on which the Council made its decision.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties; and,
 - the overall planning balance having regard to the Council's five year housing land supply position.

Reasons

Character and appearance

4. The appeal site is a rectangular shaped strip of grassland in the centre of Arncliffe Rise. Arncliffe Rise is a road which loops around the appeal site and the houses either side of the road look out onto it. The land slopes down from west to east and from north to south. Arncliffe Rise lies on the edge of the

settlement. To the west is housing whilst to the east behind the houses on Arncliffe Rise, there is farmland and moorland. On its northern side there is a former school site. The school buildings have been demolished and houses are currently being constructed on the site. To the south beyond Turf Pit Lane is open countryside and extensive views out into the distance.

5. The proposed development is to construct six detached two storey houses, which would be located in a row along the strip. The proposal would also provide a small amenity area at the Turf Pit Lane end of the site.
6. There are no trees, landscaping or any furniture on the grassland area. The appeal site is in private ownership and although there is a footpath across it, there is no right of public access. Nevertheless, the grassed area has existed for many years and has become part of the character of the immediate area as was noted by the Inspector who determined an appeal¹ on the site in 1990. Houses around Arncliffe Rise all face onto it and it has the appearance of being part of the initial design of the layout of the houses. At the hearing it was unclear what its original purpose may have been but it seems to me that it has visual amenity value and contributes significantly to the current character of Arncliffe Rise. In my view, it provides a focus for the houses around the loop, and maintains the sense of openness and connection to the nearby hills and countryside. It also acts as a type of informal green area clearly valued by local residents. I consider that it is a vitally important part of the character and appearance of the area and one which forms a long established and integral element of Arncliffe Rise.
7. The scheme would provide for gaps between the proposed dwellings and I accept that this increases the merits of the amended scheme compared to the original proposal. This would enable the maintenance of some views through the site. However the proposed development would fundamentally alter the appearance of the appeal site by placing built development and enclosed private gardens on most of it.
8. The Council considers that the appeal site would be classed as amenity greenspace, in terms of Policy 23 of the *Oldham Joint Core Strategy and Development Management Policies Development Plan 2011* (the JCS&DM Plan). This policy seeks to protect open spaces. The policy requires each such space to achieve a score of at least 70% on a quality assessment and that such spaces should be provided at a standard of 0.46 hectares per 1000 population.
9. The *Oldham Local Development Framework Open Space Study 2006-2010* (the Open Space Study) gives the appeal site a quality score of 61.7%. This would put it in the 'average' rather than 'good' category. The Open Space Study also identifies St James ward, in which the appeal site is located, as having amenity greenspace provision of 0.86ha per 1000 population. In my view the score of the site at below the 70% threshold would not necessarily reduce its value as amenity greenspace, and as the Council points out, would be a reflection of the absence of landscaping, furniture etc.
10. Policy 23 of the JCS&DM Plan sets out criteria where the loss of open space would be permitted. The appellant considers that the proposal would meet criterion (c) which applies where the proposal would relate to a masterplan, policy, programme or strategy approved by the Council, since the site would

¹ T/APP/P4220/A/89/137358/P5

contribute to meeting housing need and provide family accommodation which the Council has indicated the borough requires more of. However I have not been provided with any evidence that the appeal site is part of any programme approved by the Council or partnership. I do not consider that it would meet any of the other criteria of Policy 23 of the JCS&DM Plan. Consequently I consider that the proposed development would not accord with that policy.

11. Paragraph 97 of the National Planning Policy Framework (the Framework) indicates that existing open space, sports and recreational buildings and land should not be built on unless one of three exceptions is met. I consider that it would not meet criterion a) as it is not been shown to be surplus to requirements. I consider that the Open Space Study does not identify it as surplus to requirements. Although there is a higher than minimum standard of provision of amenity greenspace per 1000 population overall in St James ward, I do not consider that this would mean that the site would be surplus to requirements.
12. It would also not meet criterion c) as it does not relate to replacement provision. Criterion c) relates to circumstances where equivalent or better provision in terms of quantity and quality would replace it. I consider that this criterion would not be met as in my view the proposed area of amenity land is extremely small compared to the existing appeal site and would not constitute improved provision overall, notwithstanding that it would be landscaped and have public access. I therefore consider that the proposed development would not accord with paragraph 97 of the Framework.
13. I have had regard to the examples of open space referred to me, where development has been allowed. I do not full have details of the proposals or what led to the Council decisions on each of them but consider that they differ significantly to the proposals before me. The Stott Street site is a very small area of land on a corner plot. The Keb Lane scheme was for affordable housing and provided significant improvements to other open spaces in the area. The main issue in the Haven Lane appeal² was highway safety, not character and appearance. The Moordale Avenue site is at the end of a cul-de-sac, was used for the grazing of horses and the Inspector³ concluded that it made little contribution to the character and appearance of the area.
14. In any event, I have considered this site on its merits and on the basis of the evidence before me. I have also had regard to the existence of the Whitehall Lane playing field which I visited, but consider that it does not alter my views on the value of the appeal site or my overall conclusions.
15. For the reasons set out above, I consider that the proposed development would result in the loss of amenity greenspace and would be significantly harmful to the character and appearance of the area, contrary to Policy 23 of the JCS&DM Plan. It would also be contrary to Paragraph 97 of the Framework.

Living conditions

16. The proposed houses would sit at an angle to the houses on the eastern side of Arncliffe Rise. In each case a corner of the proposed houses would be closest to the existing houses and so the view from the existing houses would partly of the side of each house and partly the rear. Four of the houses would be angled

² APP/W4223/W/17/3175644

³ APP/W4223/W/16/3157045

one way, two the other way. Locating the proposed houses at angles would help to avoid direct overlooking between the habitable room windows of the proposed houses and the existing houses. I agree with the views of the main parties that the proposal would not cause harm to living conditions with regard to privacy.

17. The proposed houses would be located higher than the road level on the eastern side of Arncliffe Rise and would be separated from the road by a row of off road parking spaces, a landscaped bank and boundary treatment. The proposed houses would present a dominant form of development when seen from the existing houses on the eastern side of Arncliffe Rise.
18. The slope of the land towards the houses on the eastern side of Arncliffe Rise is steeper at the Turf Pit Lane end of the site than at the Hill Top end. The distance between the existing houses and the proposed houses is narrowest at the Hill Top end, which means that the proposed houses which would be at the highest elevation compared to the existing houses would be those which would be furthest away from them. I have not been provided with any standards in force which the Council would use to assess acceptable distances between residential properties. The existing houses on the eastern side of Arncliffe Rise all have front gardens behind brick walls.
19. Whilst the proposed development would inevitably significantly alter the outlook considerably from all of the houses, I consider that there would be still be a sufficient gap between them and the proposed houses to ensure that the proposed development would not lead to an unacceptable sense of overbearing outlook overall. Furthermore the orientation of the proposed houses would mean that the closest point of the proposed houses to the existing houses would be the eaves of the property rather than gable end. Plot 5 would have the highest floor level compared to the closest existing house and I consider that the orientation of the proposed house would make this relationship just acceptable.
20. For these reasons, I consider that the proposed development would not lead to an unacceptable impact on living conditions of the occupants of the existing houses on the eastern side of Arncliffe Rise with regard to outlook. The proposed development would therefore accord with Policy 9 of the JCS &DM Plan which seeks to protect the local environment including amongst other things, the amenity of the existing neighbouring occupants.

Planning Balance and Conclusion

21. The parties have agreed that there is a 3.1 years supply of housing land and in the statement of common ground have agreed how this has been calculated. In accordance with paragraph 11 of the Framework, the policies which are the most important for determining the application are therefore to be considered as out of date as the Council cannot demonstrate a five year supply. Planning permission should therefore be granted unless, in this case, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole.
22. The proposed development would provide six new dwellings in an accessible location and would assist addressing the housing land supply shortage in the borough, albeit in a limited way given the low numbers proposed. Furthermore the proposed dwellings would be family accommodation, which the Council

considers is needed in Oldham. I have placed considerable weight on these benefits. Given the small size of the proposed amenity area, I have placed only limited weight to that provision as a benefit to the local community. I have placed some weight on the provision of new off road car parking spaces for existing residents.

23. I have found a neutral impact on the living conditions of the occupants of the existing properties. However, I have found significant harm to the character and appearance of the area as a result of the proposal which would be contrary to Policy 23 of the JCS&DM Plan, and to paragraph 97 of the Framework. I consider that this adverse harm significantly and demonstrably outweighs the benefits of the proposal.

24. I therefore conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR



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Appeal Decision

Site Visit made on 23 January 2019

by **Elizabeth Pleasant DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 February 2019

Appeal Ref: APP/W4223/W/18/3210581

16 Pole Lane, Failsworth M35 9PB

- 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 Mosaic Holdings Ltd against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/341496/18, dated 28 February 2018, was refused by a notice dated 19 July 2018.
 - The development proposed is change of use from C3 to Sui Generis 7 bedroom HMO with infill extension on the rear ground floor.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from C3 to Sui Generis 7 bedroom HMO with infill extension on the rear ground floor at 16 Pole Lane, Failsworth M35 9PB in accordance with the terms of the application, Ref PA/341496/18, dated 28 February 2018, 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 development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, P03; Site Plan, P05 Rev A; Existing Plans and Elevations, P01; Proposed Plans and Elevations P02 Rev B.
 - 3) All roof lights shown on drawing no. P02 Rev B shall be of a 'conservation style' to sit flush with the roof surface and shall not protrude from the roof plane.
 - 4) Before the development hereby permitted is first occupied secure cycle parking facilities shall be provided in accordance with details that shall first have been submitted to and agreed in writing with the local planning authority. The approved facilities shall be retained and available for use thereafter.
 - 5) Before the development hereby permitted is first occupied facilities for the storage and removal of refuse and waste materials shall be provided in accordance with details that shall first have been submitted to and agreed in writing with the local planning authority. The approved facilities shall be retained and available for use thereafter.

Procedural Matter

2. It is clear from the decision notice and officer report that the Council's concern relates solely to the proposed change of use and no objections are raised to the proposed infill extension to the rear of the property. I shall therefore confine my considerations to the proposed change of use.

Main Issues

3. The main issues in this case are the effect of the proposed development on the:
 - Balance of housing mix having regard to local and national planning policy; and
 - Character of Failsworth Pole Conservation Area.

Reasons

Housing Mix

4. The appeal property is a substantial two-storey Victorian terraced property with rooms in the roofspace. It is situated on a residential street and in an accessible location close to Failsworth town centre and public transport routes. There is a mixture of house types on Pole Lane, including Victorian terraced and semi-detached dwellings, together with more recent detached and semi-detached properties.
5. Policy 3 of Oldham's Joint Core Strategy and Development Management Policies Development Plan Document, 2011 (DPD) seeks to ensure that Oldham, as part of Greater Manchester North East Housing Market Area, provides a balanced and sustainable housing market to meet the needs and demands of both the urban and rural communities.
6. Policy 11 of the DPD advises that residential development must deliver a mix of appropriate housing types, sizes and tenures and that the mix of houses will be secured based on local evidence. Policy 11 further advises that all residential development must be appropriate to the area, accessible to public transport and key services and have regard to the Council's plans for the area. Based on current local evidence this includes: family housing; a mix of housing within Oldham Town Centre and the centres of Chadderton, Failsworth, Hill Stores, Lees, Royton, Shaw and Uppermill as appropriate to encourage people to live within these areas; and high value housing to retain and attract residents throughout the borough. Furthermore, Policy 11 advises that houses in multiple occupation (HMO) will not be permitted unless it can be demonstrated that the proposal does not adversely affect: the local character; the residential and workplace amenity of current, future and neighbouring occupiers; and traffic levels and the safety of road users.
7. The Council's decision notice advises that there is a shortage of five-bedroom or more house types in Failsworth East (2.1%) of the housing makeup compared with the Oldham average of 2.9% and national average of 6.3% of five-bedroom or more housing. That said, I have not been provided with any further information or evidence on other housing sector needs for the housing market area. Policy 11 does not preclude the change of use of family houses to

other forms of residential accommodation and actively encourages a mix of housing within Failsworth centre to encourage people to live within the area.

8. At the time of my visit to the appeal property was vacant and the adjoining property was undergoing conversion works to provide HMO accommodation. From my own observations on site, the remaining properties in the terrace appeared to be in use as single dwellings which also appeared to be the predominant house type within the street. The appeal property has five bedrooms and although it would clearly accommodate a family, there is no off-street parking space available to it and parking restrictions on Pole Lane also preclude on street parking in this location. Moreover, the property has only a small back yard area and therefore limited external amenity space for outside play and storage. The existing dwelling may therefore have limited appeal as family accommodation.
9. The proposed HMO would provide accommodation for a different housing sector and would support a housing mix in this street and close to Failsworth centre. It is not situated in a street where there is a large proportion of HMO use and would therefore would help to create a sustainable and inclusive community. Future occupants would also benefit from the property's sustainable location and add to the vibrancy of this local centre. Despite third party concerns, I have not been provided with any substantive evidence that would lead me to conclude that future occupants would not be interested in the use of community facilities and community engagement.
10. I conclude that the proposed development would not have a harmful effect on the balance of housing mix in the area. There would be no conflict with the development plan and in particular with Policies 3 or 11 of the DPD or Section 5 of the National Planning Policy Framework (the Framework) which seeks to ensure that a sufficient supply of homes is provided, in the right place and to meet specific housing needs.

Failsworth Pole Conservation Area

11. The appeal site is within Failsworth Pole Conservation Area (CA) and I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. This is reflected in Policy 24 of the DPD and the Framework.
12. The heritage significance of the CA is in my opinion derived from its Victorian heritage, based around the industrial mills, town centre and the Pole. The proposed development would include a small extension to the ground floor rear elevation which would be designed and constructed in materials and form to reflect the character and appearance of the existing dwelling. Given the enclosure of the rear yard it would not be visible to wider public views. Similarly, the new roof lights are only small, simple in design and well-spaced. They would not therefore detract from the buildings traditional vernacular form or appearance. Furthermore, the proposed use as an HMO would retain a residential use and consequently the character of the CA would be preserved.
13. I conclude that the appeal proposal would preserve the character of Failsworth Pole Conservation Area. There would therefore be no conflict with the development plan and in particular with Policy 24 of the DPD or the Framework the aims of which are set out above.

Other Matters

14. I have taken into consideration third party concerns regarding the potential for an increase in litter, vermin, privacy, noise and disturbance and anti-social behaviour. However, I have no substantive evidence before me that this would be the case. There is sufficient space within the site for refuse bin storage and recycling facilities, and occupants of a five-bedroom family home would also result in many comings and goings throughout the day and evening period. I appreciate concerns from local residents that this proposal may lead to further applications for similar accommodation in the area. However, each case must be considered on its own merits and it is on that basis that I have made my decision.
15. Based on the evidence before me, including the property's existing use rights and the walkable distance of services and public transport, I would concur with the Council that the proposal would not have a harmful impact on highway safety or vehicular car parking capacity. The rights of individuals to access their property from the lane to the rear of the property is a private right and not a matter for me in my consideration of this appeal.

Conditions

16. The Council have suggested a number of conditions which I have considered against the Framework and Planning Practice Guide. I have amended some of their wording to provide clarity.
17. I have imposed a condition to specify the approved plans as this provides certainty.
18. Specification of the details of the proposed rooflights is necessary to preserve the character and appearance of the CA.
19. I have imposed a condition to require details of cycle parking facilities to provide sustainable transport options and details of facilities for the disposal of refuse are required to protect the living conditions of future occupiers and neighbouring residents.

Conclusion

20. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

