

Planning Appeals Update

Planning Committee

Report of Head of Planning and Infrastructure

DATE OF COMMITTEE

August 2019

PLANNING APPEALS

WRITTEN REPRESENTATION

HEARINGS

HOUSE HOLDER

HH/343133/19 New House, Cooper Street, Springhead, Oldham, OL4 4QT

ADVERTISEMENTS

AD/342961/19 8 Shaw Road, Oldham, OL1 3LQ

APPEAL DECISIONS

HH/342714/18 24 Church Fields, Dobcross, OL3 5AB
Original Decision Del
Appeal Decision Dismissed

HH/342826/19 8 Ringwood Way, Chadderton, Oldham, OL9 6SN
Original Decision Del
Appeal Decision Dismissed

PA/341862/18 Land to the rear of 1 & 2 Fern Hill, Fern Hill, Oldham, OL4 5NW
Original Decision Del
Appeal Decision Dismissed

RECOMMENDATION - That the report be noted.

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

Files held in the Development Control Section

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



Appeal Decision

Site visit made on 4 June 2019

by **F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 9 July 2019

Appeal Ref: APP/W4223/D/19/3226541

24 Church Fields, Dobcross OL3 5AB

- 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 Ms K Adamiec against the decision of Oldham Council.
 - The application Ref HH/342714/18, dated 17 December 2018, was refused by notice dated 11 February 2019.
 - The development proposed is the demolition of existing single-storey side extension and erection of new 2-storey side extension; erection of new porch; and internal renovations to existing building.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of Dobcross Conservation Area (DCA) and its effect on the setting of the Grade II Listed Manor House, and;
 - The effect of the proposal on the living conditions of the occupants of Manor House, with particular regard to light and outlook.

Procedural Matters

3. The appellant has confirmed that the Local Planning Authority (LPA) granted planning permission on 25 April 2019 for a single storey side extension in the form of a porch as included in the appeal. I have no reason to disagree with the decision of the LPA, and so will not consider the merits of the porch as part of this appeal.
4. The appellant has confirmed that the LPA granted a Certificate of Lawfulness on 25 April 2019 for works to 24 Church Fields that constitute permitted development. However, I do not have the full details of these works and so give this limited weight.

Reasons

Dobcross Conservation Area and setting of the Grade II Listed Manor House

5. The appeal property is located within the small historic Village of Dobcross, the central part of which is a designated Conservation Area. The Village has a

strong character and sense of place. The winding narrow street pattern and clustered form and juxtaposed position of the buildings are a consequence of its topography (with significant level changes across the Village) and organic growth. These have created a tight-knit grain and strong sense of enclosure. The spaces between the buildings sometimes give pleasing glimpses through to other properties or long-range views to key landmarks, such as the church, or out to surrounding moorland. The buildings vary greatly in size, shape and height, but are generally consistent in their materials of local stone and slate and incorporation of stone mullioned windows, giving a degree of visual unity to the Village. All of these elements contribute to the special architectural and historic interest and significance of DCA.

6. The appeal property, which is currently vacant, is located in the historic core of the Village on the edge of Church Fields and in close proximity to the Grade II Listed Manor House. It is a small stone cottage with a slate roof and a lean-to at one side. The steps between Manor House and the cottage indicate a historic link, and the difference in their size and grandeur reflects the different status of their historic occupiers. The cottage's modest size, traditional form, simple design and use of local materials cause it to make a positive contribution to the character and appearance of DCA.
7. The appeal proposal is a revision of a previous application (ref HH/337462/15) which was refused by the LPA and then dismissed on appeal (ref APP/W4223/W/16/3141972). It would have a stepped design with the first floor being lower than the host cottage and the ground floor being an 'L' shape. It would be marginally longer than the existing lean-to. It would incorporate a long, slim glazed window separating the cottage and the new extension, and large patio doors to the ground floor gable of the extension. The materials would be stone and slate.
8. I acknowledge that the appellant has given careful consideration to the revised proposal and sought to address the issues raised previously. However, it would be an unduly prominent addition to this modest cottage, lessening the positive contribution it makes to DCA. In addition, the proposal's part contemporary, part traditional form and design (incorporating patio doors which were highlighted as out of keeping by the previous Inspector and I have no reason to disagree) would detract from the historic integrity and character of the cottage and be detrimental to the character and appearance of DCA.
9. Notwithstanding the reshaping of the roof profile, the proposal would also have an adverse impact on important views within DCA. It would obscure views between the cottage and Manor House from Woods Lane out to the moorlands beyond and detract from views looking north/north east from the footpath and adjacent access lane.
10. The appeal property is located within the setting of the Grade II Listed Manor House. Manor House is a large detached residential property which has been altered over time. It is stated in the Listed Building description to date from circa 1800, but there is evidence that it could be older. Its age, form and design mean that it is of high historical and architectural value and thus of high significance. It occupies a prominent position on Woods Lane adjacent to Church Fields with all four elevations visible from the surrounding lanes and footpaths. This detached and relatively open setting contributes to the building's significance.

11. The cottage is wholly subservient in size, form and design to Manor House and the space between them, albeit limited, is important in physically and experientially separating and differentiating the properties. These are important elements of their historical and physical relationship.
12. It is accepted that the elevation facing the appeal property is the plainest. However, it is still of significance as it contains important evidence of the evolution of the building, such as the stone mullioned windows to the cellar and the raised quoins from the original T-shaped plan. At present the majority of the gable is visible from the public realm.
13. The proposal would be located at an angle in front of this elevation. Whilst the majority of the gable would still be visible the proposal's size and form would reduce the physical and visual separation between the buildings and compromise their historic relationship. In addition, it would create an uncomfortable sense of enclosure, particularly at ground floor level between the utility room of the cottage and Manor House. In these respects, the proposal would harm the setting of the Listed Building.
14. Consequently, I consider that the proposal would not preserve or enhance the character or appearance of DCA and would not preserve the setting of the Grade II Listed Manor House. As such it would conflict with policies 9, 20 and 24 of the Oldham Joint Core Strategy and Development Management Policies Development Plan Document (OJDPD) (2011) which, amongst other things, seek to ensure a high quality of design that reflects local character and distinctiveness, does not have an adverse visual impact, protects and enhances the character and appearance of conservation areas and preserves and enhances the special interest and setting of listed buildings. It would also conflict with Section 16- Conserving and enhancing the historic environment of the National Planning Policy Framework (Framework).
15. Having regard to paragraph 196 of the Framework, the harm caused to the significance of both DCA and the setting of the Grade II Listed Manor House would be 'less than substantial', because it would be limited to the immediate surroundings of the cottage, specific views and part of the setting of the Listed Building. This harm needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
16. The reuse of this currently vacant building would be a public benefit and there would also be a benefit in terms of future occupants using local services. However, in line with the previous Inspector's conclusion, given the mix of sizes and types of properties within the Village, I am not persuaded that the proposal is necessary to facilitate the use of the cottage as a dwelling. As such, I am of the opinion that the limited public benefits presented are not sufficient to outweigh the identified harm.

Living conditions of the occupants of Manor House

17. There are a number of habitable rooms on the side elevation of Manor House facing the appeal site. The closest ones to the proposal are at ground floor level and serve a kitchen/diner and living room. Notwithstanding that, in relation to their size, they are secondary windows in these rooms, they are important in terms of providing light into the rooms and views out to the open countryside.

18. The proposal would not directly obscure these windows. The roof profile of the ground floor section would be below these windows and the first floor section would be in line with, but to the side of, these windows. The building line of the ground floor utility room would come close to Manor House.
19. The appellant has carried out a full appraisal of the effect of the proposal on both sunlight and daylight into Manor House, which confirmed that it would have a limited impact. This is corroborated in the LPA report, which states that there would be a partial loss of sunlight to the window on the front and some overshadowing to the mullioned lounge window. Therefore, I find no significant harm in terms of loss of light.
20. The reduction in the separation between the buildings (particularly at ground floor level) would impact on Manor House. However, this impact would be more on the setting of the Listed Building (which has been covered earlier), rather than the living conditions of the occupants. In this respect, I consider that the proposal would have a limited impact in relation to outlook and would not amount to significant harm.
21. Therefore, I conclude that the proposal would not significantly harm the living conditions of the occupants of Manor House, with particular regard to light and outlook. As such, it would not conflict with Policy 9 of the OJDPD (2011) which, amongst other things, ensures that development does not cause significant harm to the amenity of existing and future neighbouring occupants.

Other Matter

22. The appellant refers to other similar schemes within the area involving the renovation, alteration and/or extension of traditional buildings. I am not aware of the particular circumstances of these cases and, in any event, I must consider this proposal on its own merits.

Conclusion

23. The proposal would not preserve or enhance the character or appearance of DCA or preserve the setting of the Grade II Listed Manor House. These are matters which must attract considerable importance and weight against the proposal. Whilst the development would be acceptable in terms of its effect on the living conditions of the occupants of Manor House, this does not outweigh my findings in respect of this. In relation to the Framework, the proposal would cause 'less than substantial harm' to the significance of these designated heritage assets. I must attach considerable importance and weight to that harm, which I find would not be outweighed by the limited public benefits of the proposal.
24. For the reasons above and having considered all matters raised, I conclude that the appeal should be dismissed.

F Cullen

Inspector

Map Title

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Appeal Decision

Site visit made on 18 June 2019

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

an Inspector appointed by the Secretary of State

Decision date: 9th July 2019

Appeal Ref: APP/W4223/D/19/3226395

8 Ringwood Way, Chadderton OL9 6SN

- 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 B Ali against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/342826/19, dated 24 January 2019, was refused by notice dated 25 March 2019.
 - The development proposed is a two storey extension and part single storey extension to rear.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area.

Reasons

3. The appeal site at 8 Ringwood Way, is a semi-detached dwelling, set within a row of residential properties all sharing a similar appearance, characterised by gabled roofs pitched front to back, with a well-defined uniform ridgeline along the street. The orientation of the dwellings is unique, as they have separate pedestrian access serving the frontages and a vehicle access road to the rear, resulting in the rear of the properties being visible from the street.
4. Because of the orientation of the property, the rear extension would be seen from public vantage points along Ringwood Way, and views taken from the road at the junction with Garforth Street. It would also appear prominent when seen from neighbouring properties.
5. A distinctive feature of the street scene is the uniformity in the appearance of the pitched roofs. The introduction of a flat roof at first floor level would be at odds with this uniformity. It would appear as an irregular addition and would result in an incongruous feature in the street scene.
6. I note the properties along the street are close together. Therefore, the roof of the extension would only be noticeable from the rear of the property. Whilst I find no harm to the character and appearance to the front of the dwelling this does not negate the harm that would be caused to the street scene of Ringwood Way to the rear.

7. For these reasons the proposed extension does not respect the character of the host dwelling or the character and appearance of the surrounding area. The proposals do not accord with Policies 9 and 20 of the Oldham LDF Core Strategy and Development Management Policies DPD, and paragraph 127 of the Framework, which seek to improve the local environment, and promote high quality design to reflect the character and distinctiveness of an area.

Other Matters

8. I understand that a previous planning permission has been granted for a similar extension, with a pitched roof. The appellant sought permission for a revised scheme to avoid disturbing Photo Voltaic cells on the existing roof, and the financial penalties they would incur. While I am mindful of this reason for the proposal, it does not outweigh my findings above given the need to make decisions in the wider public interest.

Conclusion

9. For the above reasons the appeal is dismissed.

R Cooper

Inspector

Map Title

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Appeal Decision

Site visit made on 17 June 2019

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal Ref: APP/W4223/W/19/3225261

Land to the rear of 1 and 2 Fern Hill, Fern Hill, Oldham OL4 5NW

- 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 outline planning permission.
 - The appeal is made by Mr I Dewhurst against Oldham Metropolitan Borough Council.
 - The application Ref PA/341862/18 is dated 20 May 2018.
 - The development proposed is the construction of 3 detached dwellings on land at the rear of numbers 1 and 2 Fern Hill, Oldham.
-

Decision

1. The appeal is dismissed and outline planning permission is refused for the construction of 3 detached dwellings on land at the rear of numbers 1 and 2 Fern Hill, Oldham.

Procedural matters

2. The application is in outline form with only access, scale and layout to be determined at this stage. I have assessed the proposal on that basis.
3. On 19 February 2019, the Government published its Housing Delivery Test (HDT) results alongside an updated revised National Planning Policy Framework (the Framework). The HDT outcome for the Council indicates that the delivery has been below the requirement over the last 3 years. The appellant also states that the Council cannot demonstrate a 5-year supply of deliverable housing sites, which is not contested. The HDT results do not alter that position. The revisions to the Framework do not otherwise materially alter national policy in respect of the issues raised in this appeal. Both main parties have had the opportunity to address housing land supply and the Framework through the appeal process.
4. The proposal follows an application for a similar form of development on the site that was refused outline planning permission on application and appeal. The appellant considers that the proposal addresses the previous reasons for refusal and that there has been a change in circumstances in the interim. I have taken into account the information that supports both points along with all of the submitted evidence. A key planning principle is also that each development should be assessed on its own merits, which I have done.

Main issues

5. The main issues are the effect of the proposed development on the character and appearance of the local area and on open space.

Reasons

Character and appearance

6. The proposal is to erect 3 detached houses and a detached garage on grassland just beyond the rear of 1 and 2 Fern Hill, which stand within an established landscaped setting in the valley of the River Medlock. With areas of woodland and mature trees set within an undulating landscape, informal paths and a nearby river, there is a spacious feel, welcome tranquility and a verdant quality to the area to which the site belongs, which is locally distinctive.
7. The new additions would be visually 'read' with Nos 1 and 2 to one side with some properties that address Chaffinch Close glimpsed on higher ground through the foliage of trees. These buildings would, to varying extents, present a hard built profile to the new development. However, there are more open views across and beyond the site in other directions. Furthermore, while the remnants of some outbuildings that previously occupied part of the site are evident, their presence is modest in the context of the site and the surrounding views of it.
8. In that context, the proposed development would obtrude into this largely open area of grassland palpably introducing a substantial new built form into the landscape. It would transform the character of the land from a pleasant area of largely undeveloped green space to one occupied by a significant built development where people would live and visit. The obtrusion would be most acutely felt in views from the rear of Nos 1 and 2 and the paths to the west of the site. From these directions, the sense of urbanisation would be evident whether or not the site is regarded as previously developed because the openness of this area would be significantly eroded by the proposal. These concerns are compounded by my general impression during the site visit that the informal footpaths along the river that provide an experiential opportunity to appreciate the landscape close to the main built up area appeared to be reasonably well used.
9. The appearance and landscaping of the appeal scheme could, to some extent, reduce the visual impact of the development. These are matters reserved for subsequent approval. Additional planting to the line of trees to one side of the site, as proposed, would provide extra screening as well as an opportunity to visually soften the new buildings. However, this adjacent land is not owned or controlled by the appellant and soft landscaping could always be cut back or removed by others at short notice. From what I saw, it is also very likely that the new built form would still be visible from alongside the river, because the new dwellings would project above the new boundary fence notwithstanding detailed design considerations. The appellant's drawing of the proposed development along the western boundary illustrates this point. From this direction, a line of 3 new dwellings would have a much greater visual impact than the side and rear profile of Nos 1 and 2.
10. On the first main issue, I conclude that the proposed development would unacceptably harm the character and appearance of the local area. As such, it conflicts with Policies 6, 9, 21 and 22 of the Council's Joint Core Strategy and Development Management Policies (CS). These policies seek to enhance and reinforce the distinctive elements of the landscape; protect the natural environment; and ensure that development does not have a significant adverse effect on the visual amenity of the local area.

Open space

11. The Council states that the site is designated as open space. CS Policy 23 seeks to protect, promote and enhance such areas. The appellant has queried whether the site should be regarded in these terms given that it is private land with no public access and is clearly separate to the nearby country park. According to the Glossary of the Framework open space is defined as all open space of public value, including land and areas of water that offer important opportunities for sport and recreation and can act as a visual amenity. On that basis, access or whether or not the land is within a recognised park are not defining features of open space. Similarly, CS Policy 23 does not differentiate between open space that is or is not publicly accessible.
12. As an area of largely undeveloped land that at present blends almost seamlessly into the landscape that rises from and falls towards the river and offers a visual amenity, the site can reasonably be regarded as open space. By introducing new built form the proposal would significantly diminish the openness of the site in conflict with CS Policy 23. The Framework also states that existing open space and sports and recreational buildings and land should not be built on unless specific criteria are met, none of which would apply. Consequently, the appeal scheme would also be contrary to the Framework.
13. My attention has been drawn to examples in which the appellant states that the Council has granted planning permission for residential development on land that is designated as 'other protected and open space'. To reiterate, my assessment is based on the particular circumstances of this case and the context of the site. From the information provided, I cannot be certain that the circumstances of the examples referred to are the same or are very similar to those of the proposal. Therefore, the examples do not weigh in support of the appellant's case.
14. On the second main issue, I conclude that the proposal would result in the undue loss of open space, in conflict with CS Policy 23 and the Framework.

Planning balance

15. According to the appellant, the Council can demonstrate a 3.2-year supply of deliverable housing sites, which falls short of the minimum 5-year threshold identified in the Framework. On that basis, paragraph 11 d) of the Framework applies, which states, amongst other things, that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. In this case, the proposal would contribute towards the supply of housing and provide additional choice to prospective occupiers, which carry significant weight in support of the appeal. The development would make an efficient use of land and the new buildings could be designed to be energy efficient. The appellant considers the site to be accessible to local services and facilities and previously developed, which is prioritised for development in policy terms. There would also be some economic benefits from the sale of materials during the construction phase and from spending by future residents. There is also potential to enhance existing landscaping and boost biodiversity through additional planting. These social, environmental and economic considerations all weigh in support of the proposal.

17. On the other hand, the Framework notes development should respond to local character and add to the overall qualities of an area. It seeks to safeguard the natural environment and protect open space. The proposal would not adhere to these key policies. When assessed against the policies in the Framework taken as a whole, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the appeal scheme.

Other matters

18. Reference is made to a proposal to erect 2 dwellings on land at Booths Hall Road, Worsley that was recently granted planning permission on appeal. Based on the particular circumstances in that case, the Inspector concluded that the site was not an important landscape feature that characterised the area. For the reasons given, I am unable to reach a similar finding in this instance. Furthermore, there are, it seems to me, significant differences in proposals, site characteristics, location and planning policies that preclude a direct comparison between this appeal decision and the new development before me. As a result, I attach no more than limited weight to this earlier appeal decision.
19. Others raise no objection including the Environment Agency. The Council does not object to the proposal on ecology grounds. There would be no harm to the living conditions of future occupiers due to the potential for overlooking from the existing properties further to the east. However, these matters do not outweigh the significant harm that I have identified.
20. The appellant is critical of the Council's handling of the application and the delays incurred. However, these matters fall outside of my remit, which is solely to determine this appeal.

Summary

21. The proposal would cause significant harm to the character and appearance of the local area and result in an unacceptable loss of open space. While the new development would contribute towards meeting some of the shortfall in housing land, the balance of national policy does not support the proposal.
22. Therefore, the proposal does not benefit from the presumption in favour of sustainable development, which means that the Framework does not indicate a decision other than in accordance with the development plan. Other considerations do not outweigh the significant harm that I have identified. Consequently, the proposal does not overcome the main concerns raised in relation to the previous appeal scheme on this site.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR



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