
Appeal Decision

Site visit made on 20 December 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 January 2017

Appeal Ref: APP/P4225/W/16/3158278

Land at Queens Road, Littleborough OL15 8AB

- 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 Sajid Hussain against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 15/01212/FUL, dated 26 September 2015, was refused by notice dated 10 March 2016.
 - The development proposed is the erection of two, two bedroom houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's statement refers to the status of the Rochdale Core Strategy (Core Strategy). This was adopted on 19 October 2016 and after the submission of this appeal. This plan now forms part of the 'development plan' for planning decisions in the Borough. The Council have provided evidence of the policies contained within the Rochdale Unitary Development Plan (UDP) which have been superseded by the policies in the recently adopted plan. These include Policies H/3, S/5, BE/2 and EM/3 of the former UDP which were referred to in the Council's Decision Notice.
3. The Council have drawn my attention to new policies DM1 and G9 contained within the recently adopted plan that replace the policies referred to in the UDP and are now relevant to the consideration of this appeal. However, the amenity protection aims of both sets of policies are similar and so neither party has been prejudiced by this change in the Council's policy position. I have therefore determined this appeal on the basis of the policies contained within the recently adopted Core Strategy.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of the occupants of adjacent properties with particular regard to outlook and light.
 - Whether the proposed development would provide satisfactory living conditions for the future occupiers of the dwellings with particular regard to outlook, privacy, noise and disturbance.
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Reasons

Living conditions – occupants of nearby properties

5. The appeal site comprises a small parcel of land used informally for car parking and located to the rear of Nos 75 – 81 Church Street. These properties have commercial uses at ground floor level and the Council indicates that the first floor uses are residential. The site is accessed off, and fronts onto, Queens Road. The proposed development would involve the construction of a pair of two storey semi-detached properties with rear elevations facing the rear of the properties at No 79 and 81 Church Street.
6. In order to consider the effects of new residential development on the living conditions of the occupants of existing dwellings and avoid causing a significant loss of privacy and/or light, the Council has adopted a Supplementary Planning Document, 'Guidelines and Standards for Residential Development' (SPD). This sets out minimum separation distances between respective principal windows and elevations that do not contain a principal window.
7. In particular, the SPD states that a distance of 14m should be provided between a principal window and any directly facing two storey elevation which does not contain a principal window to a habitable room and 10.5m between a principal window at an upper floor level and a directly facing boundary of the curtilage.
8. The first floors of Nos 79 and 81 have principal windows facing the appeal site. The proposed dwellings would have obscure glazing in the rear windows of the first floor. In accordance with the above guidelines, a distance of 14m should be provided between the rear windows of the proposed dwellings and those of the first floor of Nos 79 and 81 Church Street. The Council indicate that position of the proposed dwellings would result in this separation distance being approximately 6m. In addition the proposed garden areas would be positioned approximately 1.2m from the rear elevation of Nos 79 and 81 and therefore would be considerably less than the 10.5m as suggested in the SPD. I have no evidence to suggest that the Council's measurements may be incorrect.
9. In not meeting the separation requirements of the SPD, the proximity of the proposed development to the rear elevations of Nos 79 and 81 would cause an unacceptable loss of outlook and overbearing impact for the occupants of the first floor of those properties and result in the creation of a sense of enclosure in the outlook from the rear windows. In addition, as the proposed dwellings would be positioned to the south of Nos 79 and 81, the occupants of these properties are likely to suffer an unacceptable reduction in daylight and sunlight received at the windows.
10. I therefore conclude that the proposal would result in an unacceptable overbearing impact, increased sense of enclosure, loss of outlook and loss of daylight and sunlight to the occupants of Nos 79 and 81. This would cause significant and unacceptable harm to the living conditions of the occupants of those properties. The proposal would therefore be contrary to Policy DM1 of the Core Strategy. This policy, amongst other things, requires that new development does not adversely affect the amenity of residents through being overbearing, overshadowing or having an impact on light.

Living conditions – occupants of proposed dwellings

11. The proposed modest sized rear gardens of the dwellings would effectively be enclosed by buildings positioned in close proximity to all four sides of the gardens. In my view, this would create and enclosed an oppressive environment for users of the gardens with little opportunity to receive sunlight. In addition, the proposed gardens would be approximately 1.2m from the rear of the commercial properties at Nos 79 and 81 which have small rear service and access areas that appear to be used by employees of the commercial businesses. As a consequence, users of the proposed gardens would experience a loss of privacy.
12. The rear windows of Nos 79 and 81 would directly overlook the proposed gardens and the rear ground floor windows of the proposed dwellings thereby resulting in an unacceptable loss of privacy. Whilst I recognise that to some extent this could be overcome by the provision of screen fencing, given the proximity of the rear elevations of the existing and proposed development, in my view, such fencing would further add to the creation of an oppressive environment at the rear of the proposed dwellings.
13. The properties on Church Street to the north of the site include a taxi booking office and several hot food takeaways. As these commercial uses have customer access from Church Street I do not consider that the occupants of the proposed dwellings would experience any unacceptable levels of noise or disturbance as a consequence of the comings and goings of customers.
14. However, I observed at my site visit that the food preparation and cooking areas for the takeaways on Church Street are at the rear of the premises facing Queens Road. Cooking ventilation flues together with an element of outside store and bin storage are also located at the rear. In addition the rear door of the taxi office appeared to be frequently used for access by taxi drivers who park their vehicles along Queens Road.
15. Given the proximity of the proposed dwellings to the hot food takeaways and taxi office, it is likely that the occupants of the proposed dwellings would experience unacceptable noise and disturbance late into the evening and early hours of the morning as a consequence of the cooking of food, disposal of waste and the opening and closing of taxi doors. Whilst, I accept that the use of double glazing could reduce the severity of such impacts, I do not consider it reasonable to suggest that windows of the proposed dwellings would need to remain closed nor do I consider that such glazing would eliminate such noise in its entirety.
16. Taking the above factors into consideration, the proximity of the proposed dwellings to the existing commercial uses would cause unacceptable harm to the living conditions of the occupants of the properties as a consequence of noise, disturbance and a loss of privacy. Consequently, the proposed development would be contrary to Policies DM1 and G9 of Core Strategy. These policies, amongst other things, require that new development does not adversely affect the amenity of future residents through a loss of privacy and that new housing development is not adversely affected by existing sources of noise and other pollution.

Other matters

17. The site is located within the Littleborough Town Centre Conservation Area. The Council have found no impact on the character or appearance of Conservation Area. However, I have nonetheless 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 and its setting. In this respect, given the scale, mass, design and materials of the proposed dwelling it would be in keeping with the surrounding terraced buildings. Consequently, I am satisfied that the proposed development would preserve those interests.
18. I have taken into account the modest contribution that the proposed development would make to the supply of housing in the Borough. However, this benefit does not outweigh the harm that I have identified above that the proposed development would cause to the living conditions of the occupants of the existing and proposed properties.
19. I recognise that the proposed development would have a similar relationship to the commercial uses on Church Street as the existing semi-detached properties at Nos 1 and 1a Queens Road located immediately to the west of the site. However, these properties appear to have been constructed some considerable time ago and would have predated the planning considerations that are now applicable to more recent development. The fact that these properties are also sited close to the existing commercial properties, and were likely constructed prior to the introduction of the relevant Town & Country Planning Acts, does not set any precedent to an extent that would suggest that this appeal should be allowed.

Conclusion

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

Stephen Normington

INSPECTOR