

Appeal Decision

Site visit made on 15 November 2016

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 12 January 2017

Appeal Ref: APP/W4223/W/16/3157045

Land adjacent to 16 and 17 Moordale Avenue, Oldham OL4 2JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by the K Winterbottom Discretionary Trust and S Whitehead against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/338432/16, dated 4 April 2016, was refused by notice dated 22 July 2016.
 - The development proposed is described on the application form as 'change of use of greenfield site to residential'.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 5 dwellings on land adjacent to 16 and 17 Moordale Avenue, Oldham OL4 2JP in accordance with the terms of the application, Ref PA/338432/16, dated 4 April 2016, subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. The proposal is for outline planning permission with all matters reserved other than access. I have noted that proposed plans have been submitted for illustrative purposes only and I have determined the appeal on that basis.
3. Notwithstanding the description of development given on the application form, as set out in the above heading, I find the following description to be more accurate: 'outline for residential development of up to 5 dwellings'. I am satisfied that no prejudice to the interests of any party arises from determining the appeal on this basis.
4. I also find the most accurate representation of the appellants' names to be that set out in the above heading, having regard to the appeal form and an obvious typographical error therein.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the surrounding area, with particular reference to the function of the site as an open space.
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Reasons

6. The appeal site is a roughly triangular shaped parcel of land at the head of a cul-de-sac known as Moordale Avenue. The site comprises grassland which is currently used for grazing horses. It is in an elevated position and the land falls towards the side of properties on Moordale Avenue and more steeply to the south across the site.
 7. On the evidence before me, the appeal site does not lie within an area where adopted settlement policy militates against new residential development. However, open agricultural land to the east is designated within the Green Belt. Other boundaries of the site are formed by the curtilages of residential properties at the end of Locking Gate Rise and Roundhill Way. The boundary with Moordale Avenue comprises a stone wall in poor condition with low post and wire fencing.
 8. As an area of open space the land is given some protection by Policy 6(a) of the Oldham Local Development Framework Development Plan Document –Joint Core Strategy and Development Management Policies 2011 (CS) which seeks to promote and enhance the Borough’s green infrastructure. Although local residents indicate that it is used for children’s play I observed at my site visit that it is not used or managed for such purposes and its recreational value is very limited.
 9. The site has only limited value in terms of its contribution to the character and appearance of the area by providing a visual buffer between the edge of the settlement and the Green Belt to the east. CS Policy 9(a)(iv) indicates that the Council will protect and improve the quality of the local environment by ensuring that development does not have a significant adverse impact on the visual amenity of the surrounding area, including local landscape. CS Policy 21 seeks to ensure that development enhances the visual amenity of the area and reinforces, among other things, the distinctiveness of landscape character.
 10. The site is not designated as countryside and, consequently, there would be no encroachment in that regard. Indeed, the site would be situated between residential developments and any impact on the adjacent Green Belt could be mitigated by landscaping along the eastern edge of the site. Therefore, given the presence of residential development at the end of the other cul-de-sacs the proposal would comfortably fit within the established local pattern of residential development.
 11. Given the topography of the site and its relationship with the nearby and adjacent residential development its value in terms of its contribution to the visual amenity of the area and its landscape benefits at the urban fringe is equivocal. Outside its immediate surroundings the site is not prominent due to local topography, including very steeply downward sloping land towards properties at the end of Roundhill Way and Waterworks Road to the South and the way the land falls away to the east.
 12. The proposal is in outline for up to five dwellings. Given the overall size of the site the development would be relatively low density, including large plots with generous spacing between buildings. Subject to the satisfactory approval of details at reserved matters stage the development would be compatible with its surroundings and be a suitable residential scheme within its setting at the edge of the urban area adjacent to the Green Belt.
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13. Consequently, I conclude that the proposal would not have a harmful effect on the character and appearance of the surrounding area, with particular reference to the function of the site as an open space. It is in accordance with the open space and landscape provisions of CS Policies 3, 6a, 9a, 21, 23 and the National Planning Policy Framework (the Framework). These seek to provide quality and choice of housing and protect green infrastructure, natural environmental assets, open spaces and the quality of the local environment generally.

Other matters

14. I have considered all the other matters raised.
15. I appreciate that the Council can demonstrate a five year housing land supply. However, the Government is keen on boosting the supply of housing and there is no upper limit on the number of houses to be provided. The proposal would result in some social and economic benefits associated with the delivery of new housing. Furthermore, the appeal site is located on the edge of a residential area and has good access to a range of facilities and services, including public transport. The proposal would not cause any significant harm with respect to the three dimensions of sustainable development – economic, social and environmental. As such I find it to be compliant with CS Policies 5 and 11 and the principles of sustainable development as set out in paragraph 7 of the Framework.
16. I am aware of other matters raised from interested parties that are not addressed above. A number of comments have been received with regard to the detailed appearance, layout and scale of the proposed development. However, the current proposal is in outline only with reserved matters to be determined at a later stage.
17. I have seen nothing to substantiate the concerns that have been raised relating to parking provision, highway safety and drainage and have noted that the highway authority raises no objection. Accordingly I am satisfied that these matters could be dealt with by conditions attached to a grant of planning permission. As such, I find there to be no conflict with CS Policies 5 and 19.
18. The site is not designated for its nature conservation value and is considered to have only low potential of supporting any protected or priority habitats or species. Consequently, it is of low ecological importance. I therefore find there to be no conflict with CS Policy 21.
19. None of the four trees of note on site are protected by tree preservation order. Three of the trees are immature, including an Elder that is leaning and will need to be removed to provide space for the new access road into the site. A large elder in the eastern part of the site and two smaller ones near the northern boundary of the site are shown as being retained on the illustrative layout. It would be beneficial to retain the healthy trees on site and incorporate them into the layout of the scheme. In order to ensure compliance with saved Policy D1.5 of the Oldham Metropolitan Borough Unitary Development Plan a suitably worded landscape condition is imposed.
20. CS Policy 25 states that all residential development should contribute towards the provision of new or enhanced open space. However, following the Written Ministerial Statement (WMS) of November 2014 and subsequent court decisions the latest National Planning Practice Guidance provides the
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Government's up to date position with regard to tariff style planning contributions and supersedes the previous requirement for all residential developments to make such a contribution. As such, no contributions towards public open space are required in this case.

21. Although I have no evidence of there being an agricultural agreement on the land, I can find no reason why the grant of planning permission would negate or supersede any private legal rights relating to the land. Accordingly, such issues have not had any material bearing on my assessment of the planning issues in this case.
22. Therefore, neither these nor any other matters are of such significance as to outweigh the considerations that have led to my conclusion on the main issue. Accordingly, I am minded to grant planning permission.

Conditions

23. The Council has suggested a list of conditions which I have considered, and where necessary amended, in line with national policy and guidance. I have specified the approved plans for certainty.
24. A condition requiring the details of a drainage scheme is necessary in order to ensure the development does not result in any risk to flooding and to ensure that foul water is disposed of in a satisfactory manner. In order to ensure the satisfactory integration of the development with its surroundings I have attached a detailed landscaping condition. In the interests of ensuring the satisfactory relationship between the proposal and its surroundings I have attached a condition relating to finished floor levels.
25. To prevent pollution of the surrounding environment and to ensure safe development of the site I have imposed a condition requiring a detailed report containing details of an investigation and risk assessment to determine the nature and extent of any contamination on the site.
26. In accordance with the advice of the Highways Officer I have imposed highways conditions relating to full details of the means of access to individual dwellings including driveways and sight lines at their junctions with the estate road, servicing arrangements, parking and the layout of the proposed estate road and associated highway infrastructure.
27. To protect the living conditions of the occupants of nearby residential properties I have attached a condition requiring the submission and implementation of a construction method statement. In view of the limited ecological interest of the site I have not imposed a condition limiting the periods of vegetation clearance as this matter is covered by other legislation.

Conclusion

28. For the above reasons and taking account of other matters raised I conclude that the appeal should be allowed.

Alastair Phillips

INSPECTOR

SCHEDULE

Planning permission is granted pursuant to this appeal subject to the following conditions:

Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) This planning permission relates to the following approved plans: 3348.2, 3348.2 Revision A, 3348.3 and 3348.4.
 - 5) Any application which seeks approval of reserved matters of layout and scale pursuant to condition 1 of this permission shall include full details of the finished floor levels, above ordnance datum, of each dwelling, and with respect to the ground levels for the external areas of the site. The development shall be carried out in accordance with the approved levels.
 - 6) No development shall take place until a report containing details of an investigation and risk assessment to determine the nature and extent of any contamination on the site (including whether it originates on the site) has been submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes;
 - adjoining land;
 - groundwaters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
 - (iii) an appraisal of any remedial options required and a proposal for the preferred options to form a remediation strategy for the site.

The development shall thereafter be carried out in full accordance with the duly approved remediation strategy and a verification report shall be submitted to and approved in writing by the Local Planning Authority before any of the buildings hereby approved are first occupied.
 - 7) None of the dwellings hereby permitted shall be occupied until arrangements for the disposal of foul and surface water from the site have been implemented in accordance with a scheme which shall first have been submitted to and approved in writing by the local planning authority. Such scheme shall include:
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- i. a separate system for the disposal of foul and surface water;
- ii. details of the rate of surface water discharge from the site to any soakaway, watercourse or sewer, including any necessary flow attenuation measures and the use of SUDS to ensure that the post-development discharge rate does not exceed the pre-development greenfield rate; and
- iii. details of how the system will be maintained and managed after completion.

The scheme shall be implemented in accordance with the approved details and managed as such thereafter.

- 8) Any application which seeks approval of reserved matters of layout pursuant to condition 1 of this permission shall include:

- i. full details of the means of access to individual dwellings including driveways and sight lines at their junctions with the estate road;
- ii. the means of servicing the dwellings; and
- iii. parking and/or garaging for each dwelling allowing vehicles to be parked clear of the highway.

The scheme shall be implemented in accordance with the approved details before any of the dwellings are first occupied.

- 9) No above ground works shall take place until a scheme for the layout, design, construction and drainage of the new estate road and associated footways has been submitted to and approved in writing by the local planning authority. The estate road and associated footways shall be provided in accordance with the duly approved scheme before any of the dwellings are first occupied, except that final surfacing shall not take place until the final dwelling to be served by the estate road has been substantially completed.

- 10) No above ground works shall take place until a scheme for the siting, layout, design, construction and drainage of the stopping up of the existing turning head on Moordale Avenue (to the front of No 15) and the provision of a 2 metre wide footway along the northern frontage of Moordale Avenue from No 15 to the site entrance, has been submitted to and approved in writing by the Local Planning Authority.

The highway improvement works in the duly approved scheme shall be implemented and made available for use before any of the dwellings hereby permitted are first occupied.

- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i. hours of work for site preparation, delivery of materials and construction;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
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- iv. storage of plant and materials used in constructing the development;
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi. wheel washing facilities;
- vii. measures to control the emission of dust and dirt during construction; and
- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 12) Any application which seeks approval for the reserved matter of landscaping pursuant to condition 2 of this permission shall include a landscaping scheme for the site which contains details of:

- i. any trees, hedgerows and any other vegetation on/overhanging the site to be retained;
- ii. the introduction of a landscaping buffer along the eastern boundary of the site in the position shown on drawing no. 3348.2 Rev A;
- iii. the introduction of additional planting within the site which forms part of the internal development layout and does not fall within (i) or (ii); and
- iv. the type, size, species, siting, planting distances and the programme of planting of hedges, trees and shrubs.

The duly approved landscaping scheme shall be carried out during the first planting season after the development is substantially completed and the areas which are landscaped shall be retained as landscaped areas thereafter. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

END OF SCHEDULE
