
Appeal Decision

Site visit made on 6 February 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 28th February 2017

Appeal Ref: APP/B2355/W/16/3163165

Land to the rear of 2 Commercial Street, Loveclough, Rawtenstall BB4 8QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Ashworth against the decision of Rossendale Borough Council.
 - The application Ref 2016/0478, dated 2 October 2016, was refused by notice dated 14 November 2016.
 - The development proposed is the erection of 2 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 dwellings at land to the rear of 2 Commercial Street, Loveclough, Rawtenstall BB4 8QX in accordance with the terms of the application, Ref 2016/0478, dated 2 October 2016 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
 - Existing Site Plan
 - Proposed Site Plan
 - Elevations, Floor Plans and Site Layout (Drawing No 14/165/1) dated October 14.
 - 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of all trees to be retained within or immediately adjoining the site (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
 - 4) No development shall take place until samples of all materials to be used in the external construction of the development hereby permitted have
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been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.

Main Issues

2. The main issues are the effect on the character and appearance of the local area and on the living conditions of the occupiers of number 2 Commercial Street with regard to outlook and daylight.

Reasons

Character and appearance

3. Although set back from the adjacent terrace on Commercial Street the proposal would make beneficial use of a currently underutilised parcel of land bounded by existing residential properties to the west and the car parking area to the adjacent social club to the east. The site adjoins open pasture to the south and south west but, in its current use and condition, is an unattractive area which detracts from the semi-rural setting of the nearby residential area. I consider that the removal of the existing poor quality garages, unsightly containers and overgrown scrub vegetation and the replacement of these with appropriately designed new houses would result in an overall improvement in the visual amenity of the area. The proposal would have no significant effect on the views of the open pasture land available from the houses on Commercial Street or from other public vantage points.
4. The two houses proposed would be taller than the existing buildings on the site but have been designed such that their roof ridges would of similar height to that of the adjacent terrace of houses. Taking into account the lower level of the appeal site relative to ground floor level within that terrace, the proposal would be of an appropriate scale and would achieve a satisfactory visual relationship with the terrace of houses on Commercial Street. The Council suggests that the proposal would have a cramped appearance but the plans indicate that there would be adequate room for the parking and manoeuvring of vehicles and an appropriate level of provision of private amenity space to serve each of the dwellings.
5. As the site is offset from the gable end of the adjacent terrace and is set back from the front of the terrace by a considerable degree I see no reason why the design of the proposed houses should mimic that of the terraced houses; indeed, trying to make the design of two small, semi-detached properties do so would result in a contrived appearance. The proposed use of natural stone and blue slate roof cladding would be in keeping with the houses on Commercial Street, where natural stone can be seen in the quoin stones to corner properties, in the window reveals, and in the external cladding to many of the houses. It would also be in keeping with the predominant external materials in the more recent housing development in nearby Penny Lodge Lane and Loveclough Park.
6. The Council has expressed concerns about a loss of trees along the eastern boundary. My observations on my site visit were that the majority of the mature trees are located outside of the footprint of the proposed dwellings and are unlikely to be affected to any material degree by the external works provided that appropriate protection measures are taken during the

construction works. It also seems likely that the mature trees would benefit from management and some thinning out of the intervening scrub. These are matters that could satisfactorily be dealt with by means of a planning condition and the limited risk of the loss of trees would not justify a refusal of planning permission.

7. In light of the above, I find that the proposal would be in keeping with existing development in the vicinity of the site and would not cause any material harm to the character and appearance of the local area or its semi-rural setting. The proposal would safeguard the character of the established residential area and would not represent over-intensive or inappropriate new development. No conflict with Policy 2 of the Rossendale Core Strategy (CS) would, therefore, arise in this respect.

Living conditions

8. The western gable of the house proposed on Plot 2 would line through with the gable end of number 2 Commercial Street and there would be no direct line of view between the windows of that new dwelling and those in the rear elevation of No 2. A separation distance of 21 metres from the principal rear wall of number No 2 and the building line of the front elevation of the new house would also be achieved. This accords with the Council's normal planning standards for two storey development where a direct principal window to principal window arrangement is proposed and the Council has given no indication as to why a different standard should apply in this case.
9. Given that the new dwellings would be offset from the gable of No 2 this degree of separation would be adequate to ensure that there would be no adverse effect on daylight or outlook from the rear windows of that property. The outlook from the ground floor window of No 2 is severely constrained by the side elevation of the existing garage which extends along the length of the rear boundary. As that garage would be demolished and the new buildings would be further away, the outlook from the rear of No 2 would arguably be improved. The proposed development would not intrude into views from the upper floor window across the open land to the south. The removal of the existing garage would also improve the outlook from the private amenity space to the rear of No 2.
10. Accordingly, I find that there would be no harm to the living conditions of the occupiers of No 2 Commercial Street and that no conflict with CS Policy 24 would arise in respect of that policy's requirement that positive consideration be given to the protection of residential amenity.

Other Matters

11. The Council accepts that it is unable to demonstrate a 5 year Housing Land Supply (HLS) as required by paragraph 47 of the National Planning Policy Framework (Framework) and that, in accordance with paragraph 49 of the Framework, the relevant development plan policies for the supply of housing should not be considered up to date. Those policies include: CS Policy 1 which specifically relates to the preferred location for new development and seeks to steer development to sites within the urban boundary; Policy 2 which is concerned with the delivery of housing to meet the borough's identified needs; and Policy 3 which sets out detailed criteria with regard to the location of new housing.

12. By proposing housing development outside of the defined urban area the appeal scheme would not be consistent with Policies 1, 2 and 3. However, in light of the Council's inability to demonstrate a 5 year HLS, very limited weight should be attached to these policies.
13. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where relevant policies of the development plan are not up to date, paragraph 14 states 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 of the Framework as a whole; or
 - specific policies in the Framework indicate that development should be restricted.

The appeal site does not fall within any of the designations referred to in Footnote 9 of the Framework and there are no specific Framework policies that indicate that development should be restricted. Hence, the proposal falls to be considered under the first limb of this part of paragraph 14.

14. The social benefits of the proposal include the provision of 2 new homes which would make a modest, but nevertheless valuable, contribution to meeting the current shortfall in the supply of housing. It would also bring economic benefits through construction investment and employment and environmental benefits in securing the regeneration and more effective use of a previously developed site. In light of my findings on the main issues there no adverse impacts which would significantly and demonstrably outweigh those benefits. The proposal, therefore, benefits from the presumption in favour of sustainable development and permission should be granted.

Conditions

15. In the interests of certainty a condition has been attached to tie the planning permission to the approved plans. In order to minimise the loss of mature trees I have attached a condition which requires the submission and approval of a tree plan identifying those trees which are to be retained and of a scheme of measures to secure their protection during the construction works. A condition is also needed requiring the submission and approval of samples of materials to be used in the external construction of the dwellings to ensure that these are appropriate to the location and context of the site.

Conclusion

16. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR