
Appeal Decision

Site visit made on 21 March 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 31 March 2017

Appeal Ref: APP/W4223/W/17/3167104

Oak Bank Centre, Chadderton Park Road, Chadderton, Oldham OL9 0PE

- 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 Athar Mahmood (Rochcare Limited) against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/338051/16, dated 19 January 2016, was refused by notice dated 18 November 2016.
 - The development proposed is the erection of a 64 bed residential home for the elderly (use class C2).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 64 bed residential home for the elderly (use class C2) at Oak Bank Centre, Chadderton Park Road, Chadderton, Oldham OL9 0PE in accordance with the terms of application Ref PA/338051/16, dated 19 January 2016, subject to the attached schedule of conditions.

Procedural Matters

2. For clarity and accuracy, I have used the description of development from the Council's refusal notice rather than from the planning application form.
3. For the avoidance of doubt, the planning application was amended prior to it being determined to include the provision of a 34 space car park and changes to the proposed landscaping scheme. I have determined the appeal in accordance with these amendments.

Main Issues

4. The main issues are the effect of the proposal upon (i) the living conditions of the occupiers of surrounding properties in respect of outlook and (ii) on-street car parking provision and highway safety.

Reasons

Site and Proposal

5. The appeal site is previously developed and comprises a cleared site which recently included single storey development used as an education/training centre. It includes tree planting and other vegetation on its boundaries and is surrounded by mainly two storey houses (although there are a limited number of bungalows) off Middleton Road, Chadderton Park Road, Avon Road and
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Packwood Chase. There are two vehicle access points into the site: one from Overhill Road and one from Chadderton Park Road.

6. It is proposed to erect a part three, part two and part single storey brick built and split level building to be used as a 64 bed care home (use class C2). A 34 space car park would face the rear of the dwellings on Middleton Road. Garden areas are proposed to the front (south) and rear (north) of the building with existing landscaped verges alongside the eastern, northern and western boundaries being retained and supplemented with additional planting. A service access is proposed via a gated entrance off Overhill Road.

Living Conditions

7. I acknowledge that the appeal building would be higher than the essentially single storey development that previously occupied the site. In this sense the building would be more noticeable when viewed from surrounding residential properties than was the case before the Oak Bank Centre building was demolished. However, I have taken into account the land levels between the appeal site and surrounding buildings, the separation distances between the building and the principal elevations of such properties (in the main over 21 metres is achieved where the development is three storeys), the retention of 17 trees and vegetation around the perimeter of the site, and the planting of additional trees.
8. Other interested parties have referred to separation distances between the proposed development and properties on Packwood Chase which, in some areas, are marginally less than 21 metres. However, the effect of the proposed development upon any single storey rear additions is minimised by means of boundary fencing, existing curtilage buildings, on-site vegetation (including evergreen hedges) and the overall position/scale of the proposed development. Taking these factors into account, coupled with the angled nature of some of the properties on Packwood Chase, I am satisfied that the proposed separation distances are acceptable.
9. The proposed 34 spaces car park would provide a relatively open break between the proposed building and the rear of properties on Middleton Road and the existing and proposed planting along Chadderton Park Road would provide some additional relief to the proposed staggered three and two storey facing elevation. To the north of the site, the two wings/outriggers would be two storey and the existing and the proposed planting, as well as the proposed communal garden, would screen and soften the impact of the development when viewed from the rear of the properties on Avon Road.
10. Taking all of the above factors into account, I do not consider that the proposal would have a significantly adverse effect upon the outlook afforded to the occupiers of surrounding properties. I acknowledge that the building would be partly three storeys in height, but owing to the position of the proposed development, and as some parts of the building would be two and single storey in height, I do not consider that it would have an oppressive or dominant impact when viewed from surrounding properties or the street-scene. I therefore conclude that the proposal would accord with the residential amenity aims of Policy 9 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies 2011 (CS) and Paragraph 17 of the National Planning Policy Framework (the Framework) which states that one of the 12 core planning principles is that

planning should *"always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"*.

Car parking and highway safety

11. The proposed 64 bed residential care home would include 34 car parking spaces as well as provision for motorcycle and bicycle parking. There is no dispute between the main parties that the site is accessible to a range of good bus services which are within very close proximity to the appeal site.
12. The appellant has submitted survey information which indicates the number of visitors by car per day at a 56 bed care home in Burnley which is also operated by Rochcare. Whilst this is a different site, it does give an indication as to the number of people that would likely visit the site every two hours and per day/per week based on a care home which is already operated by the appellant. I have no reason to doubt the survey information provided by the appellant who indicates that on a given day there would be between about 8 and 18 visitors or a total average of 12 visitors per day. Based on the evidence before me, I do not consider that the appellant's estimate of a total number of 18 visitors per day to the proposed care home would be unreasonable. Of course there would be some turnover in the use of car parking spaces, and so it is unlikely that all visitors would arrive and leave the site at the same time.
13. I have taken the above into account coupled with the fact that (i) most of the occupiers of the care home would be very unlikely to have access to a private motor vehicle, (ii) that there would be three shifts per day with a maximum number of 17 members of staff on the site at any one time (i.e. during the day time shift), and (iii) that there is good access to public transport provision within close proximity to the site and hence some members of staff would not arrive at the site in a private motor vehicle. Based on all of these factors, I am satisfied that a 34 space car park would adequately accommodate car parking demand from both visitors and staff. Consequently, I can see no good reason why the proposal would give rise to a material increase in on-street car parking or traffic congestion issues on the local highway network. I note that the Highways Authority was consulted at planning application stage and raised no objection to the proposed development.
14. I note that other developments have been approved in the area including the approval of a nursery at Tylon House on Middleton Road (planning permission Ref PA/338447/16). Whilst this may result in additional traffic on the immediate highway network, on the evidence before me I do not consider that the appeal proposal would lead to a significant increase in traffic over and above the historic use of the site and, furthermore, I have no objective evidence before me to indicate that the local highway network has reached saturation point. In any event, the proposal would provide sufficient on-site car parking provision and so in this regard the development would not lead to significant on-street car parking pressure in the locality.
15. There is no evidence to suggest that the proposal would cause harm to the safe operation of the junction of Chadderton Park Road with Middleton Road. In this area, there are significant stretches of double yellow lines which prohibit on-street car parking.
16. For the collective reasons outlined above, I conclude that the proposal would not cause significant or severe harm to matters of highway safety. Therefore,

the proposal would accord with the highway safety and traffic management aims of Policy 9 of the CS and paragraph 32 of the Framework.

Other Matters

17. I have taken into account representations made by other interested parties. Whilst the proposed development would be higher than the development that recently occupied the site, taking into account the topography of the site/surrounding land, the use of hipped roofs, the proposed materials, the use of split levels and the retained /proposed landscape perimeter buffers, I consider that the development would assimilate well into the wider landscape. The building may, in parts, be higher than other properties that surround it, but this does not automatically mean that it would look out of place or cause harm in character and appearance terms.
18. Given the proposed separation distances from existing residential properties/gardens, I do not consider that the development would have a materially adverse impact upon levels of privacy or light. There may be some overlooking of gardens, but this would not be severe and would not be an uncommon occurrence in an urban environment such as this.
19. I do not consider that there is justification for insisting on the main access being from Overhill Road. There is an existing access from Chadderton Park Road, and, like the Highway Authority, I do not consider that its continued use would cause significant harm. Similarly, there is an existing access at Overhill Road, and I do not consider that its continued use, by service vehicles, would cause significant harm to residents in terms of disturbance and noise.
20. Comments have been made by the occupier of No 1 Avon Road about maintenance of the appeal site and weeds coming onto their property. This is a private matter and is not relevant to the determination of this appeal.
21. Reference has been made to car parking under provision at a care home site in Oswaldtwistle, Hyndburn. I do not have the full details relating to this matter other than it is a 50 bed care home with 15 parking spaces. This is not directly comparable to the appeal proposal which includes a greater ratio of car parking spaces to bedroom numbers (i.e. a 64 bed care home with 34 parking spaces). In any event, I have determined this appeal on its individual planning merits.
22. In respect of outside lighting, this could be controlled by planning condition. I do not consider that the proposed bin store would necessarily attract vermin or lead to unacceptable smells if managed and used properly. Comments have been made that the proposal would devalue properties in the area. The Courts have held that this is not a material planning consideration and, furthermore, I have no evidence to substantiate the claim that the proposal would have such an adverse impact. Finally, the grant of planning permission would not override any requirement to adhere to a covenant(s) on the site.
23. None of the other matters raised outweigh or alter my conclusions on the main issues.

Conditions

24. The conditions set out in the accompanying schedule are based on those suggested by the Council and agreed by the appellant. Where necessary, I have amended the wording of the suggested conditions, in the interests of

precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

25. Planning permission is granted subject to the standard three year time limit condition.
26. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
27. In the interests of the character and appearance of the area, planning conditions are necessary relating to materials, boundary treatment details, landscaping, tree protection measures, and the appearance of the external bin store, garden workshop/store, gazebo, shed and 10 cycle hoops and shelter.
28. In the interests of the living conditions of the occupiers of the proposed development and surrounding properties, planning conditions are necessary in respect of land contamination, surface water/ foul drainage, external lighting, a site management plan for the care home and a construction method statement.
29. In the interests of highway safety and the effective management of the local highway network, a planning condition is necessary relating to the provision and retention of car parking, servicing and manoeuvring areas. In the interests of nature conservation, a planning condition is necessary in terms of times when permitted vegetation can be cleared. In the interests of sustainability, a planning condition is necessary in respect of the achievement of a BREEAM "very good" rating.

Conclusion

30. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal would accord with the development plan for the area. Therefore, the appeal is allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Drawing no. L01 – Location plan; Drawing no. SP01 Rev B – Proposed block plan (amended plan received 27 October 2016); Drawing no. SP02 Rev C – Proposed site plan (amended plan received 27 October 2016); Drawing no. PG01 Rev B – Proposed ground floor plan (amended plan received 27 October 2016); Drawing no. P101 Rev A – Proposed first floor plan (amended plan received 15 September 2016); Drawing no. P201 Rev A – Proposed second floor plan (amended plan received 15 September 2016); Drawing no. PR01 Rev A – Proposed roof plan (amended plan received 15 September 2016); Drawing no. EL01 Rev A – Proposed contextual elevations (amended plan received 15 September 2016); Drawing no. EL02 Rev A – Proposed contextual sectional elevations (amended plan received 15 September 2016); Drawing no. EL03 – Proposed elevations; Drawing no. EL04 – Proposed elevations and Drawing no. EL05 – Proposed elevations.
- 3) Notwithstanding any description of materials in the application and the requirements of condition 2 of this permission, no above ground works shall take place until samples or full details of all materials to be used on the external surfaces of the building (including those used in the construction of windows and doors) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall thereafter be implemented in accordance with the duly approved materials.
- 4) The development shall achieve a Building Research Establishment Environmental Assessment Methodology (BREEAM) 'very good' rating or equivalent and a Design Stage Certificate confirming this outcome shall be submitted to and approved in writing by the Local Planning Authority within 6 months of the building hereby approved first being occupied.
- 5) 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 including 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; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments and (ii) an appraisal of any remedial options required and a proposal for the preferred option(s) 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 submitted to and approved in writing by the Local Planning Authority before the building hereby approved is first occupied.

6) No above ground works shall take place until a scheme for the disposal of foul and surface water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include separate systems for the disposal of foul and surface water; 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 (where appropriate) to ensure that the post-development discharge rate does not exceed the pre-development rate (including an appropriate allowance for climate change) and details of how the system will be maintained and managed after completion. The duly approved scheme shall be implemented before the building hereby approved is first occupied and maintained/managed as such thereafter.

7) Notwithstanding any details shown on the approved plans and the requirements of condition 2 of this permission, within 3 months of development first taking place details of the siting, height, design, materials and finish of all boundary treatments to the site shall be submitted to and approved in writing by the Local Planning Authority. The duly approved boundary treatments shall be constructed in full accordance with the approved details before the building hereby approved is first occupied, and shall be retained as such thereafter.

8) Within three months of development first taking place a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall demonstrate compliance with the landscaping principles shown on drawing No. SP02 Rev C and shall include details of the type, species, siting, planting distances and the programme of planting of 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.

9) No development shall take place until a scheme for tree protection measures (both above and below ground) to be implemented during the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: Details of a construction exclusion zone (including protective fencing of a height and design which accords with the requirements BS 5837: 2012) to be formed around the root protection areas of those trees shown to be retained on drawing No. SP02 Rev C; details of any excavation to take place within the root protection areas of those trees shown to be retained on drawing No. SP02 Rev C and details of the foundations of any building, hardstandings and/or boundary treatments to be constructed within the root protection areas of those trees shown to be retained on drawing No. SP02 Rev C. The development shall thereafter be carried out in strict accordance with the protection measures contained within the duly approved scheme throughout the entirety of the construction period.

10) No clearance of any vegetation in preparation for or during the course of development shall take place during the bird nesting season (March to August inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during

the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.

11) No above ground works shall take place until a scheme for the construction and surface treatment of the vehicle parking, servicing and manoeuvring areas indicated on drawing No. SP02 Rev C has been submitted to and approved in writing by the Local Planning Authority. The vehicle parking, servicing and manoeuvring areas shall thereafter be constructed in accordance with the duly approved scheme, marked out and made available for use before the building hereby approved is first occupied, and shall be retained as such thereafter.

12) Before any of the following structures and enclosures (the siting and annotation of which is shown on drawing No. SP02 Rev C) hereby approved are constructed, details of their size, height, materials and design shall first be submitted to and approved in writing by the Local Planning Authority:

- (i) External bin store.
- (ii) Garden workshop and store.
- (iii) Gazebo.
- (iv) Shed.
- (v) 10 cycle capacity hoops and shelter.

The structures and enclosures shall be constructed in accordance with the duly approved details and made available for use before the building hereby approved is first occupied, and shall be retained as such thereafter.

13) Notwithstanding any details contained within the application and the requirements of condition 2 of this permission, a scheme for the installation of any external lighting on the building and the external areas of the site shall be submitted to and approved in writing by the Local Planning Authority before any external lighting is installed. The scheme shall include details of the lighting's: (i) position and height on the building and/or site; (ii) spillage, luminance and angle of installation; (iii) timing of operation; and (iv) any hoods to be fixed to the lights. Any external lighting shall thereafter only be installed in accordance with the duly approved scheme.

14) Before the building hereby approved is first occupied a Site Management Plan (SMP) shall be submitted to and approved in writing by the Local Planning Authority. The SMP shall include details of:

- (i) The timing of deliveries to the site.
- (ii) Staff shift patterns.
- (iii) Restrictions on the hours when non-residents will be permitted to visit residents of the care home.

Other than in the case of emergencies, the SMP shall thereafter be implemented in accordance with the duly approved details. Any amendments to the SMP shall thereafter be approved in writing by the Local Planning Authority before first being implemented.

15) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include: hours of work for site preparation, delivery of materials and construction; arrangements for the parking of vehicles for site operatives and visitors; details of areas designated for the loading, unloading and storage of plant

and materials; details of the siting, height and maintenance of security hoarding; arrangements for the provision of wheel washing facilities for vehicles accessing the site; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from construction works; and a strategy to inform neighbouring occupiers (which as a minimum, shall include those adjoining the site boundaries) of the timing and duration of any piling operations, and contact details for the site operator during this period. Construction work shall be carried out in accordance with the approved CMS.