
Appeal Decision

Site visit made on 23 May 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 3 July 2017

Appeal Ref: APP/P4225/W/16/3161678
27 Tonge Meadow, Middleton M24 2UR

- 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 Andrew O'Reilly against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 16/00914/FUL, dated 9 August 2016, was refused by notice dated 17 October 2016.
 - The development proposed is proposed change of use of land to garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the :
 - effect of the proposed development on the character and appearance of the area; and
 - living conditions of neighbouring occupiers with regard to outlook and future occupiers with regard to privacy.

Reasons

Character and appearance

3. The appeal site is an area of land to the side of No 27 Tonge Meadow which is situated at a turning head of the road within the housing development. The area is characterised by a mix of recently constructed detached and semi-detached dwellings set in an open plan streetscene. Front gardens have no fencing or any specific or significant boundary demarcation between properties. The site is prominent due to its position within the housing development and it is highly visible in longer views along Tonge Meadow, when approaching the site from the east. In addition, the site slopes relatively steeply upwards from east to west.
4. Policy G/10 of the Rochdale Unitary Development Plan (UDP) sets out the considerations against which development proposals that seek to change the use of incidental urban green space will be assessed. These include the structural and visual amenity value of the space and its contribution towards the setting of individual buildings or groups of buildings. Proposals will not be permitted unless the benefits of the scheme outweigh the loss of the land.

5. Policy BE/2 of the UDP requires development to be compatible with its surroundings in terms of scale, height, massing, layout, materials and architectural style in order to provide an attractive, safe and accessible built environment. The policy also requires development to treat open spaces between and around buildings appropriately as a material contribution to the character of the area.
6. Policies G6, DM1 and P3 of the emerging Rochdale Core Strategy (CS), amongst other matters, identify elements of the Council's existing green infrastructure and state that proposals affecting it should not sever or impede the key functions of designated greenspace or detract from their natural, visual or recreational quality but enhance their value and accessibility. Furthermore, development proposals should be of a high design quality and take the opportunity to enhance the quality of the wider area.
7. The site is bound by a timber fence along its western boundary, to the rear of the site when viewed from Tonge Meadow. I am led to understand that this constitutes an unauthorised closure of the pedestrian access to the open land to the west of the site. Having regard to these circumstances, I find that the proposed enclosure of the appeal site would have an adverse effect on the urban structure of the area and would represent a permanent closure of the access to the open land to the west of the site. Furthermore, it would significantly reduce the possibility of the potential reinstatement of the path which runs across the open land.
8. The Council states that pedestrian access to the land was required by a condition relating to the original planning permission for the housing development, as was the improvement of the adjacent area of open land. However, it is apparent that this has not occurred as yet. In addition, I note that there have been incidents of anti-social behaviour which have resulted in access to the area of open land behind the site being lost.
9. Whilst I appreciate these points, from what I have seen and read, I find that the proposal and subsequent loss of access to the open land from Tonge Meadow would undermine the structural value and visual amenity of the site and its surroundings. Furthermore, the loss of the open space, formed in part by the appeal site, from the wider housing development, would be harmful to the overall character and appearance of the surrounding area, particularly given its prominent and highly visible position. Notwithstanding the proposed planting to soften its visual impact, the additional timber fencing in this visible location would appear out of keeping with the overall open plan streetscene and pattern of development in the area.
10. Having had due regard to the matters raised, I find that the enclosure of the appeal site, which forms an integral part of the character and appearance of the housing development, with a high timber fence would have a detrimental impact on the appearance of the area and would significantly affect the open plan streetscene which forms a key characteristic of the area. Moreover, it would indicate that the open land adjacent to the site is not publicly accessible.
11. Consequently, I conclude that the proposal would have a significant adverse impact on the character and appearance of the surrounding area. It would therefore be contrary to Policies G/10 and BE/2 of the UDP, Policies G6, DM1 and P3 of the (CS) and the relevant guidance within the National Planning Policy Framework (the Framework). Amongst other matters, these policies and

guidance seek to ensure that development has regard to, and does not adversely affect, the character or appearance of its surroundings.

Living conditions

12. The Council argues that the proposal would unduly impact upon the outlook of the occupiers of No. 25 Tonge Meadow (No. 25) by introducing a visually intrusive form of development close to the principal window of that dwelling. Furthermore, the Council state that by enclosing the site as a private garden, activities undertaken by the occupiers of the appeal property which would be commonly carried out in private garden space would occur unacceptably close to the front of No. 25. It is argued that this would result in a loss of privacy for the neighbouring occupiers.
13. Notwithstanding this, the proposal would be around seven metres from the principal window of the main habitable room of No. 25. Given the proximity to the window, I find that the proposed 1.8 metre high timber fencing and the sloping nature of the appeal site would result in an undue and significant adverse impact on the outlook of the occupiers of No. 25.
14. Whilst I appreciate that the occupiers of No. 25 currently look out onto timber fencing from the relevant window, the existing fencing is more distant from the window than that which is proposed. Furthermore, the proposed garden area of No. 27 would be significantly closer to the front elevation of No. 25 and due to the sloping nature of the appeal site the privacy of the occupiers of both Nos. 25 and 27 would likely be unduly adversely affected.
15. I note the appellant's comments regarding the acceptance of the proposal by the occupiers of No. 25. However, I consider that the effect of the proposal would not only have an adverse effect on the outlook and privacy of the existing occupiers of the property but it would also impact on those who may reside at No. 25 in the future. Moreover, I must give consideration to the wider impacts of the proposal. As a result, such comments from the current occupiers of No. 25 can have only limited weight.
16. Consequently, I conclude that the proposal would have a significant adverse impact on the outlook of neighbouring occupiers at No. 25 and on the privacy of existing and future occupiers of the appeal property and Nos. 25 and 27. Therefore, it would be contrary to Policy BE/2 of the UDP, Policy DM1 of the CS and the relevant guidance within the Framework. Amongst other matters, these policies and guidance seek to ensure that development does not adversely affect the living conditions of existing and future occupiers, including outlook and privacy.

Conclusion

17. The proposal would provide an increased garden area at No.27. However, this and other benefits would be outweighed by the harm which I have identified. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR