



Appeal Decision

Site visit made on 17 June 2019

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal Ref: APP/W4223/W/19/3225261

Land to the rear of 1 and 2 Fern Hill, Fern Hill, Oldham OL4 5NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr I Dewhurst against Oldham Metropolitan Borough Council.
 - The application Ref PA/341862/18 is dated 20 May 2018.
 - The development proposed is the construction of 3 detached dwellings on land at the rear of numbers 1 and 2 Fern Hill, Oldham.
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Decision

1. The appeal is dismissed and outline planning permission is refused for the construction of 3 detached dwellings on land at the rear of numbers 1 and 2 Fern Hill, Oldham.

Procedural matters

2. The application is in outline form with only access, scale and layout to be determined at this stage. I have assessed the proposal on that basis.
3. On 19 February 2019, the Government published its Housing Delivery Test (HDT) results alongside an updated revised National Planning Policy Framework (the Framework). The HDT outcome for the Council indicates that the delivery has been below the requirement over the last 3 years. The appellant also states that the Council cannot demonstrate a 5-year supply of deliverable housing sites, which is not contested. The HDT results do not alter that position. The revisions to the Framework do not otherwise materially alter national policy in respect of the issues raised in this appeal. Both main parties have had the opportunity to address housing land supply and the Framework through the appeal process.
4. The proposal follows an application for a similar form of development on the site that was refused outline planning permission on application and appeal. The appellant considers that the proposal addresses the previous reasons for refusal and that there has been a change in circumstances in the interim. I have taken into account the information that supports both points along with all of the submitted evidence. A key planning principle is also that each development should be assessed on its own merits, which I have done.

Main issues

5. The main issues are the effect of the proposed development on the character and appearance of the local area and on open space.

Reasons

Character and appearance

6. The proposal is to erect 3 detached houses and a detached garage on grassland just beyond the rear of 1 and 2 Fern Hill, which stand within an established landscaped setting in the valley of the River Medlock. With areas of woodland and mature trees set within an undulating landscape, informal paths and a nearby river, there is a spacious feel, welcome tranquility and a verdant quality to the area to which the site belongs, which is locally distinctive.
7. The new additions would be visually 'read' with Nos 1 and 2 to one side with some properties that address Chaffinch Close glimpsed on higher ground through the foliage of trees. These buildings would, to varying extents, present a hard built profile to the new development. However, there are more open views across and beyond the site in other directions. Furthermore, while the remnants of some outbuildings that previously occupied part of the site are evident, their presence is modest in the context of the site and the surrounding views of it.
8. In that context, the proposed development would obtrude into this largely open area of grassland palpably introducing a substantial new built form into the landscape. It would transform the character of the land from a pleasant area of largely undeveloped green space to one occupied by a significant built development where people would live and visit. The obtrusion would be most acutely felt in views from the rear of Nos 1 and 2 and the paths to the west of the site. From these directions, the sense of urbanisation would be evident whether or not the site is regarded as previously developed because the openness of this area would be significantly eroded by the proposal. These concerns are compounded by my general impression during the site visit that the informal footpaths along the river that provide an experiential opportunity to appreciate the landscape close to the main built up area appeared to be reasonably well used.
9. The appearance and landscaping of the appeal scheme could, to some extent, reduce the visual impact of the development. These are matters reserved for subsequent approval. Additional planting to the line of trees to one side of the site, as proposed, would provide extra screening as well as an opportunity to visually soften the new buildings. However, this adjacent land is not owned or controlled by the appellant and soft landscaping could always be cut back or removed by others at short notice. From what I saw, it is also very likely that the new built form would still be visible from alongside the river, because the new dwellings would project above the new boundary fence notwithstanding detailed design considerations. The appellant's drawing of the proposed development along the western boundary illustrates this point. From this direction, a line of 3 new dwellings would have a much greater visual impact than the side and rear profile of Nos 1 and 2.
10. On the first main issue, I conclude that the proposed development would unacceptably harm the character and appearance of the local area. As such, it conflicts with Policies 6, 9, 21 and 22 of the Council's Joint Core Strategy and Development Management Policies (CS). These policies seek to enhance and reinforce the distinctive elements of the landscape; protect the natural environment; and ensure that development does not have a significant adverse effect on the visual amenity of the local area.

Open space

11. The Council states that the site is designated as open space. CS Policy 23 seeks to protect, promote and enhance such areas. The appellant has queried whether the site should be regarded in these terms given that it is private land with no public access and is clearly separate to the nearby country park. According to the Glossary of the Framework open space is defined as all open space of public value, including land and areas of water that offer important opportunities for sport and recreation and can act as a visual amenity. On that basis, access or whether or not the land is within a recognised park are not defining features of open space. Similarly, CS Policy 23 does not differentiate between open space that is or is not publicly accessible.
12. As an area of largely undeveloped land that at present blends almost seamlessly into the landscape that rises from and falls towards the river and offers a visual amenity, the site can reasonably be regarded as open space. By introducing new built form the proposal would significantly diminish the openness of the site in conflict with CS Policy 23. The Framework also states that existing open space and sports and recreational buildings and land should not be built on unless specific criteria are met, none of which would apply. Consequently, the appeal scheme would also be contrary to the Framework.
13. My attention has been drawn to examples in which the appellant states that the Council has granted planning permission for residential development on land that is designated as 'other protected and open space'. To reiterate, my assessment is based on the particular circumstances of this case and the context of the site. From the information provided, I cannot be certain that the circumstances of the examples referred to are the same or are very similar to those of the proposal. Therefore, the examples do not weigh in support of the appellant's case.
14. On the second main issue, I conclude that the proposal would result in the undue loss of open space, in conflict with CS Policy 23 and the Framework.

Planning balance

15. According to the appellant, the Council can demonstrate a 3.2-year supply of deliverable housing sites, which falls short of the minimum 5-year threshold identified in the Framework. On that basis, paragraph 11 d) of the Framework applies, which states, amongst other things, 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 in the Framework taken as a whole.
16. In this case, the proposal would contribute towards the supply of housing and provide additional choice to prospective occupiers, which carry significant weight in support of the appeal. The development would make an efficient use of land and the new buildings could be designed to be energy efficient. The appellant considers the site to be accessible to local services and facilities and previously developed, which is prioritised for development in policy terms. There would also be some economic benefits from the sale of materials during the construction phase and from spending by future residents. There is also potential to enhance existing landscaping and boost biodiversity through additional planting. These social, environmental and economic considerations all weigh in support of the proposal.

17. On the other hand, the Framework notes development should respond to local character and add to the overall qualities of an area. It seeks to safeguard the natural environment and protect open space. The proposal would not adhere to these key policies. When assessed against the policies in the Framework taken as a whole, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the appeal scheme.

Other matters

18. Reference is made to a proposal to erect 2 dwellings on land at Booths Hall Road, Worsley that was recently granted planning permission on appeal. Based on the particular circumstances in that case, the Inspector concluded that the site was not an important landscape feature that characterised the area. For the reasons given, I am unable to reach a similar finding in this instance. Furthermore, there are, it seems to me, significant differences in proposals, site characteristics, location and planning policies that preclude a direct comparison between this appeal decision and the new development before me. As a result, I attach no more than limited weight to this earlier appeal decision.
19. Others raise no objection including the Environment Agency. The Council does not object to the proposal on ecology grounds. There would be no harm to the living conditions of future occupiers due to the potential for overlooking from the existing properties further to the east. However, these matters do not outweigh the significant harm that I have identified.
20. The appellant is critical of the Council's handling of the application and the delays incurred. However, these matters fall outside of my remit, which is solely to determine this appeal.

Summary

21. The proposal would cause significant harm to the character and appearance of the local area and result in an unacceptable loss of open space. While the new development would contribute towards meeting some of the shortfall in housing land, the balance of national policy does not support the proposal.
22. Therefore, the proposal does not benefit from the presumption in favour of sustainable development, which means that the Framework does not indicate a decision other than in accordance with the development plan. Other considerations do not outweigh the significant harm that I have identified. Consequently, the proposal does not overcome the main concerns raised in relation to the previous appeal scheme on this site.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR