
Appeal Decision

Site visit made on 7 July 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2020

Appeal Ref: APP/A4710/W/20/3247247

45 Wakefield Road, Hipperholme, Halifax HX3 8AQ

- 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 Torsion Care Ltd against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00356/FUL, dated 18 March 2019, was refused by notice dated 20 December 2019.
 - The development proposed is the demolition of existing former junior school building to facilitate a new 66-bed residential care home.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development has been altered from the application form to the decision notice. The former description adequately describes the proposals and I have determined the appeal on that basis. I noted on my visit that the site had previously been cleared and the former junior school building demolished.

Application for costs

3. An application for costs was made by Torsion Care Ltd against Calderdale Metropolitan Borough Council. This application is the subject of a separate decision.

Main Issues

4. The main issues are:
 - i. the effect of the proposal on the living conditions of adjoining occupiers with particular regard to its impact on adjacent gardens; and
 - ii. the effect of the proposal on the character and appearance of the area with particular regard to its scale, height and massing.

Reasons

5. The appeal site sits to the north east of Wakefield Road. The area is residential in nature and the character of the area is generally formed of stone-built properties of varying designs, mass and scale with pitched slate roofs. Residential dwellings sit to the north of the site in a slightly elevated position at Rock Terrace, the gardens associated with these properties extending southwards and stepping down to meet the northern boundary of the appeal site.

Living conditions

6. The care home would be three storeys in height and would be formed of two wings. While set a reasonable distance away from the main elevations of the dwellings themselves, the rear elevation of the westernmost wing would run parallel to and be set only a short distance from the boundary of the gardens of Nos 3 – 6 Rock Terrace. These gardens incorporate various areas that are set on different levels following the slope of the gardens.
7. The accommodation would be provided in an intensive manner within the home. Within the rear section of the western wing 14 bedrooms and 2 clinics would be provided at first and second floor level, all of which would all have reasonably large windows overlooking the gardens at Rock Terrace. Further, very large windows which appear almost floor to ceiling in height would serve dining and lounge areas on both of these floors. Given the nature of the use, it is likely that residents within the home would spend significant amounts of time within the building and therefore a significant amount of time utilising both their rooms and the dining and lounge area.
8. Given the proposed use of the building, its position on the site, the three storey design and its window arrangement, despite the slight set down of the building on the site, it would have an overbearing impact and would give rise to significant and harmful overlooking to the gardens of Nos 3-6 Rock Terrace to the detriment of the living conditions of these occupiers.
9. My attention has been drawn to an annexe¹ of the Replacement Calderdale Unitary Development Plan (2009) (RCUDP) in support of the proposal. However, to my mind, paragraph A.5 solely seeks to influence the design of private garden areas within new residential developments. Whilst I accept that not every part of every garden can or should be protected from any form of overlooking, I cannot agree that this guidance provides the thrust to permit the level of overlooking that would arise as a result of this proposal.
10. I therefore conclude on this matter that the proposal would be contrary to Policy BE2 of the RCUDP which amongst other things requires that development proposals should not significantly affect the privacy and private amenity space of adjacent residents.

Character and appearance

11. The building which is the subject of the proposal would be of significant scale, height and massing. However, the site on which it would be accommodated is large, meaning that the proposal would not result in overdevelopment of the site.
12. Further, buildings of three storey height are not an uncommon feature within the local area meaning that the height of the building would not be significantly out of keeping with the prevailing character of the area.
13. The incorporation of a relatively shallow pitched roof and the slight set down of the building on the site would serve to limit the impact of the building in terms of its scale and massing. The variation proposed to the ridgeline would further assist in breaking up the mass of the building.
14. I therefore conclude on this matter that the proposal would comply with Policy BE1 of the RCUDP which amongst other things requires that development proposals amongst other things should at least maintain the quality of the existing

¹ Annex A Privacy, Daylighting and Amenity Space

environment through as a minimum respecting the established character and appearance of existing buildings and the surroundings in terms of height, scale and massing.

Planning balance

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
16. The evidence indicates that the Council cannot demonstrate a 5-year supply of deliverable housing sites. As a result, 'The presumption in favour of sustainable development' at paragraph 11 d) of The National Planning Policy Framework (the Framework) is relevant to the determination of this appeal.
17. I have found that the proposal would give rise to significant and harmful overlooking to the gardens of Nos 3-6 Rock Terrace to the detriment of the living conditions of these occupiers. As it would fail to accord with Policy BE2 of the RCUDP the development would conflict with the development plan. In relation to this appeal, this development plan policy has relevance as it has conformity with the Framework which is also concerned with similar matters and which advises at Paragraph 127, amongst other things, that planning decisions should create places which promote health and well-being, with a high standard of amenity for existing and future users. Accordingly, I give significant weight to the conflict with Policy BE2, and to the harm which would arise in this respect.
18. The Framework offers support for new housing in sustainable locations that represents an efficient use of previously developed land including the provision of housing for the elderly. I do afford a large degree of weight to the benefits that would arise from the proposal in these respects and in terms of its contribution to housing supply, particularly in the context of the shortfall in housing supply detailed within the evidence. However, I have identified that the living conditions of the occupiers of adjacent properties would be significantly harmed as a result of this proposal. This is a matter which also concerns the Framework, and as I have identified significant harm in relation to multiple properties, I have afforded this matter more substantial weight.
19. The adverse impacts of granting permission would therefore significantly and demonstrably outweigh the benefits. Subsequently, the proposal does not benefit from the presumption in favour of sustainable development. Having considered the development against paragraph 11 d) of the Framework there are no material considerations which indicate that my decision should be taken otherwise than in accordance with the development plan.

Other Matters

20. The application was refused contrary to officer recommendation. The appellant raises concerns over the manner in which the planning committee arrived at its decision. However, these are not matters for my consideration and instead should be referred for resolution via the Council's complaints procedure, if the appellant so wishes.

Conclusion

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

TJ Burnham INSPECTOR