



Appeal Decision

Site visit made on 21 July 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Appeal Ref: APP/B2355/W/20/3252418

Land at Maden Road, Bacup OL13 8NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Sterry of JCS Interiors against the decision of Rossendale Borough Council.
 - The application Ref 2020/0108, dated 2 March 2020, was refused by notice dated 5 May 2020.
 - The development proposed is a residential development.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline, with access, appearance, layout and scale to be determined at this stage. Landscaping is a reserved matter, and inasmuch as the submitted drawings indicate matters of landscaping I have therefore treated them as being indicative only.

Main Issues

3. The main issues are:
 - Whether future occupiers of the development would be likely to be reliant on private transport for access to shops and services;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the development on highway safety, having particular regard to vehicular access and parking.

Reasons

Access to shops and services

4. The appeal site is part of an open field on the south side of Maden Road occupying an elevated position on the west side of Bacup. It is situated between a row of late twentieth century houses to the east, which mark the edge of the built-up area, and the recreation and sports fields known as Maden Recreation Ground to the west. Bacup Golf Club lies to the north across Maden Road.

5. The town centre lies in the valley bottom east of the appeal site, and offers a range of shops and services, as well as bus connections to the rest of Rossendale and beyond. In a place such as Rossendale settlements sometimes spill upwards out of the valleys and onto the hills and moors, and it may be that as a result local people expect and accept a bit more hill climbing in their daily lives than would be the case elsewhere. The development plan does not set a maximum acceptable distance or gradient for walking routes between new developments and local services. However, while the town centre is no great distance from the appeal site, the quality of the route between the two and the gradients to be negotiated mean that the journey from the town centre to the appeal site is arduous even by local standards.
6. The Highway Authority has calculated a walking distance of around 650m and a change in elevation of around 62m between the appeal site and Bacup Library, a convenient central point in the town centre, and I walked this route in both directions at the time of my site visit. None of the information before me suggests that these figures, which indicate an average gradient approaching 10%, are inaccurate. There are sustained very steep slopes on Maden Road itself and on Bankside Lane, as well as a short length of steps between the two which at the time of my site visit were partly overgrown and therefore difficult to use. The route has streetlighting, but part of Maden Road has no footway, while Bankside Lane is of such a gradient that it is provided with a handrail for much of its length.
7. The proposal is for four two-bedroom bungalows, and while they would be available for purchase by anyone, in general terms experience suggests that type of property would be most likely to be occupied by older people. Anyone with reduced mobility or using a wheelchair would be likely to find the route between the town centre and appeal site impossible to use, while even relatively young and fit people, in particular anyone pushing a buggy, pram or shopping trolley, would be likely to find it difficult. In my view, most occupiers of the proposed dwellings would be unlikely to choose walking or cycling for going about their everyday business, especially in inclement weather.
8. The appeal site is close to existing houses on Maden Road, Meadow Way and Highfield, but these were developed under different planning policies which did not emphasise the use of sustainable transport. In my view current local residents already have the same difficulties accessing shops and services, other than by using a car, which future occupiers of the appeal site would face. This is borne out in comments submitted by several interested parties.
9. Many people will have walked up Maden Road to the recreation ground over the years, although local residents suggest that a large proportion of people using it arrive by car. However, walking to take part in sport or other leisure activities is a different proposition to carrying out necessary daily tasks such as shopping or taking children to school. In any case, the siting of the recreation ground at the top of Maden Road probably owes more to the necessity of finding reasonably level and open land for sports pitches rather than a particular enthusiasm among the sportsmen and women of Bacup for walking up steep hills. In the circumstances, the presence of nearby housing and the recreation ground does not demonstrate that the appeal site is well-located in terms of convenient access to shopping and services.

10. The site sits adjacent to, but outside of, the urban boundary of Bacup. Even without the *Braintree*¹ judgment relating to the interpretation of the National Planning Policy Framework in respect of isolated dwellings in the countryside², given the appeal site's location adjoining the built-up edge of Bacup, I would not have considered it to be physically isolated. Indeed, the development going ahead would effectively extend the town into the countryside. Four dwellings could make only a limited contribution, if any, to sustaining nearby facilities such as the recreation ground and the golf club, and given that the site's only road access is through Bacup itself it is difficult to see that the development would make anything other than a negligible contribution to enhancing or maintaining the vitality of rural communities in Rossendale.
11. The appellant has drawn my attention to two appeals elsewhere in Rossendale where Inspectors addressed the issue of whether proposed dwellings would be isolated and whether they would have suitable access to shops and services by means other than the private car. I recognise that consistency in the planning process is important and like cases should be decided in a like manner, and I have had regard to these decisions. I note the Inspector's conclusions in respect of the Crawshawbooth case³ and the accessibility of that site via narrow, steep roads. However, I do not know the precise details, and for the reasons set out above I consider that even by local standards and expectations the walking route to the site in this case would be extremely difficult. In the Windyridge decision referred to⁴, there is no indication that walking routes to and from that site are as challenging as those in this case, but even so the Inspector found that the proposal would not have particularly good access to services and facilities. I cannot therefore be certain that either of the two cases referred to is directly comparable to this current appeal.
12. I conclude that the future occupiers of the development would be overwhelmingly likely to be heavily reliant on private transport for access to shops and services. The proposal therefore conflicts with Policies 1 and 9 of the 2011 Rossendale Core Strategy (the RCS), which together seek to ensure that development maximises access by public transport, walking and cycling in a manner that promotes safe and inclusive communities. It would also conflict with various requirements of the Framework, in particular Paragraph 91 which requires developments to be safe and accessible and to encourage walking and cycling, Paragraph 110 which requires that development should give priority first to pedestrian and cycle movements and should address the needs of people with disabilities and reduced mobility in relation to all modes of transport, and Paragraph 127 which requires that developments should function well and add to the overall quality of the area.

Character and appearance

13. The field including the appeal site is bounded by stone walls and with mature trees along its northern and western borders. As described above, the eastern field boundary marks the edge of built-up Bacup. The land falls away towards the east, and from Maden Road and the footpath at the western edge of the site there are expansive views to the east and south east across the Irwell

¹ Braintree District Council v SSCLG & others [2017] EWHC 2743 (Admin)

² At the time of *Braintree* this was Paragraph 55 of the Framework, since publication of the revised Framework in 2018 it is Paragraph 79.

³ Ref APP/B2355/W/20/3245150.

⁴ Ref APP/B2355/W/19/3244004.

valley to the rolling hills beyond. Although housing in and on the valley sides forms part of the close and middle-distance views, the site's elevation and openness create a countryside rather than urban setting. This is particularly apparent when travelling from the town centre, as Maden Road becomes increasingly less urban in character until on reaching the appeal site the countryside begins to dominate, while the footpaths and bridleways beyond are distinctly rural in character.

14. The four proposed bungalows would be modest in size and of a design which, while unremarkable, with stone walls and blue slate roofs would not necessarily look out of place elsewhere within Bacup. However, the appeal site marks the point at which the character of the area changes and the surroundings become distinctly more rural than urban in appearance. In my view, regardless of appearance, the proposed residential development of the site would represent the encroachment of an urbanising, or at least suburbanising, form of development. This would harmfully erode the rural nature of the site which makes a positive contribution to the character and appearance of the area.
15. The appellant has described the proposal as being infill development between the existing dwellings on Maden Road and the recreation ground. The recreation ground includes some buildings providing changing and other facilities, while its sports pitches are not 'natural' countryside. However, the buildings on the site are small, partly screened by trees and other planting, and the recreation ground as a whole is open, spacious and essentially in keeping with the rural nature of its countryside surroundings. This would not be the case with the proposed residential development. I would more usually expect an infill development to represent the infilling of gaps in an otherwise built-up frontage, and I therefore do not agree with the appellant's use of that description. The appellant also remarks that the appeal site was 'left over' when the adjoining houses were built either to give access to the adjoining fields or because of ownership issues, and suggests that otherwise development would have taken place up to the boundary with the recreation ground. However, there is no evidence to substantiate this, and even if there were it would not justify the proposed development.
16. I conclude that the proposal would have an adverse effect on the open character of the countryside, and so would cause significant harm to the character and appearance of the area. The proposal would therefore be contrary to Policies 1, 18, 21, 23 and 24 of the RCS, which together seek to deliver development which enhances and protects the countryside and which complements or enhances the character of its surroundings. It would also conflict with the requirements of the Framework, in particular Paragraph 127 which requires development to be visually attractive, sympathetic to local character and maintain a strong sense of place, and Paragraph 170 which seeks to ensure that the natural and local environment is enhanced, including through recognising the intrinsic character and beauty of the countryside.

Highway safety

17. The proposed development would have a shared access way serving the four dwellings' private driveways. This would join Maden Road at a narrow angle such that it may be difficult for drivers leaving the appeal site to have a clear view of any vehicles also heading east along Maden Road from the recreation ground. The Highway Authority has indicated that a visibility splay of 2.4m x

25m should be provided at the site entrance, but it is not clear from the submitted drawings that such a splay is proposed. A turning head is proposed within the site, although there is insufficient information such as a swept path analysis to demonstrate that it could be used by delivery vans and emergency service vehicles so that the dwellings could be serviced from within the site rather than from Maden Road. However, I accept that the appeal site is large enough to accommodate both of these measures and, if the proposal had been acceptable in all other respects these are matters which could have been addressed by the imposition of a condition requiring the submission and approval of further details before the commencement of development. Notwithstanding the issues in respect of the junction with Maden Road and the turning head, it is not clear to me from the information provided why the access way would need to be built to the width standard suggested by the Highway Authority given the limited traffic it would need to carry to serve four dwellings.

18. Maden Road serving the site is not what would be designed today were it being built from scratch, not least in those places where it is too narrow for two-way traffic. However, it has a 20mph speed limit, and there is no record of traffic collisions close to the appeal site. For the reasons I have set out in relation to access to services, the development would be likely to result in greater reliance on private vehicle use than would be considered desirable. The proposal would lead to an increase in the number of vehicles using Maden Road, although in overall terms I consider that the volume of traffic would remain low.
19. Taking these points together, I consider that the proposed development would not be significantly detrimental to highway safety. The Council's decision notice referred to Policy 9 of the RCS but did not specify the nature of the conflict which they had identified, nor was this expanded on in their appeal statement. It follows therefore that I find no conflict with that policy. I also note the requirements of paragraph 109 of the Framework, which indicate that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

20. In coming to my decision, I have had regard to concerns raised by interested parties, most of which are addressed in the main issues above. Other matters included overlooking and outlook, biodiversity, flood risk, and protection of trees. Given my findings in respect of the main issues, it has not been necessary for me to consider these matters in detail. However, the Council did not identify any significant harm in respect of effects on neighbours' living conditions, and none of the evidence before me leads me to a different conclusion. Wildlife, ecology and flood risk could have been addressed by use of conditions had the proposal been acceptable in other regards, while landscaping would in any case have been a reserved matter. None of the other matters raised alters or outweighs my overall conclusion below.

Planning Balance and Conclusion

21. There is no dispute between the main parties that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites, and the 'tilted balance' described in Paragraph 11(d) of the Framework is therefore engaged. This indicates 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.
22. The proposed development would contribute to the supply of housing, and there would be economic benefits arising in the short term from the construction of the dwelling, and in the longer term from the future occupiers using and supporting local shops, businesses and other services. However, the provision of four dwellings would give only a limited boost to the supply of housing, and given the small scale of the proposed development the economic benefits arising from the scheme would be modest. I therefore give these other considerations moderate weight in the overall planning balance.
23. I have found that the proposal would provide future occupiers with poor access to shops and services by a range of transport options, which would be contrary to Paragraphs 91, 110 and 127 of the Framework. I have also found that the proposal would cause significant harm to the character and appearance of the countryside, contrary to Paragraphs 127 and 170 of the Framework. I have not found harm in respect of highway safety in the Framework's terms, but a lack of harm in this regard is a neutral factor. The harm I have identified would significantly and demonstrably outweigh the aforementioned benefits of the proposal when assessed against the policies in the Framework taken as a whole. As such, having applied the balance set out in Paragraph 11(d)ii), the presumption in favour of granting permission does not apply.
24. I have also found that there would be conflict with RCS Policies 1, 9, 18, 21, 23 and 24. Policies 1, 18 and 21 are more restrictive than the Framework in terms of the type and location of development that they permit in the countryside. Although the policies' objectives to enhance the quality of places and the economic, social and environmental sustainability of the borough are consistent with the Framework, given the housing land supply position they are out of date as a whole. In my view RCS Policy 9 is not out of date in respect of this proposal. The policy's requirement that development should be concentrated within 400m of bus stops with regular services only applies to development proposals within the urban boundary, while the appeal site lies outside the urban boundary. I afford the proposal's conflict with Policies 1, 18 and 21 of the RCS limited weight in the overall planning balance. Nonetheless, the conflict with these policies adds weight to my conclusion that the appeal should be dismissed, and the proposal would conflict with the development plan as a whole.
25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The other material considerations identified in this case, including the Framework, do not justify a decision other than in accordance with the adopted development plan.
26. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector