



Appeal Decision

Site Visit made on 10 August 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2021

Appeal Ref: APP/A4710/W/21/3273849

Land at Lee Royd, Heptonstall Road, Hebden Bridge HX7 6AZ

- 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 Ms Liz Middleton against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00853/OUT, dated 12 July 2020, was refused by notice dated 20 April 2021.
 - The development proposed is for 2 no. three bed semi detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An outline planning permission is sought with access, layout and scale to be considered. I have determined the appeal on this basis.
3. A revised National Planning Policy Framework was published in July 2021 (the Framework). Whilst the paragraph numbers have changed in regard to those relevant to the main issues of this case, the substance thereof remains the same as the 2019 iteration. I have sought comments from the main parties and taken any comments made into consideration.

Main Issues

4. The main issues are (i) whether the proposed development would preserve or enhance the character or appearance of the Hebden Bridge Conservation Area (CA), and (ii) the effect of the proposed development on the living conditions of neighbouring occupiers with specific regard to privacy.

Reasons

The Hebden Bridge Conservation Area

5. The appeal site is located off Heptonstall Road, a road that rises steeply from its junction with the A646. It comprises mainly of stone built terrace and semi-detached properties that are interspersed with areas of open land. The CA Appraisal and Management Plan (2011) identifies the topography and wooded hillsides as key characteristics, as well as the built form of terraced housing and the cohesive palette of materials, including natural stone. The interaction of this built form and green spaces on steep hillsides contribute to the CA's significance.

6. The site, which is on the southern side of Heptonstall Road, falls away sharply from the road. Although the site was occupied by buildings, it is presently a largely open area of land that contains various vegetation and trees. The proposed development would result in the loss of this open space, which although consisting of a contextually small parcel of land, forms part of a larger area of green space on a prominent sloping hillside.
7. The CA is of a high architectural interest, but the wooded hillsides which provide a green backdrop to the town equally contribute to its significance. The woodland below the site provides screening of the site from various locations, but the site is in a highly visible location, and is seen in near views along Heptonstall Road and wider views from across the valley. Although the final appearance of a proposal could be developed to be in keeping with the buildings in the locality, the loss of this open area would encroach upon this verdant landscape setting and be detrimental to the CA.
8. The proposal would require significant engineering works for parking and external areas. Whilst this could be formed of traditional materials, and I was able to see retaining walls are a feature of the area and some remain on the site, the large expanse of hardstanding would add to the harm that I have found above as it would reduce the leafy, green setting of the CA.
9. For the above reasons, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area. As such, it would be contrary to Policies BE 1 and BE 18 of the Replacement Calderdale Unitary Development Plan (2006, as amended 2009) (UDP), which seek, amongst other matters, development that respects or enhances the established character and appearance of existing buildings and the surroundings and development that does not result in the loss of any open space which makes an important contribution to the character of the Conservation Area.
10. In relation to designated heritage assets, Paragraph 202 of the Framework states where there would be less than substantial harm to the significance of a designated heritage asset, as in this case, this harm should be weighed against the public benefits of the proposal.
11. The appellant has set out the contribution that the proposal would make to the housing shortfall in the area and the benefit of providing additional housing for local people. Whilst this matter weighs in favour of the scheme, it would not outweigh the harm the development would cause to the CA in the terms I have described it, bearing in mind the Framework, which states that great weight should be given to an asset's conservation, irrespective of the level of harm to its significance.

Living Conditions

12. The layout of the proposal would see the pair of dwellings facing Heptonstall Road, with the front doors on this elevation. The indicative floor plan and elevation drawings also set out the position of windows and the rooms that they would serve. The appellant states that the elevation facing across the road would not contain any habitable room windows. The indicative plans however show kitchen windows would be positioned on this front elevation, which, according to Annex A Privacy, Daylight and Amenity Space of the UDP (Annex A), would be considered as a habitable room.

13. The appellant considers a separation of 12m accords with the standards set out in Annex A between a 'main' and 'side' aspect. However, this standard states that the side aspect relates to windows to non-habitable rooms. As the proposal would have windows to kitchens, it would be considered a 'secondary' aspect. Given the properties on the opposite side of Heptonstall Road face the site with habitable room windows, the minimum distance required between a 'main' and 'secondary' aspect is 18m according to Annex A. The proposal would be considerably short of this at 12m and, although the appeal proposal would be sited at a lower level and wouldn't impact on the outlook of occupants of neighbouring properties on the opposite side of Heptonstall Road, it would result in harmful overlooking at close quarters of these same neighbouring occupants.
14. The indicative plans show the windows to the kitchens could be obscure glazed. Other windows according to the indicative plans are likely to be obscured as they would serve WC or bathrooms. Such an arrangement, where all the windows on the front elevation are obscure glazed or window openings that are closed up, whilst it may address unacceptable overlooking, would give rise to an adverse visual impact by presenting a blank frontage.
15. The development would therefore have an adverse effect on the living conditions of neighbouring occupiers on the opposite side of Heptonstall Road with regard to privacy. As such, it would be contrary to Policy BE 2 of the UDP, which requires development proposals to not significantly affect the privacy of adjacent residents or other occupants.

Other Matters

16. I acknowledge that the proposal would provide satisfactory access as well as addressing other issues such as flooding and wildlife conservation. Reference has also been made to the Framework not precluding development on greenfield sites. These are however neutral matters and not considerations which weigh in favour of the proposal.

Planning Balance and Conclusion

17. The Council is unable to demonstrate the supply of housing sites as required by the Framework. Paragraph 11 thereof sets out that, in this situation, the policies most important for determining the application are out of date and planning permission should be granted unless, amongst other things, the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. One such policy relates, according footnote 7, to designated heritage assets. In this case, I have found that there would be less than substantial harm to the significance of the CA that would not be outweighed by public benefits. With this in mind, I am not taken to paragraph 11 d) ii) of the Framework and the appeal would not therefore be sustainable development for which the presumption in favour applies.
18. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is dismissed.

F Rafiq INSPECTOR