



Appeal Decision

Site visit made on 22 February 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2022

Appeal Ref: APP/B2355/W/21/3282143

Land to the rear of Burnley Road, Bacup OL13 8QE

- 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 Robert Marland against the decision of Rossendale Borough Council.
 - The application Ref 2021/0335, dated 25 May 2021, was refused by notice dated 23 August 2021.
 - The development proposed is the redevelopment of the site to form three older persons bungalows with associated car parking and access.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time the Council made its decision on the appeal application the Development Plan included the Rossendale Core Strategy DPD. The Council has subsequently adopted the Rossendale Local Plan 2019 to 2036 (Local Plan), superseding the policies of the Rossendale Core Strategy DPD. The Local Plan now forms part of the Development Plan and I have determined the appeal accordingly.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - highway safety, with regard to access and parking, and
 - the living conditions of the occupiers of existing residential properties with regard to privacy and whether the proposed development would provide acceptable living conditions for future residents, with regard to outlook and privacy.

Reasons

Character and Appearance

4. The appeal site is an irregular shaped area of land to the rear of terraced properties on Burnley Road. The area is predominantly residential and contains a mix of properties of various sizes and designs. Despite this variation, more immediately to the appeal site, many of the buildings are set on consistent building lines. This provides for a regular pattern of development and the linear

form of the terraces, and their use of a consistent palette of materials, contribute positively to the character and appearance of the area.

5. The proposal would provide a broadly central parking area and access with two dwellings to one side that would be slightly off set in their relationship to each other. A single dwelling would be situated to the other side of the parking area and be approximately at a right angle to the other proposed dwellings. This irregular layout would not reflect the prevailing pattern of development and would result in the development appearing as a discordant addition to the area.
6. I appreciate the dwellings would be bungalows with low roofs and be set within areas of landscaping. Reference has also been made to the design and appearance, including the choice of materials reflecting those found on bungalows on Nicola Close. However, it seems to me that the character of the area around Burnley Road and Captain Street is not directly comparable to Nicola Close as in the case of the latter, the properties are set out around a curved road in a less regular pattern. As a result, it doesn't have the same linear character and the context is not therefore comparable to the appeal proposal.
7. Part of this context is the predominant use of natural stone and slate as walling and roofing material. This development however proposes the use of artificial materials which would not reflect local distinctiveness. Whilst I note that this matter could be addressed by condition, it would not overcome the fundamental design concerns relating to layout that I have identified.
8. I therefore conclude that the proposed development would have a detrimental impact on the character and appearance of the area. As such, it would be contrary to Strategic Policies ENV1 and SS of the Local Plan, which seek, amongst other matters, for all development to take account of the character and appearance of the local area. It would also be contrary to the National Planning Policy Framework, which seeks at paragraph 130 c) for development to be sympathetic to local character.

Highway Safety

9. The proposed access to the site would be between No's 149 and 151 Burnley Road. There is some difference between the main parties on the width of this access, with the appellant stating it is 4.7m wide and the Council giving the width as 4.1m between the gables of the two adjacent properties. From my observations, given the external entrance steps to No. 151 and the existing bin storage/collection point along the access route, the width is likely to be closer to the Council's stated figure.
10. I note the appellant's reference to guidance on carriageway widths which can be narrowed to 2.75m over short distances, but it is also sets out the disadvantage of this approach and goes on to state that the common approach is for a carriageway width of between 4.5m and 5.5m. A pedestrian footway from Burnley Road to No. 151 and then on to serve the proposed bungalows at the 1.8m width set out by the Council would narrow the space available for vehicles to pass. Whilst there are other access points from Burnley Road to Captain Street, for this property at No. 151, the proposed access represents the most direct and convenient route. Even taking the most popular car width of 2m width, the remaining access width would not be sufficient to allow two vehicles to pass. This could give rise to vehicles intending to turn into the

access having to wait on a busy main road or potentially undertake a reversing manoeuvre. Such stationary or reversing vehicles would result in an unacceptable risk to the safety of passing motorists along Burnley Road.

11. The proposed development seeks to provide bungalow accommodation with the description referencing occupation for older persons. Whilst I note this is the appellant's intention, there is no mechanism before me to ensure that the dwellings are occupied by such persons.
12. As such, the proposed bungalows, which would have two bedrooms could be occupied by a range of occupants, including a small family that may have two cars. The referenced parking standards in the Rossendale Core Strategy DPD have been superseded, and I have not been provided with details of the currently adopted parking standards. Nevertheless, for the size of dwellings proposed, and their location which is distant from local amenities and facilities, I consider the provision of two parking per dwelling, as sought by the Council to be at the right level.
13. The proposal would provide sufficient space for mobility scooters but only one car parking space per dwelling. Given the high level of demand for on-street parking which I was also able to see at the time of my visit, insufficient parking within the appeal site would result in overspill parking. This would place additional demand on the surrounding highway network to the detriment of highway safety.
14. I conclude that the proposal would have an unacceptable effect on highway safety with regards to access and parking. It would therefore be contrary to Policy TR4 of the Local Plan, which seeks, amongst other matters, appropriate levels of parking provision that would not prejudice the safe and effective operation of the highway network. It would also be contrary to paragraph 111 of the Framework.

Living Conditions

15. Two of the proposed dwellings (identified as no's 2 and 3) would face the rear of the terrace on Burnley Road/Captain Street at close quarters separated from each other by short yard and garden areas. Given the elevated nature of the terrace, this would afford views between windows of different properties. Although a submitted plan illustrates a 2.4m high fence which would limit some views, I consider, this boundary treatment's height would be excessive and would result in an unduly oppressive outlook for the future occupiers of these two proposed dwellings. In any event, the windows on the eastern elevation of this and the other nearby terrace would provide largely unobstructed views of private garden areas to the proposed dwellings.
16. Reference has been made to the Alterations and Extensions to Residential Properties Supplementary Planning Document (SPD), but this document is intended to provide guidance that is specific to domestic extensions. The appellant has however set out that if this SPD is considered, the proposed development would exceed the required 6.5m separation set out in this document. This distance however relates to a principal window to a habitable room facing a single storey blank wall of a neighbouring property. Both dwelling no's 2 and 3 would have habitable room windows facing the terrace and not a blank wall. As such, and notwithstanding the relevance of the SPD to this proposal, I do not consider this separation distance to be applicable to the

relationship between the appeal development and the terrace. Concerns have also been raised regarding overlooking between the proposed dwellings and the properties on Nicola Close. There was some difference in levels that I could see but as the nearest properties on this neighbouring street are bungalows and given the existing fence that separates them from the appeal site, I do not consider that there would be any harmful overlooking arising.

17. The proposed dwelling (no. 2) would have two bedroom windows that would face towards dwelling no. 3 which would have a largely blank elevation other than a bathroom window. The main parties take different positions on whether a 6.5m separation between the proposed houses is met. Whatever the position on this distance, as the boundary between these dwellings would be at a typical height of 2m and that there would be an area of garden in front of the bedroom windows, I do not consider that the outlook from the bedrooms would be unduly diminished. Although elevated in relation to the appeal site, I also do not consider the terrace would have an overbearing impact on the proposed occupiers due to the combined kitchen/dining/lounge areas having windows on a number of different elevations.
18. Whilst I have found that the proposal would be acceptable in certain respects, I nevertheless conclude that the proposed development would have a detrimental impact on the living conditions of existing neighbouring occupiers with regard to privacy and the proposal would fail to provide acceptable living conditions for future residents, with regard to outlook and privacy. As such, it would be contrary to Strategic Policy ENV1 of the Local Plan, which seeks, amongst other matters, that development does not have an adverse impact by virtue of overlooking, being overbearing or oppressive. It would also be contrary to paragraph 130 of the Framework, which seeks a high standard of amenity for existing and future users.

Other Matters

19. The appellant has set out that pre-application advice was sought, and this informed the appeal application. This appeal follows the Council's formal decision and I can confirm that I have dealt with it accordingly on its own merits. It has further been set out that no effort was made by the Council to work with the appellant, but this is a matter that doesn't have a bearing on my decision-making with regards to the main issues.
20. The appeal site is not within a conservation area, within the curtilage of a listed building or subject to other environmental constraints. These are neutral matters that do not outweigh the harm that I have identified.

Planning Balance and Conclusion

21. The appellant has set out that the Council is unable to demonstrate a 5 year deliverable supply of housing and that the Housing Delivery Test show that the delivery of housing was at 75% or below of the housing requirement over the previous three years. This has not been disputed by the Council and I note the supporting text to Strategic Policy HS1 of the recently adopted Local Plan acknowledges a shortfall in housing delivery. The policies of the development plan which are the most important for determining applications are therefore out of date and, in light of Paragraph 11 d) ii) of the Framework, 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. I have found that the proposed development would be harmful to the character and appearance of the area, to highway safety and in relation to living conditions. This harm would be long lasting and would be contrary to the objectives of the Framework. I ascribe this substantial weight.
23. The site is an existing area of previously developed land within the settlement boundary. It is currently in an untidy condition, and I recognise that small to medium sites can make an important contribution to meeting housing needs, with this development being suitable for older people. However, as the proposed development is only for three dwellings, it would make a contextually small contribution to the Council's housing supply and any benefits in the visual improvement of the site would be localised.
24. With this in mind, I attach limited weight to the appeal scheme's benefits. As such, and bringing matters together, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
25. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, the appeal should be dismissed.

F Rafiq

INSPECTOR