



Appeal Decision

Site visit made on 15 March 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/W4223/W/21/3284985

326 Lees Road, Oldham OL4 1NZ

- 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 Mohammed Rashid against the decision of Oldham Metropolitan Borough Council.
 - The application Ref FUL/347257/21, dated 16 July 2021, was refused by notice dated 12 October 2021.
 - The development proposed is double side extension with apartment to first floor with Cafe to ground floor.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to biodiversity and the implications for the retention and health of trees.

Reasons

3. The appeal site relates to a two-storey detached building with a retail unit at ground floor and a flat at first floor level with access via an external rear staircase. The site is located on a major road, Lees Road (A669) and is adjacent to a terrace row of commercial properties which front the highway and is separated by a side road providing access to the rear. The site includes additional land to the east which forms part of a wider linear public park and is recognised as an area of public open space with established lined trees.
4. The open space is a prominent feature along this frontage of Lees Road and provides a welcome verdant break between extensive rows of built development. The open space, with the existing trees positively contributes to the character and appearance of the immediate and wider area, whilst adding intrinsic character and biodiversity value to the wider public network of the park.
5. The proposal would result in the erection of a two-storey side extension extending along the east side with a café at ground floor and a self-contained residential unit at first floor. Additional parking spaces would be formed to the rear, and this would encroach upon the park land. Although, there would be some encroachment into the area of the park, this appears to be limited. The Council have no concerns with the loss due to existing surplus and it would

allow effective utilisation of the area. As such, I have no reason to disagree with the Council's assessment in this regard.

6. Nevertheless, the proposal would directly impact on those existing trees adjoining the site boundary, which are maintained and within the ownership of the Council. In particular, two trees and one group of privet would be required to be removed to facilitate the proposal. These form part of a coherent linear group within the grassed area and are pleasantly viewed from both the entrance off Lees Road and rear of the access road.
7. The application was supported by an Arboricultural Impact Assessment¹ (AIA), which identified seven individual trees and three groups. The AIA identifies the trees to be removed as common Lime T3 and T4, both are semi-mature, 'Category B', with a good to fair condition and life expectancy of 40+. Observations of these trees indicated that the crown overhangs the adjacent building. The group to be removed were identified as G10 Privet and were semi-mature with a good to fair condition.
8. The AIA indicates that the loss of the trees would be mitigated as part of a post-development planting scheme. Nonetheless, the AIA and proposed plans fall silent of what this would entail. Given the lack of information, I am not satisfied that suitable mitigation could be achieved to compensate for the loss of these valued trees, given the proximity of the appeal site to the park, and whether this would conserve or enhance the biodiversity value of the area.
9. Furthermore, the AIA is deficient in regard to the likelihood of excavation and construction methods for the car parking, hardstanding areas and the extension. The works to facilitate the proposal would be carried out in existing root protection areas, and the barrier would do little to prevent this. Despite, the suggested dig methods in the AIA, the proposal has the potential to cause disturbance and significantly impact on the longevity of those healthy retained trees.
10. Moreover, there would likely be increased pressure on the existing healthy trees to undertake remedial pruning operations or even future removal, following post-development. Particularly T2, would be most at harm due to the close proximity to the proposed extension. I acknowledge that the AIA states this was not part of the scope, however future works would likely have an unacceptable effect on the amenity value of those existing trees.
11. For the reasons given above, I conclude that the proposal would result in harm to the character and appearance of the area, and it fails to demonstrate that the proposal would not cause adverse harm to biodiversity and the amenity value of existing trees. It would be in conflict with Policy 21 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies, 2011, and Policy D1.5 of the Oldham Metropolitan Borough Unitary Development Plan, Saved Policies, 2006. These policies, amongst other things, permit developments that are designed to maximise the retention and continued health of trees, seeks adequate replacement planting; and requires proposals to protect, conserve and enhance biodiversity and geodiversity.

¹ Arboricultural Impact Assessment with Tree Protection Measures, Goodwins Tree Survey, AIA.13289.01 dated 26 April 2021

12. The proposal would also be in conflict with the National Planning Policy Framework (the Framework) in conserving and enhancing the natural environment. Paragraph 174 advises that decisions should contribute to and enhance natural and local environment. Paragraph 180 sets out the principles to be applied, if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused, including development resulting in the loss or deterioration of irreplaceable habitats.

Other Considerations

13. Local residents have expressed additional concerns about the proposal, including increases in traffic, car parking, pollution, anti-social behaviour and living conditions. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns.
14. Set against the harm identified there would be limited social and economic benefits associated with the proposal. An additional residential unit would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be insignificant. The benefits of a café would go some way to serve additional needs of the area, but there are alternative facilities nearby, and it identifies limited job opportunities.

Planning Balance

15. The Council cannot demonstrate a five-year supply of deliverable housing sites and the shortfall is described as "substantial". In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
16. As described above the benefits associated with the commercial premises and single residential unit would be limited even taking account the objective of boosting significantly the supply of housing and the Council's housing land supply position. The Framework also gives substantial weight to the value, protection and conservation of biodiversity.
17. Taking the above points together, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development does not therefore apply.

Conclusion

18. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed

KA Taylor

INSPECTOR