
Appeal Decision

Site visit made on 4 May 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2022

Appeal Ref: APP/W4223/W/21/3277593

Former Delph Chapel Newbuild Cottages 2no, Delph Lane, Delph OL3 5HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dr Paula Rothermel against the decision of Oldham Metropolitan Borough Council.
 - The application Ref MMA/345836/20, dated 19 November 2020, was refused by notice dated 22 January 2021.
 - The application sought planning permission for '*Outline application for 2 no. dwellings with access, appearance, layout and scale to be considered, landscaping reserved*' without complying with a condition attached to planning permission Ref PA/341040/17, dated 19 April 2018.
 - The condition in dispute is No 3 which states that:
The development hereby approved shall be fully implemented in accordance with the approved plans and specifications:
Drawing no. SP 100 received 19th March 2018
Drawing no. 100 received 19th March 2018
Drawing no. 101 received 19th March 2018
Drawing no. 102 received 19th March 2018
 - The reason given for the condition is:
For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is reasonable and necessary to ensure pedestrian and highway safety.

Reasons

3. The originally approved parking layout included four spaces aligned to the northern boundary of the development site. The submitted proposed site plan (Drawing No. 1246 C 101 Revision B) shows two sets of two spaces perpendicular to one another, with the two remaining to the north labelled 1 and 2 and the two to the east labelled 3 and 4. The car park would be accessed from Delph Lane.

4. Drivers using the parking area would enter from Delph Lane in a forward gear. Although I understand the reasons for the amendment sought, such as a difficult party wall agreement process, the spaces would be unsuitable in their layout to accommodate egressing vehicles. While I am informed that spaces 1 and 2 would require a two-point turn, spaces 3 and 4 would need to turn four times in order to manoeuvre and exit in a forward gear. These spaces would therefore be difficult to manoeuvre out of and most likely subject to several tight turns to avoid other cars and/or retaining walls.
5. Accordingly, I share the concern of the Council that drivers could be forced to reverse out of spaces 3 and 4 and onto the highway. This would be a dangerous manoeuvre to make into oncoming traffic on the nearside of Delph Lane. This would be exacerbated by parked cars along the road and the wall to the north of the appeal site, both of which would reduce visibility for reversing drivers and give rise to an unacceptable collision risk in both directions. Therefore, the parking layout as set out on the plans would result in danger to highway safety.
6. I note the appellant considers the approved parking layout would present its own safety concerns with regards to the manoeuvrability of vehicles within the car park and whether drivers would reverse onto Delph Lane regardless. Be that as it may, that development was approved, and I can only consider the changes proposed on their own merits. Although smaller cars using the parking area during times when the car park was not at capacity may be easier, neither can be relied upon to ensure highway safety is not harmed to an unacceptable level.
7. Based on the foregoing, the variation sought to the condition would lead to a harmful effect on highway safety. Accordingly, the condition is reasonable and necessary to ensure this does not come to pass, as well as ensuring that the proposed development would comply with Policy 9 of the Oldham DPD¹. This seeks to ensure development does not harm the safety of road users. The proposal would also be contrary to the aims of the National Planning Policy Framework, which seeks through paragraph 111 to ensure development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

8. The approved scheme would provide new housing units in what was deemed to be a suitable location with regards to access to services and facilities. However, the proposal before me does not affect these matters and they are not material in this regard. The number of units is not a main issue in this appeal and their benefit remains. I note the appellant has referred to the Council's assessment of sustainable development being affected by the proposed amendments. However, this appears to quote an informative with regard to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) rather than forming a reason for refusal.
9. I have had regard to concerns raised by the appellant about the way that the Council handled the application. However, this does not affect the material

¹ Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies (adopted November 2011).

planning considerations of the case. I have considered this appeal proposal on its own merits and any complaints should be raised with the Council directly.

Conclusion

10. For the reasons given above I conclude that the condition is reasonable and necessary to control the matter subject to this decision. Further, it would ensure the development would accord with the policies I have cited. The appeal should therefore be dismissed.

C McDonagh

INSPECTOR