



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/21/3284088

Jubilee Mill, Milnrow Road, Shaw OL2 8BX

- 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 Barry Parker (Parker Properties) against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/342885/19, dated 29 January 2019, was refused by notice dated 3 September 2021.
 - The development proposed is described as 'residential development'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on pedestrian and highway safety.

Reasons

3. The appeal site comprises a redundant mill and some of the surrounding land. Evidently, the site has been disused for some years and the proposal seeks permission to construct 11 dwellings after demolition of the structures. Vehicular and pedestrian access is taken from Milnrow Road (A663) and is formed of a track descending into the appeal site from the junction.
4. The section of track near the junction is bound on both sides by walls. These inhibit visibility of the track from Milnrow Road and vice versa. For drivers travelling south along the road, vehicular access would involve a sharp left turn, with the track then running parallel to the A663 in the opposite direction for a significant distance.
5. The submitted Existing and Proposed Access Road Swept Paths (Drawing Number: 15.1207.40) demonstrates clearly that left this turn cannot be completed safely in one movement by either a standard 12m service vehicle or a standard family vehicle. The appellant does not dispute this. This would be particularly concerning in the context of Paragraph 112(d) of the National Planning Policy Framework (the Framework) which advises development should allow for the efficient delivery of goods and access by service and emergency vehicles.
6. The likely scenario would involve drivers attempting to turn left into the appeal site would needing to stop at the top of the track with the vehicle blocking the

- junction, then reversing part of the way back out towards the A663 to gain a better angle before attempting to complete the manoeuvre onto the access track. This would present a significant collision risk between vehicles travelling along the southbound lane of the A663 and those attempting this manoeuvre.
7. For vehicles egressing from within the development site, this would present further collision risk at the junction due to the lack of visibility between the track and the A663 to the right due to the wall, despite a small section of the wall proposed for removal. Moreover, if vehicles were to meet on the track it would not be possible to pass one another given the narrow width at various points. There is no indication on the plans that passing places would be possible.
 8. The lack of visibility from the A663 down the track would also be of substantial risk to pedestrians attempting to cross the junction. I understand that generally speaking the number of vehicular movements would be low as demonstrated in the 'Supporting Highways and Transportation Information' (Tim Wood, November 2018). However, the sharp turn of the track at this location would mean pedestrians travelling south would have to move out into the junction to look left and gain a better view for approaching vehicles. This would be of particular concern for people with mobility issues or small children.
 9. I note the suggested installation of 'No Left Turn' signage at the junction secured by condition. Although vehicles turning right into the appeal site from Milnrow Road would involve a more favourable angle, the lack of forward visibility down the track would still be of significant concern and the risk of two vehicles meeting and being unable to pass, or colliding, remains considerable. In any event, there is no guarantee this signage would prohibit drivers from attempting the left-hand turn. From my own observations on the site visit, there are few places to turn a vehicle around to the south to take the right hand turn instead of the left after passing the junction.
 10. I am presented with accident data for a five-year period which demonstrates none have been reported in that time. However, it does not necessarily follow that a lack of accidents means a road is safe. This is particularly in light of the increased use of the site that 11 dwellings would necessitate. As such I am unconvinced that the proposed development could be justified on highway safety grounds due to a lack of accidents alone.
 11. Although I acknowledge the efforts made by the appellant during the application process to amend the scheme, based on the foregoing the proposal would harm highway safety and would not provide a safe and suitable access with regards to drivers and pedestrians. This would be contrary to Policies 5 and 9 of the Oldham DPD¹, which seek to ensure development does not compromise pedestrian or highway safety. The proposal would also be contrary to the Framework, in particular paragraphs 110, which seeks to ensure a safe and suitable access to the site can be achieved for all users, and 111 which advises development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

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

Other Matters

12. I have had regard to concerns raised by the appellant about the way that the Council handled the application, including the pre-application advice received which was positive. While pre-application advice is a useful tool to enable an early understanding of the likely site constraints of a proposal, this is not a guarantee of planning permission at a later date. Moreover, this does not affect the material 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.
13. The appeal site is located within the Green Belt. I note that the Council has concluded that the development would not be inappropriate. As I am dismissing the appeal on other matters, I have not considered this further.

Planning Balance

14. The main parties agree that the Council cannot currently demonstrate a five-year supply of deliverable housing land, although I do not have any conclusive figures as to what the actual level of supply is. Consequently, I am taken to paragraph 11(d) of the Framework where the presumption in favour of sustainable development should be applied 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.
15. The Framework generally seeks to significantly increase the supply of housing. The proposal would add 11 dwellings to the Council's existing stock on brownfield land, which would in turn improve the appearance of the dilapidated buildings in a location with good access to services, facilities and public transport. There is also a willingness on the part of the appellant to contribute to the provision of affordable accommodation, although I have no legal mechanism before me to secure this. Taken together, these matters attract substantial weight in favour of the proposal.
16. Conversely, I have found that the proposal would not provide a safe and suitable access to the proposed dwellings and would be detrimental to highway and pedestrian safety. I also have concern that emergency and goods delivery vehicles would struggle to access the site safely and efficiently. This would conflict with the development plan and paragraphs 110, 111 and 112 of the Framework. This harm would be significant and thus worthy of considerable weight.
17. It is argued the appeal site could recommence its lawful use for industrial processes without the need for planning permission. This would involve the use of the track for access by larger vehicles on a more frequent basis than residential use would entail. However, from my observations on the site visit the buildings appeared to be in poor condition and would require substantial renovations to bring them back into a usable state. As such, I find it unlikely that they would be back in industrial use and attribute little weight to this fallback position.
18. I understand the site access is currently open, and I observed on the site visit a small car park is used for visitors to the nature reserve adjacent. Be that as it may, this is an existing situation. The car park did not appear to be well used and I do have no information before as to how regularly this use occurs. I must

assess the proposal on its own merits and against the development plan and material considerations at the time. As such this does not convince me the proposed access arrangements would be suitable for residential use.

19. I understand that the former Jubilee Inn public house, adjacent the junction and access track, had previously been granted permission to amend the junction to improve access for the proposal before me. Although this is referenced by the appellant in their evidence, I understand concerns were raised by the highway's advisor about the shared use and as such, is no longer being pursued. As such this carries little weight.
20. My attention is drawn to an appeal allowed for a similar development off the A663 at Coral Mill². However, I have little information on this development other than the reference and a brief overview of the circumstances. As such, I cannot be certain of the relevance of this decision to the proposal before me. Moreover, each proposal is assessed on its own merits. I give this matter little weight as a result.
21. I have had due regard to other considerations in the appellant's appeal statement. This states the Council has not raised objections to the location of the proposal in principle with regards to the accessibility of public transport, services and facilities. Similarly, there are no issues raised regarding the design of the proposal. However, the absence of harm weighs neither in favour of, nor against, the proposal.

Conclusion

22. The benefits of the scheme, significant as they are, would be outweighed by the harm to highway safety and lack of a safe and suitable access. In accordance with paragraph 11(d), the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole.
23. The presumption in favour of sustainable development does not therefore apply and material considerations do not justify a decision otherwise than in accordance with the development plan considered as a whole. For the reasons identified, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR

² APP/P4225/A/07/NWF