



Appeal Decision

Site visit made on 8 March 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/P4225/W/21/3281210

190 Heywood Old Road, Middleton M24 4GR

- 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 G McIntosh against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 21/00790/FUL, dated 26 May 2021, was refused by notice dated 22 July 2021.
 - The development proposed is the erection of detached single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached single storey dwelling at 190 Heywood Old Road, Middleton M24 4GR in accordance with the terms of the application, Ref 21/00790/FUL, dated 26 May 2021 subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr G McIntosh against Rochdale Metropolitan Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development when regard is paid to local and national policy; and,
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriateness

4. Policy D/10 of the Rochdale Borough Unitary Development Plan (UDP) sets out, amongst other matters, that within areas of Protected Open Land defined on the Proposals Map, such as the appeal site, development proposals will be permitted if they fall within one or more defined categories. The Council refused the development stating that it would constitute inappropriate development were it in the Green Belt. This policy sets out that development will be permitted if it complies with one or more defined categories, including at

- a), if it would be acceptable in the Green Belt, or one of the other categories relating to limited infilling or a limited extension.
5. The National Planning Policy Framework (the Framework) sets out that the Government attaches great importance to Green Belts. Paragraph 149 states that the construction of new buildings are inappropriate in the Green Belt unless they meet one of the defined exceptions. This includes limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
 6. The appeal site forms part of the rear garden to No 190 Heywood Road and has a boundary to Ellis Lane. Although reference has been made by the main parties to the proposal not filling a gap in an otherwise built-up frontage, it is also acknowledged that there is no definition of what constitutes limited infilling in local policy or in the Framework. I was able to see a variety of garages and buildings along the south-western side of Ellis Lane in the vicinity of the site. This included a house under construction to the rear of No 194 Heywood Old Road. This is separated from the appeal site by the rear garden of No 192 but is still close given the narrow widths of the plots. Although a small structure, I also note the garden area to No. 192 features a garage close to Ellis Lane and there is no appreciable gap between the appeal site and the house under construction to the rear of No 194.
 7. It is also common ground that No. 188 has consent for a dwelling. Whilst the circumstances in granting it permission may have differed to the appeal proposal, it nevertheless has an extant permission and there is no evidence before me that this permission would not be implemented. As such, whilst this neighbouring site is currently undeveloped and open, with an open field beyond, I consider that the appeal proposal can be considered to be limited infilling within an established pocket of housing.
 8. One part of the exception at paragraph 149 g) of the Framework requires the development to not have a greater impact on the openness of the Green Belt than the existing development. I acknowledge that the proposal would involve the erection of a building where there is currently none, however, spatially, it sits within a clear building envelope defined by this group of semi-detached dwellings and other buildings between Heywood Old Road and Ellis Lane, rather than the open land on the opposite side of Ellis Lane. The presence of various buildings and established boundary treatment and vegetation along Ellis Lane would mean the proposal, which would be set back behind a parking area, have a modest footprint and be of a single storey height. When all these factors are considered, it would visually have no greater effect on openness and would spatially be interpreted as falling within a well-defined residential envelope.
 9. I therefore conclude that the proposal would not be inappropriate development in the Green Belt. As such it would not be contrary to the Framework, UDP Policy D/10 or Policies G4 and G5 Rochdale Adopted Core Strategy, which seek, amongst other matters to limit development to that which would be acceptable in the Green Belt and to permit limited infilling proposals within an established pocket of housing.

Conditions

10. I have considered the conditions suggested by the Council and other parties, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of the suggested conditions as appropriate.
11. A condition is necessary requiring the submission of materials in the interests of the character and appearance of the area and for car parking and access arrangements to be provided to ensure adequate such provision is provided. It is also necessary for conditions to be imposed in relation to landscaping, biodiversity enhancements and in relation to boundary treatment in the interests of the character and appearance of the area, living conditions and to prevent harm to protected species.
12. Conditions are required to ensure adequate drainage of the site in the interests of flood prevention and for the provision of information on site levels. It is essential for the latter to be a pre-commencement condition as there is a need to establish existing levels.
13. As the appeal site forms part of the garden to an existing dwelling, I do not consider the suggested condition relating to contaminated land is necessary. A condition survey of the road has also been suggested but given the small scale nature of the development, I don't consider this to be required. Given the size of the garden area I also do not consider the restriction on permitted development rights for alterations, extensions or buildings within the curtilage to be necessary. Reference to surface water on the driveway can be addressed by the drainage condition.

Conclusion

14. 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 allowed.

F Rafiq

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Scale 1:1250), Existing Site Plan (Scale 1:200), Proposed Site Plan (Scale 1:200) and Proposed Elevations and Floor Plan (Job No. 2888-01).
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) The dwelling hereby permitted shall not be occupied until a scheme for the disposal of foul water and surface water has been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The development shall be completed, maintained and managed in accordance with the approved details.
- 5) No above ground works shall take place until samples and / or full specifications of all external facing materials have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details.
- 6) No above ground works shall take place until a scheme of landscaping have been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die,

are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 8) No above ground works shall take place until a scheme of biodiversity enhancements for the site including, but not limited to, provision for bird boxes and bat boxes, has been submitted to and approved in writing by the Local Planning Authority. The dwelling hereby approved shall not be occupied until such time as the approved biodiversity enhancement measures have been installed in accordance with the approved details.
- 9) The dwelling hereby permitted shall not be occupied until details of the type, siting, design and materials of the boundary treatment has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 10) The car parking and vehicular access arrangements shown on the approved plans shall be made available for use prior to the development hereby approved being brought into first use and shall thereafter be retained for their intended purpose.