
Appeal Decision

Site visit made on 21 December 2022

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 9th January 2023

Appeal Ref: APP/A4710/W/22/3301594

Land north-east of Ings Croft, Field Lane, Rastrick, Brighouse HD6 3NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Brearley against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 21/00638/OUT, dated 28 April 2021, was refused by notice dated 9 February 2022.
 - The development proposed is the construction of 3 pairs of semi-detached houses with associated parking and private gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with appearance and scale to be determined. A 'proposed site plan' showing the likely layout of the development has been provided and I have had regard to this in reaching my decision.
3. An outline application for construction of two pairs of semi-detached houses with associated parking and private gardens was granted planning permission in 2019.¹ The plans pertaining to this development have not been submitted.

Main Issues

4. The main issues are the effect of the development on, firstly, the character and appearance of the area and, secondly, the living conditions of neighbouring occupiers.

Reasons

Character and appearance

5. The appeal site is an open parcel of land located on the southern side of Field Top Road in between its junctions with Castlefields and Holly Bank Roads. Other than a number of mature trees² along its Field Lane frontage, the site has a somewhat forlorn and neglected appearance and makes a limited contribution to the amenity of the area.

¹ LPA ref: 19/00245/OUT

² TPO Ref: C514 1990.

6. The character of the surrounding area is unmistakably residential and comprises two to three-storey terraced and semi-detached dwellings of varying age and design. While not unpleasant, the immediate area is not however particularly sensitive in architectural or streetscape terms.
7. In my view, the “*high-quality contemporary design*” of the dwellings would make a welcome contribution to the character of the area. Nonetheless, and while noting that ‘layout’ is a reserved matter, it is inevitable that a further two dwellings on this fairly constrained site is going to result in a more dense and close-knit development. Irrespective of the final layout, the proposed dwellings would be hemmed in by their respective site boundaries with little to no breathing space. This would be in sharp contrast to the prevailing character of the area where dwellings tend to be proportionate to their plots.
8. As a result, the appeal scheme would result in a strong sense of overdevelopment harming the character and appearance of the area contrary to the provisions of Policy BE1(i) of the Replacement Calderdale Unitary Development Plan (the UDP) and section 12 of the National Planning Policy Framework.
9. In coming to that view, I have carefully considered whether the development would be comparable to The Orchards. However, save for the design of the houses, I do not consider there to be many other similarities. Notably, dwellings appear to occupy more generous plots and tend to be set back behind lawned front gardens with communal verges interspersed throughout the estate. These factors lend The Orchards a sense of spaciousness, something that is devoid in the scheme before me. For these reasons, I do not consider The Orchards affords any precedent to the appeal scheme.
10. Notwithstanding comments from the Council’s tree officer, I am also concerned about the relationship of the dwellings, particularly plots 2-5, to the protected trees along the Field Lane frontage. I accept that it may well be possible to build the dwellings in a way that safeguards the health of the protected trees. However, the creation of residential curtilages would inevitably bring with it a risk of pressure to fell the trees. Such fears are acknowledged by BS 5837:2012 which advises that the relationship of buildings to large trees can cause apprehension to occupiers resulting in pressure for their removal.
11. Given the orientation and proximity of the trees, the outlook from the gardens and rear elevations of the proposed dwellings would be dominated by the trees resulting in a significant amount of overshadowing particularly in the summer months. This combined with the perceived safety risk by future residents from falling branches together with the inconvenience of seasonal leaf litter and the honeydew stickiness of the sycamores would, I believe, inevitably lead to pressure to fell if useable gardens were to be maintained and the living conditions of future occupiers safeguarded. That pressure would be elevated in this case given the diminutively sized plots. The loss of the trees would also harm the character and appearance of the area resulting in conflict with Policy BE1(vi) of the UDP.

Living conditions

12. The Council is concerned for the potential for overlooking from rear facing windows of plots 1 and 2 towards the habitable room windows in the front elevation of 42 Field Lane. Adding credence to these concerns, the Officer’s

Report records that there would be a 5m shortfall in relation to the 21m stipulated in Annex A of the UDP. It is however important to remember that layout is a reserved matter and there might well be scope to move plots 1 and 2 further forward to address the shortfall.

13. While I accept the mature trees along the Field Lane frontage would provide a degree of screening between the properties, I have already set out my concerns about the long-term viability of these trees if the development were to proceed. I also accept that it might be possible to provide alternative or additional screening along the rear boundary to mitigate any overlooking. However, no details of what this might look like are before me so I cannot come to an informed view on this matter.
14. I have noted concerns regarding the proximity of plot 1 to the Ings Croft boundary. However, given there would be scope to address this at the reserved matters stage, I am not persuaded this would be a reason to withhold permission if the development were otherwise acceptable.
15. Notwithstanding the above, I conclude that the proposal would significantly affect the privacy of the occupiers of No 42 contrary to UDP Policy BE2. As previously set out, I also consider that the trees and small rear gardens would harm the living conditions of prospective residents with regards to daylight and outlook.

Conclusion

16. While it is acknowledged that the principle of a residential development has already been established, the Appellant is simply expecting too much from a site with notable constraints.
17. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector