



Appeal Decision

Site visit made on 4 July 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2023

Appeal Ref: APP/W4223/W/23/3316468

Land off Springmeadow Lane, Uppermill OL3 6EP

- 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 Mrs Olga Flemington against the decision of Oldham Metropolitan Borough Council.
 - The application Ref FUL/348150/21, dated 13 December 2021, was refused by notice dated 27 September 2022.
 - The development proposed is the erection of one detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one detached dwelling at land off Springmeadow Lane, Uppermill OL3 6EP in accordance with the terms of the application, Ref FUL/348150/21, dated 13 December 2021 and the plans submitted with it, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs is made by Mrs Olga Flemington against Oldham Metropolitan Borough Council. This application is the subject of a separate decision.

Main Issue

3. The main issue in relation to this appeal is the effect of the proposal on the living conditions of the occupiers of No 5 Abels Lane and the future occupiers of the proposed dwelling, with regard to privacy.

Reasons

4. The proposed dwelling would be sited on a garden plot associated with, but on the opposite side of Springmeadow Lane and separated from, No 5 Abels Lane. The Council within its reason for refusal and officer report has not articulated any concerns with regard to the proposed ground floor bi-folding doors serving the kitchen/dining area. The main matter of dispute between the parties is therefore, whether there would be adequate separation between No 5 and the 2-storey side elevation of the proposed dwelling which would contain a first-floor bedroom window.
5. The Council suggests that a separation of approximately 15m would be insufficient to protect the privacy of the occupants of both No 5 and the proposed dwelling. However, it does not qualify how this distance has been calculated. In contrast, the Appellant advises that the distance would be 20.3m and has provided an annotated and scaled plan and architect's confirmation

that this figure is correct. It therefore seems to me, that the submitted plans can be taken as an accurate reflection of the separation between the existing and proposed dwellings.

6. The Council states that a separation distance of 21m should be achieved between habitable rooms which the proposed development fails to provide. However, the Council has not submitted any evidence to indicate that it has formally adopted such standards through the development plan or supplementary planning guidance. The position of the proposed bedroom window at 20.3m from the habitable windows within the front elevation of No 5 would not be substantially below 21m, even if it were an adopted standard.
7. No 5 is built on a raised plinth such that it occupies an elevated position. Even so, No 5 would be separated by its front garden, Springmeadow Lane and the side garden to the proposed dwelling. As a matter of planning judgement, it is my view that despite the appeal site being located at a lower land level, the proposed dwelling would not be unduly close. It would be sufficiently distanced from No 5, such that the privacy of internal habitable rooms of both properties would not be significantly compromised. I observed that such distances were apparent within the area surrounding the appeal site, particularly in respect of existing residential development on Springmeadow Lane to the west.
8. The proposed garden area would be limited in size compared to the recently developed neighbouring plots and sited to the side rather than the rear, as may typically be expected for a dwelling. However, it would be of a reasonable shape and area such that it would function appropriately for outdoor domestic activities such as drying washing and sitting out. The Council's reason for refusal does not indicate that the size of the garden area is a matter of concern, and no reference has been made to a minimum adopted standard for such spaces. Rather, the Council has articulated its concerns within the officer report with specific regard to overlooking of the proposed garden from No 5.
9. During my visit I had the benefit of viewing the appeal site from the ground and first floor rooms of No 5 that face towards the appeal site. The proposed garden area would be located immediately adjacent to the eastern boundary of the appeal site where the land rises to meet Springmeadow Lane. Views would be possible from the elevated first floor level of No 5. However, I observed that the garden area would be tucked down below road level and that the proposed planting along the boundary would in the long-term provide sufficient screening to aid privacy.
10. Were the appeal to be allowed, the Council has suggested a condition requiring the submission of the proposed soft landscaping details including a schedule of the proposed plant/tree sizes. There is therefore scope for more mature hedge planting to be provided prior to occupation, that would ensure a more immediate protection of privacy for the future occupants of the proposed dwelling. I am satisfied that the proposed garden area would not be unduly overlooked and that the living conditions of the future occupants would not be adversely affected.
11. The proposed development would not adversely affect the living conditions of the occupiers of No 5 or the future occupiers of the proposed development, with regard to privacy. It would therefore accord with Policy 9 of the Oldham Local Development Framework; Development Plan Document – Joint Core Strategy and Development Management Policies (2011) which seeks to ensure

amongst other things, that new development does not cause significant harm to the amenity of the future occupants of the development or to existing and neighbouring users through impacts on privacy.

Other Matters

12. The proposal was not refused in respect of an adverse effect on the privacy of No 3 and 4 Abels Lane. Nevertheless, I observed that the proposed dwelling would be sited on land to the south-east of these neighbouring properties on the opposite side of Springmeadow Lane. Given the oblique angle between the proposed dwelling and No 4 and the offset position of the plots, there would be no direct overlooking of the windows within the front elevation of this adjacent dwelling. It therefore follows that as No 3 is further away from the appeal site, that the privacy afforded to the occupants of this dwelling would not be unduly affected by the proposed development.
13. The Council has confirmed that the proposed rear boundary of the appeal site as shown on the submitted plans correlates with that on the ground and I was able to observe this during my visit. Whilst the proposed dwelling would be positioned close to the rear boundary of the appeal site, the Council did not raise concerns about the size of the proposed dwelling in relation to the plot, the proximity to the rear boundary, or the impact on the character and appearance of the area. As such, I am not required to consider these matters further.
14. The dwelling would be higher than the adjacent property at 7a Spring Meadow Lane but not significantly so, stepping up to reflect its position on higher ground. The proposed dwelling would be contained wholly within the existing plot of land located off Springmeadow Lane, and would not therefore impede general or emergency vehicular access to neighbouring properties. The Highway Authority did not object to the proposal during the application process¹.

Conditions

15. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance and paragraph 56 of the Framework and amended the wording to ensure compliance where necessary. Along with the standard time limit, conditions are imposed to require the submission of material samples and hard and soft landscaping in the interests of appearance, and to list the plans in the interests of certainty.
16. The Council has confirmed that the appeal site is located close to a landfill site. A condition requiring the provision of a site investigation and assessment in respect of landfill gas and ground contamination prior to the commencement of development is therefore justified. Further pre-commencement conditions relating to details of the proposed method of surface and foul water drainage and the provision of a construction management plan are considered necessary to ensure that the development can be appropriately drained, and that construction vehicles and machinery will not impede access, given the narrowness of the access road to the appeal site. The Appellant has provided confirmation that they agree to the use of these pre-commencement conditions.

¹ As detailed within the Council's officer report.

17. In light of the proximity of the proposed dwelling to the appeal site boundaries, particularly the rear boundary, it is considered reasonable to remove permitted development rights for the installation of additional openings to prevent any loss of privacy to neighbouring residents. Likewise, it is reasonable and necessary to require the proposed car parking area to the front of the dwelling to be retained for its intended purpose of accommodating parked vehicles.

Conclusion

18. For the reasons identified above, there are no conflicts with the development plan when taken as a whole. The appeal is allowed.

M Clowes

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall being 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 plans approved plans;

Proposed Floor Plans drawing number 09/21/136 1 of 3 Rev B
Proposed Elevations drawing number 09/21/136 2 of 3 Rev A
Site and Location Plans including Street Scene Elevation drawing number 09/21/136 3 of 3 Rev B.
3. No development comprising the erection of any external walls shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details.
4. Prior to the commencement of any part of the development hereby approved, details of the method of surface water and foul water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to first occupation of the approved development and shall be maintained thereafter.
5. No development shall commence unless and until a site investigation and assessment into landfill gas risk and ground contamination has been carried out and the consultant's written report and recommendation have been submitted to and approved in writing by the Local Planning Authority. The report shall include details of any necessary programmed remedial measures and a timetable for their implementation. The development shall be implemented fully in accordance with the approved measures and timetable. Prior to first occupation of the development, a satisfactory completion report shall be submitted to and approved in writing by the Local Planning Authority.

6. No development shall take place until full details of both hard and soft landscape works with an associated implementation plan, have been submitted to and approved in writing by the Local Planning Authority. The hard landscape details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials and street furniture, where relevant. The soft landscaping works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant/tree sizes and proposed numbers/densities and the implementation programme. All planting shall be implemented in accordance with the approved details in the first available planting season following the completion of the development, or such longer period which has previously been approved in writing by the Local Planning Authority, and shall be maintained for a period of 5 years from the agreed date of planting. Any trees or plants which die, become diseased, or are removed during the maintenance period shall be replaced with specimens of an equivalent species and size.
7. Prior to commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction of the development hereby permitted. The Construction Management Plan shall provide for: (i) the means of highway access and parking for construction vehicles, plant and construction workers' vehicles and sustainable travel methods for construction workers, (ii) loading and unloading of plant and materials, and (iii) wheel cleaning facilities.
8. The dwelling hereby permitted shall not be occupied until the access to the site and car parking space for that dwelling has been provided in accordance with the approved plan Ref: 09/21/136 3 of 3 Rev B and with the details of construction, levels and drainage, which shall have been submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the construction of the access and parking spaces. Thereafter the parking spaces and turning area shall not be used for any purpose other than the parking and manoeuvring of vehicles.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additional windows or other openings shall be formed in any elevation (excluding the roof) of the dwelling.