



Appeal Decision

Site visit made on 5 September 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/A4710/W/23/3318190

Land east of Orchard House, 7A Victoria Drive, Northowram

- 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 and Mrs Porter against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/01169/FUL, dated 21 October 2022, was refused by notice dated 12 January 2023.
 - The development proposed is the formation of five bedroom dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the formation of five bedroom dwelling at land east of Orchard House, 7A Victoria Drive, Northowram in accordance with the terms of the application, Ref 22/01169/FUL, dated 21 October 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council's assessment of the proposal refers to the 2006 adopted Replacement Calderdale Unitary Development Plan. This has been superseded by the Calderdale Local Plan, adopted in March 2023 (the Local Plan). The main parties have been given the opportunity to comment on the adoption of the Local Plan. I have taken the Local Plan and any comments thereon into account in my decision.
3. I have used the site address from the appeal form and the Council's decision notice in my decision as it more accurately reflects the appeal site.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The proposed development has some of the characteristics of backland development. It would be located to the rear of the dwellings on Victoria Drive and Queen Victoria Crescent, which are located towards the eastern edge of Northowram, on what is described as garden land and it would be accessed through a driveway located between 7 and 9 Victoria Drive.
6. The backland position would not be typical of the development pattern along Victoria Drive or Queen Victoria Crescent, where properties generally have a presence within the street scene. However, the character of the area around the site is influenced by the presence of the detached dwelling at 7A Victoria

Drive which was granted permission in 2020¹ and has been built, and the detached dwelling to the rear of 1 Victoria Drive granted permission in 2022², which appeared to be under construction at the time of my site visit. The presence of the built form to the rear of Victoria Drive and Queen Victoria Crescent means that the pattern of development in the vicinity is not so uniform as to render a limited divergence from it visually incongruous.

7. The proposed dwelling would be sited beyond both these detached dwellings and therefore further from the main built-up area of the settlement. However, I am not persuaded that it would present as being out on a limb. The proposed dwelling would not extend as far to the east as the cluster of dwellings at Westercroft. In vantage points from the surrounding area, including along Westercroft Lane to the south, the proposed dwelling would mainly be viewed in association with this cluster of dwellings and/or in the context of the built form on the eastern edge of Northowram. In addition, the trees around much of the site provide a strong boundary separating it from the countryside beyond. When at the site, the built form along the settlement edge is visible as are a number of the dwellings at Westercroft lying further to the east.
8. Furthermore, my attention has been drawn to the Local Plan housing allocation to the south of the site. This allocation appears to effectively link the cluster of buildings at Westercroft and the dwellings on the eastern side of Northowram in this location. The appellant highlights that an application for 44 houses on the site has been submitted to the Council.
9. Given this particular context, my impression was one of a site on the edge of the settlement rather than of open countryside. The proposed dwelling would not therefore appear as distinctly separate from the built form in the area.
10. The proposed dwelling would be larger than the mainly two storey semi-detached dwellings on Victoria Drive and Queen Victoria Crescent. Nevertheless, it would be set back from those dwellings and would not form part of the street scene other than as part of the background in a partial glimpsed view between dwellings from certain locations. The two detached dwellings to the rear of Victoria Drive and Queen Victoria Crescent would also be apparent in such views. Furthermore, the proposed dwelling would sit at a lower level. This would reduce the perception of height arising from its two and a half storeys when seen in these glimpsed views.
11. When viewed from the south, the proposed dwelling would be seen in the context of the two detached dwellings, which are not of a significantly different scale. As noted above, the sloping nature of the topography would also reduce to an extent the perceived height of the proposed dwelling in such views.
12. Overall, therefore, while large, the proposed dwelling would not be visually overwhelming.
13. The proposed dwelling would sit within a good sized garden which would be larger than that of most properties in the vicinity. The density proposed would be lower than that of the built form within much of the surrounding area. However, it would not be markedly different from that of the two nearby detached dwellings. Given this context, together with its edge of settlement

¹ Reference 20/00030/FUL

² Reference 21/00313/FUL

location, in my judgement, the fact that the proposal makes provision for a large garden would not be inappropriate.

14. For the above reasons, I conclude that the proposed development would not have an unacceptable effect on the character and appearance of the area. It would therefore accord with the requirements of Policy BT1 of the Local Plan, which is the one identified by the Council as the relevant Local Plan policy. This policy requires development to be of a high quality and respect or enhance the character and appearance of its surroundings amongst other considerations. There would also be no conflict with the design objectives of paragraph 130 of the Framework.

Other Matters

15. There is no clear evidence to demonstrate that there is an issue with the capacity of the drainage system in the area.
16. The Council's highway officers initial concerns about traffic flow, access for emergency vehicles and pedestrian and highway safety have been addressed following the submission of an amended plan during the Council's consideration of the application showing a wider access. In the absence of any substantive evidence to the contrary, I have no reason to conclude that the proposal would be unacceptable in these respects. Based on the submitted plans and what I observed at my site visit, I am not persuaded that the location of the bin collection point would unacceptably restrict access along the drive.
17. None of the other matters raised alter or outweigh my conclusions on the proposed development.

Conditions

18. I have considered the conditions suggested by the Council and have amended the wording of certain conditions in the interests of precision.
19. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
20. In the interests of the character and appearance of the area, a condition is necessary to ensure that the development is constructed in accordance with the materials shown on the approved plans. In the interests of biodiversity, conditions are necessary to require the installation of a bird box within the dwelling and to limit when the removal of vegetation can take place during the construction phase. To ensure proper drainage of the site, a condition is necessary to require details of the foul and surface water drainage. To support sustainable travel options and in line with Policy IM4 of the Local Plan, it is necessary to require details for cycle parking. In the interests of highway safety, a condition is necessary to require the completion and retention of the access road. A requirement for the implementation of the waste storage facilities is necessary in the interests of the living conditions of nearby residents.
21. The Council has suggested a condition requiring the provision of an electric vehicle charging facility. The Building Regulations now include a requirement for every new residential building with associated parking within the site boundary to have access to electric vehicle charge points. The Planning Practice

Guidance sets out that conditions requiring compliance with other regulatory requirements such as Building Regulations will not meet the test of necessity and may not be relevant to planning. I have not therefore imposed this condition.

Conclusion

22. The proposal would accord with the development plan as a whole, and there are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson BSc (Hons), MRTPI

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: 22-044-00; 22-044-01; 22-044-02A.
- 3) No drainage works shall begin until full details of the foul and surface water drainage systems have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first occupation of the dwelling hereby permitted and retained thereafter.
- 4) Prior to the first occupation of the dwelling hereby permitted, details for the secure parking of cycles shall be submitted to and approved in writing by the Local Planning Authority. The secure cycle parking shall be provided in accordance with the approved details prior to the first occupation of the dwelling hereby permitted and shall thereafter be retained.
- 5) The development shall be constructed in accordance with the materials identified on the approved plans and shall be so retained thereafter.
- 6) Prior to the completion of the walls of the dwelling hereby permitted, one permanent swift nesting feature constructed of concrete, woodcrete, ecostyrocure or similar material shall be installed within the fabric of the dwellings within 50cm of the north facing roofline and shall be so retained thereafter.
- 7) The access road shall be completed in accordance with the approved plans prior to the first occupation of the dwelling hereby permitted and shall be so retained thereafter.
- 8) Prior to the first occupation of the dwelling hereby permitted, the bin and recycle storage shall be constructed in accordance with the details shown on the approved plans and shall be so retained thereafter.
- 9) During the construction of the development hereby permitted, no removal or management of any tall vegetation, including brambles, ivy, trees and shrubs, shall be carried out between 1st March and 31st August inclusive unless a competent ecologist has undertaken a bird survey immediately before the vegetation has been cleared and provided written confirmation to the Local Planning Authority that no birds will be harmed or disturbed or that there are appropriate measures in place to protect nesting birds on site.