



Appeal Decision

Site visit made on 3 July 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2023

Appeal Ref: APP/A4710/W/23/3314286

10 Lower Range, Calderdale, Halifax HX3 6JT

- 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 Chris Oddy against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/00744/FUL, dated 2 July 2022, was refused by notice dated 18 November 2022.
 - The development proposed is a dwelling with off street parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It has been drawn to my attention that reference to '4 bed dwelling' within the description of development was an error. The plans submitted to and considered by the Council show a detached 3 bedroom dwelling and this layout was referenced in the Council's delegated report. I have therefore adopted the Council's description of development given that this more accurately describes the proposed development.
3. The Council determined the application in relation to policies contained within the Amended Replacement Calderdale Unitary Development Plan 2009 (UDP). Subsequently, the Council formally adopted the Calderdale Local Plan 2018/19 – 2032/33 (CLP) on 23 March 2023. This now forms the statutory development plan for the area substituting the UDP. Both parties have commented on the new local plan policies applicable to the development proposal during the appeal process. For the avoidance of doubt, I have determined the appeal based on the development plan (CLP).

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of future occupiers, with particular regard to outdoor amenity space; and,
 - the living conditions of existing occupiers of 8, 9 and 10 Lower Range, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site lies within a predominantly residential area. Properties

typically follow the topography of the area and generally comprise a mix of terrace and semi-detached two storey properties, although there are some 2-3 storey properties within the wider area, including 150 Claremount Road. Properties are sited in narrow plots, set back from the highway, with modest, open front gardens and relatively spacious rear and side gardens. Due to the steep topography, stone walls are a prominent feature in the area.

6. There are limited views of the properties on Lower Range from Range Bank, as a result of the topography of the area and the existing boundary stone wall. The appeal site and neighbouring land are largely devoid of buildings. This section of Range Bank is therefore more spacious as a result. It is the spaciousness of the appeal site and neighbouring land, open frontages, plot sizes, prominent stone walls and topography that contribute to the character and appearance of the area.
7. Due to the limited size of the appeal site, the proposed property would be sited within close proximity to the boundary with Range Bank. Although the proposed development would utilise the topography of the site to provide a common sized family home, it would have a very shallow front garden, enclosed by the retained stone boundary wall, and a rear garden of limited depth. The plot size and layout of the proposed development, including the enclosed front garden, are at odds with the prevailing character of the area. The scheme would therefore result in a prominent and incongruous form of development, that would erode the spaciousness of this section of Range Bank, to the detriment of the character and appearance of the area.
8. The proposed property would be built into the hillside to reflect surrounding properties. However, this alone is not sufficient to overcome the harm identified.
9. For these reasons, the proposed development would have an unacceptably harmful effect on the character and appearance of the area, contrary to Policy BT1 of the CLP and the requirements of the National Planning Policy Framework (the Framework). Collectively, these seek, among other things, to ensure new development respects or enhances the character and appearance of the surroundings and is sympathetic to local character.

Living conditions future occupiers

10. While noting that two off-street parking spaces and bin storage could be provided, due to the constrained size of the appeal site and differing land levels, the proposed property would have limited outdoor space. As a result of its restricted size and having regards to the size of property proposed, there would not be adequate space to accommodate a range of garden activities, including leisure activities or drying of laundry.
11. I understand that the appellant has a solution for the garden size, however, no further details have been provided in respect of this matter. I therefore have to base my decision on the basis of the plans submitted.
12. For these reasons, the proposed development would have a harmful effect on the living conditions of future occupiers, with regard to outdoor amenity space. This is contrary to Policy BT2 Of the CLP and the requirements of the Framework, which collectively seek, among other things, to ensure development does not result in a significant adverse impact upon private

amenity space of prospective residents and create places with a high standard of amenity for future users.

Living conditions existing occupiers

13. Properties 8, 9 and 10 Lower Range are two storey, terraces with habitable room windows at ground and first floor. The appeal site is situated on higher ground than Nos 8, 9 and 10 and separated from these properties by an access road. Due to the topography of the appeal site, the proposed property would appear three storeys' high when viewed from Nos 8, 9 and 10.
14. The effect on outlook for the occupiers of Nos 8, 9 and 10 would be limited by the oblique angle at which the proposed property would be viewed, the distance between Nos 8, 9 and 10 and the proposed property, and the intervening driveway. For these same reasons, the proposed development would not appear overbearing to the occupiers of Nos 8, 9 or 10. There would be no material loss of outlook for the occupiers of Nos 8, 9 and 10 Lower Range as a result.
15. For these reasons, the proposed development would not materially affect the living conditions of existing occupiers of 8, 9 and 10 Lower Range, with particular regard to outlook. This accords with Policy BT2 of the CLP and the requirements of the Framework, which collectively seek, among other things, to ensure development does not result in a significant adverse impact upon daylighting of adjacent residents or other occupants and create places with a high standard of amenity for existing users.

Other Matters

16. I note that the proposed development would be subject to Approved Document Part L, would omit the least amount of carbon, and also be subject to green technologies. These benefits carry limited weight in favour of the scheme.
17. The appellant does not consider the Council fulfilled their obligation to consult them, to allow opportunity to address concerns. In determining the appeal, I am required to have regard to the planning merits of the development. This is therefore a matter between the appellant and the Council.
18. I understand that the site is currently only used for the storage of unwanted materials, thus creating a poor outlook. While redevelopment of the site might be an enhancement, it would nevertheless harm the character and appearance of the area.

Planning Balance

19. The Council is unable to demonstrate a Framework compliant supply of deliverable housing sites, and advises the current supply is 2 years. This figure is not disputed by the appellant and represents a significant housing shortfall. In circumstances such as this, paragraph 11 d) of the Framework states the most important policies for determining the application should be considered out-of-date and permission should be granted 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.
20. The proposed dwelling would therefore make a modest but worthwhile contribution towards local housing numbers, in a location which has good

access to services and facilities. I note that the Framework is supportive of small and medium sized sites, such as this site, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services through additional consumer spending. While these elements weigh in favour of the proposal, given the scale of the proposed development, these benefits are modest.

21. Further to the above, I am satisfied that having undertaken a balancing exercise in accordance with paragraph 11 d ii) of the Framework that the harm to the character and appearance of the surrounding area and the living conditions of the future occupiers of the property would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

22. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR