



Appeal Decision

Site visit made on 27 May 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2024

Appeal Ref: APP/W4223/W/24/3337434

36 Delph Road (Side of this property), Denshaw, Oldham, Lancs, OL3 5RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jim Fitzpatrick against the decision of Oldham Metropolitan Borough Council.
 - The application Ref is FUL/350825/23.
 - The development proposed is block of 3 garages.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Denshaw Conservation Area.
 - Whether the development would lead to an increased flood risk.

Reasons

Denshaw Conservation Area (the CA)

3. The appeal site is located within the Denshaw Conservation Area (CA). I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

The significance of the CA

4. The CA covers most of the village of Denshaw. Its significance derives from the layout of buildings and spaces. The appeal site and the area surrounding it is characterised by houses grouped around a natural open area defined by stone walls. The appeal site contributes to this sense of openness and to the character and appearance of the CA as a whole.

The effect of the development on the significance of the CA

5. The appeal scheme would introduce a building into the existing open area adjacent to the stone wall which separates the green space from the driveway and car parking space adjacent to the appeal site. The steep incline on the driveway and the position of the appeal site relative to the access from Delph

- Road result in it being prominent in views across the open area which characterises this part of the CA.
6. The building would disrupt the layout of the buildings and spaces within the vicinity of the appeal site and would appear as a conspicuous and incongruous feature in the site context. Given the importance of the existing arrangement of buildings and spaces to the character of the CA which I have identified and the open aspect of the appeal site which makes a positive contribution to this, I find that the development would not preserve or enhance the character and appearance of the area.
 7. I acknowledge the efforts made by the appellant to ensure the external materials and design are in keeping with the existing architecture of the CA and the buildings in close proximity to the site. However, this does not outweigh the harm identified above regarding the location of the development and the resulting harm upon the CA.
 8. Given the above I find that the proposal would fail to preserve the significance of the CA. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
 9. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that when considering the impact of the development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the scale of the development, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
 10. The appellant argues that the site is untidy and unkempt. They consider that the proposed garages would enhance the appearance of the area. However, it has not been shown that such an enhancement could not be achieved by actions which would not be harmful to the significance of the CA. Thus, a clear and convincing justification, has not been provided and this public benefit attracts limited weight. The construction activities associated with the appeal scheme would provide some economic benefit, however this would be limited by the scale of the development. This also attracts limited weight in favour of the appeal.
 11. The benefits afforded to the appellant and his neighbours of having access to a garage/car port are private benefits as would be any rental income.
 12. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the proposal would fail to preserve or enhance the character or appearance of the Denshaw Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 206 of the National Planning Policy Framework and conflict with policy 24 of the Oldham Local Development Framework 2011 which seeks, among other things, to ensure developments are of a high level of design and respect the local character of the area. As a result the proposal would not be in accordance with the development plan.

Whether the development would lead to an increased flood risk

13. The Lead Local Flood Authority's (LLFA) comments are referred to in the Officer Report and the LLFA has provided further confirmation in light of the appeal. There is a culverted water course in the vicinity of the appeal site and the LLFA is concerned about the integrity of the culvert.
14. The appellant refers to advice they have received from a structural engineer and as a result considers the development would have little impact upon the future integrity and accessibility of the culvert. However, this information is not before me. Consequently, the effect of the development on the integrity of the culvert is not clear and the lack of potential for flood risk has not been demonstrated.
15. I have considered whether any necessary works to the culvert and future access to it could be secured by planning condition. However, in the absence of further information I am not satisfied that such a condition would meet the test of enforceability.
16. I conclude that the development may lead to increased flood risk. Therefore, the development conflicts with policy 19 of the Oldham Local Development Framework 2011 which aims to ensure development does not negatively impact existing water infrastructure and prevent future flooding. As well as being contrary to policy 9 of the Oldham Local Development Framework 2011 which seeks to protect and improve the local environment from pollution.

Conclusion

17. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

B Astley-Serougi

INSPECTOR