



Appeal Decisions

Site visit made on 11 September 2024

by N Kempton BAHons, PGDip, MA, IHBC, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Appeal A Ref: APP/W4223/W/24/3346618

47 Ferney Field Road, Chadderton, OLDHAM OL9 0LU

- 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 Mohammed Sharif Miah against the decision of Oldham Metropolitan Borough Council.
- The application Ref is HOU/351856/23.
The development proposed was originally described as 'two and single storey extensions'.

Appeal B Ref: APP/W4223/W/24/3344936

47 Ferney Field Road, Chadderton, OLDHAM OL9 0LU

- 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 Mohammed Sharif Miah against the decision of Oldham Metropolitan Borough Council.
 - The application Ref is HOU/351685/23.
The development proposed is change of use from garage into holiday let.
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Decisions

1. **Appeal A** is allowed and planning permission is granted for 1) single storey rear extension 2) first and second floor front, rear and side extension 3) new driveway to front at 47 Ferney Field Road, Chadderton, Oldham OL9 0LU in accordance with the terms of the application, Ref HOU/351856/23, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1900 1/3; 1900 2/3; 1900 3/3.
 - 3) No development shall take place until drainage works for surface water shall have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The drainage works shall be carried out in accordance with the approved details and maintained thereafter.

- 4) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted 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.
- 5) Prior to the occupation of the dwelling hereby permitted, the first-floor windows in the east facing gable end of the dwelling shown on drawing ref 1900 2/3 shall be non-opening and fitted with obscured glazing and retained thereafter.

2. **Appeal B** is dismissed.

Preliminary Matters

3. The descriptions of the development in the heading above are taken from the planning application forms. However, for the purposes of the decision in paragraph 1 for Appeal A, I have taken the wording from the Council's decision notice. This is in the interests of clarity as, unlike the application form, it refers to changes to the site to provide parking, which is a significant element of the proposal.
4. At the time of my site visit, the ground levelling works required to provide three parking bays, which are part of the scheme that is the subject of Appeal A, appeared to be partially complete. The retaining walls, hardstanding and drainage works appear not to have commenced. For the avoidance of doubt, my determination of Appeal A is based on the plans submitted and not on the works as constructed.
5. A drainage strategy with an indicative drainage arrangement plan has been submitted with Appeal A, but as the Council and interested parties have not been able to comment on it, I have taken it into account on an indicative basis only, as an example of the type of drainage scheme which could be secured by condition.
6. At the time of my site visit, the change of use that is the subject of Appeal B appeared to have been completed. I have therefore determined Appeal B on the basis that the scheme is retrospective. For the avoidance of doubt, my determination of Appeal B is also based on the plans submitted and not on the works as constructed.
7. The Appeal B scheme is reliant, in part, upon the use of the parking provision sought by Appeal A. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

8. The main issues in respect of Appeal A are the effect of the development on:
 - the character and appearance of the area; and
 - highway safety with particular reference to the disposal of surface water from the site.
9. The main issues in respect of Appeal B are the effect of the development on:

- the living conditions of occupiers of neighbouring properties, with particular reference to privacy, noise and disturbance in relation to the occupiers of 49 Ferney Field Road and within the site.
- highway safety with particular reference to off- street parking provision to meet the operational needs of the holiday let;

Reasons- Appeal A

Character and appearance

10. The appeal dwelling is situated in a row of dwellings lining one side of Ferney Field Road and open fields opposite, allowing views across a valley as the land falls away. This section of Ferney Field Road creates a deep cutting with dwellings elevated above the carriageway, accessed via steep private driveways. Property boundaries are enclosed by retaining walls or slope down to road level.
11. The road retains a rural character complimented by the existence of front gardens and established vegetation, which animates the space, positively contributing vibrancy and colour to the street scene. This character is being eroded and changed incrementally by the loss of some gardens to provide car parking.
12. The Council has not raised objection in respect of the design of the proposed extensions to the host dwelling in Appeal A. Based on the evidence before me and my observations on site, I see no reason to take a contrary view on this matter. I saw a mix of house types along Ferney Field Road, with two storey and single storey dwellings side by side. Planning permission has been granted for the erection of a two-story detached dwelling on the vacant plot adjacent to the appeal site. In this context, the increased height and scale of the host dwelling, as proposed, would not be out of character in the street.
13. I note the provision in paragraph 124(e) of the National Planning Policy Framework (the Framework), which relates to effective use of land and supports upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, which I consider is the situation in the case of Appeal A.
14. Whilst the creation of parking bays change the property frontage, given that a number of properties in Ferney Field Road have been altered to create parking provision in similar ways, the parking bays are not an uncharacteristic feature in the street scene and are not unduly prominent or harmful to the character and appearance of the area. The development accords therefore, with Places for Everyone (PfE)(2023) policy JP-P1. The PfE is the strategic spatial framework for Greater Manchester. Policy JP-P1 sets out key attributes that all development, wherever appropriate, should be consistent with, including distinctive development that respects and acknowledges the character and identity of the locality in terms of design, siting, size, scale and materials used.

Highway safety- drainage

15. The proposed parking provision would necessitate the creation of an area of hardstanding, ground level changes and a reduction of the area of soft

landscaping, which presently absorbs some water run-off. Based on the evidence before me and in view of the characteristics of the site, I am satisfied that matters of drainage could be addressed and the risk of flooding mitigated using permeable surfacing treatment and the collection, storage and infiltration of all surface water flows. Such measures could be required in a related condition to ensure that adequate drainage arrangements for the disposal of surface water could be achieved, in the interests of highway safety.

16. The proposal, therefore, accords with policy 9 of the Oldham Local Plan which seeks to protect and improve local environmental quality and amenity by ensuring, amongst others things, that development minimises traffic levels and does not harm the safety of road users.
17. The Council's reasons for refusal refer to policy 5 of the Oldham Local Plan, which promotes accessibility and sustainable transport choices. However, given that the appeal relates to an existing dwelling in an established residential area, this policy is not directly relevant to this main issue.

Reasons- Appeal B

Living conditions

18. The windows in the side wall of the holiday let would afford direct overlooking into the rear garden associated with the host dwelling. These windows would also afford occupiers and users of the garden associated with the host dwelling direct sight into the living accommodation of the holiday let. This intervisibility would undermine the purpose of a private garden and detract from the occupiers enjoyment of it. Furthermore, it would compromise the privacy of the holiday let.
19. The provision of a 1 metre high fence along the shared boundary separating the outbuilding from the external amenity space of No. 47 would fail to satisfactorily mitigate the impact on privacy. Whilst a higher boundary fence of 1.8 metres would address, in part, the intervisibility, by reason of the narrow, constrained site and very limited private defensible space associated with the holiday let, a high fence at close quarters to the holiday let windows would result in restricted light levels, compromised outlook and unsatisfactory living accommodation, even if only for a short- term stay. The appellant makes comparison with a hotel room, but by contrast, limited natural light and lack of outlook from a hotel room window will often be compensated by the use of shared facilities and communal areas.
20. I note the appellant's suggestion to remove the side windows in the holiday let in order to address privacy issues. However, such a proposal is not before me and I am required to determine the appeal on the basis of the evidence submitted.
21. Furthermore, the siting and layout, together with the lack of private defensible space, would afford those moving to and from the holiday let direct views into the ground floor windows and direct access past the principal entrance doors serving the host dwelling and 49 Ferney Field Road, at close quarters, thereby further diminishing privacy to an unacceptable degree. Notwithstanding the former garage use, the increased movements accessing

and egressing the holiday let would result in noise and disturbance immediately outside the host property and 49 Ferney Field Road, which is sited on the shared boundary. This would be to the detriment of the living conditions of the occupiers of these properties. The erection of a fence along the driveway to create separation would further restrict the narrow width of the driveway and result in an over-enclosing effect on the neighbouring occupiers.

22. For these reasons, the development as proposed would be detrimental to the living conditions of future occupiers of the holiday let and occupiers of the host dwelling and the neighbouring property at 49 Ferney Field Road, with particular regard to loss of privacy to the host dwelling's rear garden, as well as noise and disturbance arising from increased movements accessing and egressing the holiday let. As such, the proposed development would be contrary to policy 9 of the Oldham Local Plan which seeks to protect and improve local environmental quality and amenity by ensuring that, amongst other things, development does not cause significant harm to the amenity of the occupants and future occupants of the development or to existing or future neighbouring occupants or user through impacts on privacy, safety and security, noise, pollution, the visual appearance of an area, access to daylight or other nuisances.

23. The proposal is also contrary to paragraph 135(f) of the Framework, which states that development should create a high standard of amenity for existing and future users.

Highway safety- parking provision

24. The existing driveway is not suitable to serve two units- both the host dwelling and the holiday let. Narrow and constrained, the existing driveway does not allow for turning and manoeuvring space. Ferney Field Road is narrow and any additional parking or manoeuvring arising from the tandem nature of the existing parking and the need for reversing, is likely to lead to conflicts with those travelling along the road, to the detriment of highway safety. Additional parking provision would be required meet the operational needs of the holiday let and guard against an increased demand for on-street parking, in the interests of highway safety and the amenity of residents of Ferney Field Road,

25. The provision of additional parking for the host dwelling, which forms part of the development proposal under Appeal A, would mean that its occupiers would not need to rely on the existing tandem driveway for parking. Only one car is likely to regularly be associated with the holiday let, therefore, the need for multiple cars to park in tandem would be unlikely. If I was minded to allow Appeal A as suggested above, it would address this reason for refusal on Appeal B.

Other Matters

26. I have had regard to the representations received. Concerns have been expressed regarding the potential to use the host dwelling as a house of multiple occupation (HMO). Based on the evidence before me, such a use does not form part of either scheme and as such is outwith the determination

of the appeals. The licensing considerations for a HMO are not the same as considerations in determining an application for planning permission.

27. In relation to Appeal A, the Council determined that the siting of the dwelling would ensure no significant overshadowing and no direct overlooking to neighbouring properties, subject to requiring obscure glazing in the gable windows. Based on the evidence before me and having visited the site and its immediate environs, I see no reason to take a contrary view on this matter. Obscure glazing is addressed in a related condition included in the schedule of conditions at the top of this decision, in the interests of residential amenity. This condition requires the first floor windows in the east facing gable end of the dwelling shown on drawing ref 1900 2/3 to be fitted with obscured glazing and fixed shut in order to protect the privacy of the neighbouring occupiers at 49 Ferney Field Road.
28. Concerns relating to bats and their habitats have been raised. Notwithstanding their protected species status, there is no substantive evidence of the presence of bats on, or in the immediate vicinity of, the site, or that the proposed development would result in harm. The Council has not expressed concerns regarding this matter.
29. Concerns have been raised relating to ground stability and subsidence. However, there is no substantive evidence before me of these issues.
30. With regards to concerns relating to post- construction traffic, I have no reason to conclude that there would be significant traffic generation impacts arising from the proposed dwelling, particularly given that it replaces an existing dwelling. Furthermore, the number of traffic movements generated from the holiday let are likely to be small. Regarding parking provision, there is no reason to suggest that the 3 spaces provided for the new dwelling would be insufficient for the proposed size of the home.
31. Disruption during construction including construction traffic would be temporary, lasting for the duration of construction. There is no compelling reasons that the short-term construction impacts would be unsatisfactory. Noise and disturbance from the existing occupiers and past incidences of anti-social behaviour are outwith the scope of these appeals and weigh neither for, nor against, the proposal.
32. In relation to Appeal B, it is accepted that the holiday let utilises an existing building, however, the building could have previously been used beneficially to support the use of the existing house. It is acknowledged that the site is accessible by public transport and close to a range of local shops and services. Furthermore, the holiday let brings some uplift to the local economy attracting holiday makers to visit and spend money locally. However, having regard to the small scale of the development, these benefits attract limited weight.
33. The appellant contends that planning permission is not required for the use of the former garage for the provision of ancillary accommodation incidental use in connection with the main dwelling. However, there is no lawful development certificate before me which confirms that the conversion did not need planning permission. An appeal has been made in any event, and I have determined it accordingly.

Conditions

34. I have imposed the following conditions: the statutory time condition (1), which is required to ensure compliance with Section 91 of the Town and Country Planning Act 1990' and a condition listing the approved plans (2), which is necessary to ensure clarity of what has been permitted. Condition (3) is necessary to secure effective drainage and its maintenance, to prevent undue risk to the local environment and reducing the risk of flooding on the highway, in the interests of highway safety. The timescale requested by the Council for the implementation of the drainage works was considered to be unreasonable, however the drainage works are a prerequisite. Condition (4) is regarding details of materials to be used in the external finishes of the development and is warranted to secure an appropriate palette in the interests of the character and appearance of the area. Condition (5) is required in the interests of residential amenity.

Conclusions

35. The proposal subject of Appeal A would not conflict with the development plan when read as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Indeed, the Framework indicates that development proposals that accord with an up-to-date development plan should be approved without delay.
36. While there are benefits indicating in favour of Appeal B, these do not outweigh the harm it causes to the living conditions of neighbouring and future occupiers.
37. I conclude that the Appeal B scheme is contrary to the development plan when read as a whole and to the Framework, and there are no material considerations to indicate that a decision should be taken other than in accordance with that plan.
38. For the reasons given above, I conclude that the Appeal A is allowed and Appeal B is dismissed.

N Kempton

INSPECTOR