



Appeal Decision

Site visit made on 4 February 2025

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2025

Appeal Ref: APP/W4223/W/24/3349411

Land to the rear of 871 Middleton Road, Chadderton, Oldham, OL9 0NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Leeming against the decision of Oldham Metropolitan Borough Council.
 - The application Ref is OUT/351895/23.
 - The development proposed is 1no detached house with access & layout.
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Decision

1. The appeal is allowed and outline planning permission is granted for 1no detached house with access and layout at land to the rear of 871 Middleton Road, Oldham, OL9 0NG in accordance with the terms of the application, Ref OUT/351895/23, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal concerns an application for outline planning permission. Matters of access and layout form part of the proposal, whilst scale, appearance and landscaping are reserved for future consideration.
3. I have removed the words 'to be considered' from the end of the description in the banner heading above, as they are superfluous and do not form part of the act of development.
4. I have determined the appeal on the basis of the location/site drawing dated February 2024, which shows details of access and layout. Drawing ref 59, which shows floorplans and elevation details, is marked as 'illustrative only', and I have treated it as such.
5. The site/location plan refers to a bungalow, but the proposal is described on the application form as a 'house', which could mean a property with more than one storey. I have assessed the proposal on that basis, bearing in mind that scale and appearance are matters for future determination.
6. A revised version of the National Planning Policy Framework (the Framework) was issued in December 2024, so all references in this Decision are to that version. I am satisfied that the changes to national policy do not materially affect the cases of either of the main parties in this appeal.

Main Issue

7. The main issue is the effect of the development on the character and appearance of the area, having particular regard to policy requirements for Other Protected Open Land (OPOL).

Reasons

8. The appeal site is a roughly triangular shaped area of land to the rear of houses on Middleton Road. The site is bounded on two sides by steeply sloping woodland which connects with a large finger of undeveloped, lower lying land between areas of houses. Together with the appeal site, this wider area of open space is identified as OPOL in the Oldham Joint Core Strategy and Development Management Policies 2011 (Local Plan).
9. To protect the openness, local distinctiveness and visual amenity of the area, Local Plan Policy 22 allows for development on OPOL where it is close to existing buildings, appropriate, small-scale or ancillary, taking account of its cumulative impact. The policy is now some years old, but in recognising the intrinsic value of the countryside and protecting areas of open space, it remains consistent with more up-to-date guidance in the Framework.
10. The wider undeveloped area of OPOL land, with its varied topography and mixture of woodland and open grassland, provides an attractive setting for the surrounding housing, and makes a positive contribution to the character of the area. However, the appeal site, which is located at the edge of the OPOL, is very different in character from the wider area of open space.
11. As noted by the Inspector in a previous appeal to retain storage containers¹, the site is somewhat separate from the rest of the OPOL due to its elevated position, and has a physical relationship with the development on Middleton Road.
12. A hedge has recently been planted along the northern boundary, but aside from that there is little vegetation on the site. Whilst the surrounding woodland and pasture will provide habitats for wildlife, the site itself has few natural features to support or attract biodiversity. It is not publicly accessible, and provides no recreational function. The wooded slopes around the site provide effective screening, so that the site is not readily visible from the wider area housing and open space.
13. For occupiers of the houses on Middleton Road which back onto it, the site provides an open aspect which allows for views to the open space beyond. That said, local residents have commented that the site has been used for industrial purposes and storing large vehicles. There were only a small number of cars present when I visited, but when viewed from properties on Middleton Road, the grey stone surfaced site, occupied by vehicles and garages, is at odds with, and detracts from, the attractiveness of the woodland and open pasture which characterise the wider area of OPOL.
14. I agree with the previous Inspector that the site provides a transition between the built up area of Middleton Road and the treed slope and pastoral land below. Even so, the contribution which the site makes to the wider area of OPOL is at best modest.

¹ Appeal ref APP/W4223/W/22/3311262

15. The submitted plans shows a new house which would be constructed in a central position on the site. The proposed development would not encroach into the wider area of OPOL land, and other than in very close views, would not be readily visible from the surrounding area. Whilst the introduction of new, permanent development here would detract from the openness of the OPOL, the effect would be very localised owing to the topography and the wooded setting of the site.
16. For the immediately adjacent properties, a new house on the site would impede views of the OPOL from their rear upper windows. Whilst there is no right to a private view in planning, the development would have the potential to reduce residents' appreciation of the wider, undeveloped area of OPOL. However, the site has historically contained buildings, structures and vehicles, so has not been entirely open. The house would only occupy part of the site, and the remaining garages would be removed. Residents would still be able to see and appreciate the wooded area to the rear of the site.
17. Policy 22 does not explain what is meant by 'appropriate' development, but a new house would not appear out of place in this residential area. The proposed house would be compatible with surrounding development, unlike the shipping containers which were the subject of the previous appeal on the site. The Inspector found those structures to be incongruous in the foreground and harmful to views of the wider OPOL, with further cumulative harm arising from the presence of the retained garages.
18. In this case, scale and appearance are matters for future consideration, so the Council could ensure that the final dwelling was of an acceptable size and design. There is no reason to suppose that the new house would be unsightly, and in visual terms, the scheme could be an improvement on the existing and previous situation. The provision of a landscaped garden area has the potential to improve the appearance of the site when viewed from the houses on Middleton Road, and help it to blend in with the surrounding wooded landscape. In this way, the scheme could enhance the transitional role that the site plays in the wider landscape.
19. The proposed construction of a house here would represent a beneficial use of land which would be appropriate in this residential area. Whilst it would reduce the openness of this part of the OPOL, the effect would be very localised, and would not detract from the character of the wider area of protected land. Compared with the existing situation and the previously dismissed appeal, construction of a house here has the potential to improve the visual amenity of the site.
20. Taking account of all these considerations, I am satisfied that the proposed development would preserve the character and appearance of the area, and meet the objective of protecting open land contained in Local Plan Policy 22. Subject to the approval of matters of scale, appearance and landscaping, the proposal would conserve the natural environment and landscape features and respect the character and identity of the locality. As such, it would be consistent with Policy JP-P1 of the Places for Everyone Joint Development Plan 2024 (PEP).

Other Matters

21. The proposed development would provide a new family sized home in an urban location, close to shops and services. It would make effective use of land, without causing harm to the wider OPOL. However, it is evident from comments on the

planning application made by neighbours, that there is concern about the past and future use of this site, including the proposed residential use.

22. The site is of a reasonable size, and the layout plan shows that the proposed house would be sited a reasonable distance from the closest dwellings, separated from their rear gardens by the access track. The proposed house would be sufficiently far away from existing houses so as to avoid overshadowing to windows or gardens, or loss of privacy due to overlooking.
23. Concerns have been raised that the proposal would detract from the quiet ambience of the site, which provides a contrast from the busy Middleton Road. I acknowledge that there may be noise and disruption associated with construction, during which it may not be safe for children to play. However, this would be for a fairly short period. Once occupied, there is no reason to think that there would be any more noise or disruption associated with a residential use than that of the existing vehicle storage use.
24. Access to the site from Middleton Road is via a track which also serves the rear gardens of the houses. I understand that right of access over the track is shared by the occupiers of neighbouring properties and the appeal site, and note comments that the introduction of concrete blocks and fencing around the appeal site has made it difficult for residents to turn their vehicles around. However, the creation of a new house on the site would not change residents' ability to access to the rear of their properties. The appellant has confirmed that, if permission for a house was granted, the concrete blocks would be removed, and the submitted layout plan shows an area for turning at the front of the site. Responsibility for maintaining the track and repairing any damage is a civil matter rather than a planning issue.
25. I note reports that there has been anti-social behaviour here in the past, which has led to a lockable gate being installed close to the entrance of the track. To keep access secure for all residents, it would be necessary to ensure that the gates could be kept locked, whilst allowing for access for deliveries etc. However, such arrangements are in place in many areas, and it should be possible to install an appropriate solution here that allowed for access whilst maintaining security.
26. Concerns about possible disruption to services during construction are beyond the scope of this appeal.
27. I acknowledge the concerns expressed by neighbouring occupiers, but having considered the points made, I am satisfied that the proposal would not result in unacceptable harm to their living conditions, or to their access arrangements.

Conditions

28. The proposal is in outline so conditions are required specifying timescales for submission of reserved matters and subsequent implementation of the development. A condition specifying plans is also needed for certainty.
29. The Council has suggested the imposition of a condition requiring samples of materials, but that relates to appearance, which is a reserved matter. It is not necessary to impose the suggested condition at this outline stage.
30. The submitted plans show how the site would be accessed, including space for parking and turning. The site is level and the need for sight lines has not been

explained, so the Council's suggested condition requiring further access details is not necessary.

31. A condition requiring the submission, agreement and implementation of a scheme for disposal of surface and foul water is required to ensure that the site is properly drained, and to reduce the risk of flooding. Details of arrangements for waste storage and refuse removal are also needed to safeguard the environment and the living conditions of existing and future occupiers. I have imposed conditions accordingly.
32. In light of comments by the Environmental Protection officer, the Council has suggested conditions requiring a site investigation and assessment of landfill gas risk, and the cessation of development in the event that contamination is encountered. To safeguard the environment and public health, I agree that appropriate conditions are necessary, but have used different wording from that suggested by the Council to provide greater clarity.
33. Finally, to accord with PEP Policy JP-H3, I have imposed a condition requiring that the proposed dwelling is built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations.

Conclusion

34. For the reasons set out, I conclude that the proposed development would preserve the character and appearance of the area, including the wider OPOL. The proposal is consistent with the development plan and the Framework, and I have identified no other harms which would justify dismissing the appeal. The appeal is therefore allowed, subject to the conditions set out below.

R Morgan

INSPECTOR

Schedule of Conditions

- 1) Details of appearance, landscaping, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the location/site plan dated Feb 2024.
- 5) No development shall take place until details of the method of surface water and foul water drainage from the site have been 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 as such thereafter.
- 6) The development hereby approved shall not be brought into use until details of facilities for the storage and removal of refuse and waste materials have been submitted to and approved in writing by the local planning authority, and the approved details fully implemented. Thereafter, the approved facilities shall remain available for use.
- 7) No development shall commence until an assessment of the risks posed by any contamination, including landfill gas, has been submitted to and approved in writing by the local planning authority. If any contamination or gas is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 8) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 9) The development hereby approved shall be built to the accessible and adaptable standard in Part M4(2) of the Building Regulations, unless it is first demonstrated to, and agreed in writing by, the local planning authority that the specific site conditions make this impractical.