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## Appeal Decision

Site visit made on 5 August 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2025

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**Appeal Ref: APP/N4205/W/25/3365087**

**39 Turner Street, Westhoughton, Bolton BL5 2DZ**

- 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 Duxbury Homes (Clayton Meadow) Ltd against the decision of Bolton Metropolitan Borough Council.
  - The application Ref is 18711/24.
  - The development proposed is demolition of existing dwelling and construction of 5 new dwellings including improvements to highway, access and landscaping.
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### Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing dwelling and construction of 5 new dwellings including improvements to highway, access and landscaping at 39 Turner Street, Westhoughton, Bolton BL5 2DZ in accordance with the terms of the application, Ref 18711/24, and the plans submitted with it, subject to the conditions in the attached schedule.

### Main Issues

2. The main issues are the effects of the proposed development on:
  - the character and appearance of the surrounding area; and,
  - the living conditions of the occupants of neighbouring properties, with particular reference to outlook, daylight and sunlight, and privacy.

### Reasons

#### *Character and appearance*

3. The appeal site is a broadly rectangular and level site currently occupied by a substantial two-storey dwelling toward the centre of the plot. Residential development borders three sides of the site, the fourth side being open to Turner Street and open countryside beyond. Rectory Gardens, to one side of the site, comprises detached and semi-detached bungalows set within moderately sized plots, predominantly separated from the appeal site by timber panel fencing. The site backs onto the gardens of two-storey semi-detached dwellings fronting onto Old Vicarage. The boundary to this side is predominantly timber fencing, with some hedging. Adjacent to the site, accessed from Turner Street, is a substantial detached bungalow set within a large and spacious garden.
4. The variety in design, scale and siting of houses in the area, along with the various materials used in their construction, results in an eclectic character. Furthermore, several properties in the area have been modified or extended adding to the mix of

materials used, and the pattern of development and detailing of buildings. Within the vicinity of the site, there is no predominant architectural style or type of dwelling that defines the appearance of the area.

5. The proposed development involves the demolition of the existing dwelling, and the erection of 5 two-storey detached dwellings. The roof space to each proposed dwelling would provide second-floor accommodation in the form of a master bedroom with an ensuite bathroom and dressing room.
6. The inclusion of habitable rooms in the roof space would result in a greater ridge height than surrounding two-storey houses. However, the eaves height would be similar, and the overall appearance of the proposed dwellings would remain two-storey. The second-floor habitable rooms result in a predominantly glazed gable feature to each house. Nevertheless, the glazed gables do not substantially alter the two-storey appearance of the houses. Moreover, as the gables face into the site they would not be seen in the context of other two-storey houses in the surrounding area.
7. The proposed layout of the site would have a spacious appearance, with each dwelling provided with a generous garden to the rear and ample access, manoeuvring and open space to the front. While the proposal would increase the built form on the site, the overall density of development would remain low and similar to that of the surrounding area.
8. The design, materials and detailing of the proposed dwellings would be subtly different to other houses in the area. However, given the area is not defined by a predominant house type, style, or consistent use of materials, the scheme would not be a departure from the residential character and appearance of the area. The colour of brick proposed, while different to other bricks used in the surrounding area, would not result in an unacceptable contrast or departure from the eclectic character of the area.
9. The Council's General Design Principles Supplementary Planning Document (SPD) identifies the need to provide space around houses to ensure new dwellings relate to the character of the existing area. The SPD notes that these distances should not be seen as the minimum required, but those that would represent ideal layout design, and that other factors, such as difference in level and screening measures, should also be taken into consideration.
10. The layout of the proposed scheme meets or exceeds the indicated ideal separation distances between the proposed and existing dwellings. In this respect, I have also had regard to the near-level nature of the site and the existing boundary features between the site and neighbouring properties.
11. To conclude, the proposed development would not harm the character and appearance of the surrounding area. The scheme would accord with Policy JP-P1 of the Places for Everyone Joint Development Plan for Bolton, March 2024, (the DP) and Policy CG4 of the Bolton Council Local Development Framework Core Strategy Development Plan Document, March 2011, (the CS). In combination, these policies seek to ensure, among other things, that development respects and acknowledges the character and identity of the locality and is compatible with surrounding land uses. Furthermore, the proposed scheme meets the advice contained in the SPD regarding the provision of space around new developments.

### *Living conditions*

12. The advice contained in the SPD also relates to the requirements to provide space around new development to ensure it maintains acceptable outlook from and privacy within homes. In this regard, the interface between houses is described as the ideal distance between main windows to main habitable rooms, where houses relate to each other in reasonably standard fashion.
13. The plans show that adequate separation, in accordance with the SPD, would be provided between the main windows to main habitable rooms between the existing and proposed houses. Existing boundary fences and vegetation along the boundaries between the appeal site and neighbouring properties further reduces the likelihood of overlooking between dwellings.
14. Occupants of neighbouring properties have expressed concerns over the loss of privacy resulting from the proposed development. However, I have not been provided with specific instances of where this would occur. As such, I have no substantive evidence before me that indicates that the scheme would result in undue overlooking of existing dwellings and subsequent loss of privacy of occupants. With regards to private amenity space, a degree of mutual overlooking is to be expected in suburban areas such as this.
15. The rear elevations of properties facing both Rectory Gardens and Old Rectory are separated from the appeal site by reasonably sized gardens and timber fencing. In several cases, these rear gardens already accommodate substantial sheds and brick-built garages. The appeal site is predominantly level with these properties. The proposed houses would be visible from all surrounding properties, due to their height. However, the proposed houses would be adequately separated from neighbouring houses, including the bungalows on Rectory Gardens, to ensure that the outlook from these houses remains acceptable, and the living conditions of the occupants are not negatively affected by the development being overbearing or oppressive.
16. Additionally, I am satisfied that, with the orientation of the proposed dwellings in relation to neighbouring properties, and the distances involved, the proposed development would not harmfully reduce the levels of daylight or sunlight into the rear garden areas, rear facing windows or conservatories of the nearest properties on Rectory Gardens, principally Nos 4 and 6, nor properties along Old Vicarage.
17. Therefore, to conclude on this main issue, the proposal would not detract from the living conditions of occupants of neighbouring properties, with particular reference to outlook, daylight and sunlight, and privacy. In this respect, the proposal would accord with Policy JP-P1 of the DP and Policy CG4 of the CS. It would also accord with the SPD which, in combination with the development plan, seeks to maintain privacy, avoid excessive loss of natural light to principal rooms, and prevent development that would have an overbearing or overly dominant effect on adjoining dwellings.

### **Other Matters**

18. Interested parties have raised concerns about the maintenance and protection of a shared drain that runs through the site and that access to properties from Turner Street should not be harmed nor obstructed as a result of the proposed

development. While I have addressed the matters of construction traffic and the maintenance of access along Turner Street by condition, the protection and maintenance of a shared drain and private drive are civil matters that fall outside the scope of an application determined under Section 78 of the Act.

## **Conditions**

19. The Council has provided a list of suggested conditions, which I have considered against paragraph 57 of the Framework, and advice contained in the Planning Practice Guidance (PPG). Where appropriate, I have amended the wording of the suggested conditions for clarity and reasonableness.
20. To meet legislative requirements, a condition shall be imposed to address the period for commencement. For the reasons of clarity and certainty, I have imposed a condition that requires the development to be carried out in accordance with the submitted drawings.
21. Given access to the development is provided along a shared, unadopted stretch of road within a residential area, a condition requiring a Construction Method Statement is reasonable and necessary in the interests of maintaining highway safety and amenity during construction.
22. I have imposed a condition relating to materials to safeguard the character and appearance of the area. It is necessary to impose a condition to ensure the development adequately manages surface water runoff on site. I have combined several suggested conditions related to highways. Full details of the new and upgraded highways are required to ensure highway safety.
23. Similarly, several suggested conditions related to hard and soft landscaping works have been combined. A comprehensive landscape condition is necessary to ensure the development reflects the character and appearance of the surrounding area when completed and in the future.
24. Conditions are necessary to ensure best practice in relation to protected species, trees and contamination, and to safeguard protected species and the amenity and wellbeing of future occupants.
25. I have imposed a condition requiring compliance with the Building Regulations optional requirements, with regard to accessibility and adaptability, to ensure the development meets the requirements of Policy JP-H3 of the DP.
26. Given the proximity of the proposed development to neighbouring dwellings a condition removing some permitted development rights is necessary to preserve the private amenity of neighbouring occupants. PPG states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity. However, given the proximity to neighbouring dwellings, in this instance I am satisfied that it is necessary to prevent future enlargements, improvements or alterations to safeguard the living conditions of neighbouring occupants. Although the Council have suggested that porches and outbuildings should also be restricted, given the inward facing nature of the scheme and the spacious plots, this is not necessary.
27. I have not included the suggested condition relating to a Biodiversity Gain Plan (BGP) nor the biodiversity enhancements. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act, 1990, is that planning permission

granted for development of land in England is deemed to have been granted subject to the mandatory condition (the biodiversity gain condition) and that development may not begin unless a BGP, including proposed enhancements, has been submitted to and been approved by the Council. The evidence before me indicates that the net gain would be met offsite. As such, the imposition of a habitat management and monitoring plan condition is not appropriate or necessary.

## **Conclusion**

28. Notwithstanding the Council's housing land supply position, for the reasons given above, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

*C Mayes*

INSPECTOR

## **Schedule of 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 drawing nos.
  - Proposed Site Plan - Drawing number 1369-JDA-XX-XX-DR-A-0001 Rev P13
  - Proposed Site Plan (Ground Floor Level) - Drawing number 1369-JDA-XX-XX-DR-A-0004 Rev P2
  - Proposed Site Plan (First Floor Level) - Drawing number 1369-JDA-XX-XX-DR-A-0005 Rev P2
  - Proposed Site Sections - Drawing number 1369-JDA-XX-XX-DR-A-0006 Rev P02
  - Proposed Street Elevations - Drawing number 1369-JDA-ZZ-XX-DR-A-0201 Rev P4
  - Proposed Plans & Elevations - House Type 1 - Drawing number 1369-JDA-Z1-ZZ-DR-A-0201 Rev P5
  - Proposed Plans & Elevations - House Type 1 (Mirrored) - Drawing number 1369-JDA-Z1-ZZ-DR-A-0202 Rev P3
  - Proposed Plans & Elevations - House Type 2 - Drawing number 1369-JDA-Z2-ZZ-DR-A-0201 Rev P5
  - Proposed Plans & Elevations - House Type 3 - Drawing number 1369-JDA-Z3-ZZ-DR-A-0201 Rev P6
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors,
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. wheel washing facilities;
- v. measures to control the emission of dust and dirt during construction;
- vi. delivery, demolition and construction working hours
- vii. methods of communicating the Statement to staff, visitors and occupants of neighbouring properties.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development above ground level shall take place until details of all external facing materials 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) No development above ground level shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted details shall:
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and,
  - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 6) No development above ground level shall take place until full details of the proposed highway works, including new and upgraded roads, have been submitted to and approved in writing by the local planning authority. No house shall be occupied until the roads have been constructed in accordance with the approved details.
- 7) No development above ground level shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - i. earthworks showing existing and proposed finished levels or contours
  - ii. boundary treatments;
  - iii. vehicle parking layouts;



- iv. other vehicle and pedestrian access and circulation areas;
- v. hard surfacing materials;
- vi. indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development;
- vii. proposed planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, sizes and proposed numbers/densities where appropriate;
- viii. an implementation programme.

The landscaping works shall be carried out in accordance with the approved details and the implementation programme.

Any trees or plants (existing retained or proposed) which within a period of 5 years after planting (or replanting if previously failed), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of species, size and number as originally approved.

- 8) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures set out in the Preliminary Ecological Appraisal, June 24 (ref. 81-712-R1), the Dusk Emergence Bat Survey, July 2024 (ref. 2024-102b) and the Arboricultural Impact Assessment, June 24 (ref. 81-712-R2-2).
- 9) The development hereby permitted shall be carried out in accordance with the Site Investigation: Ground Investigation Report, 18 July 2024, (ref. GEOL24-7235).
- 10) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 11) The development hereby permitted shall not be occupied until the Building Regulations optional requirement M4(2): Category 2 – Accessible and adaptable dwellings has been complied with.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B and C of Part 1 of Schedule 2 to the Order shall be undertaken.

**ENDS**