



Appeal Decision

Site Visit made on 19 October 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/G4240/W/21/3277156

Land at Stamford Road, Mossley OL5 0BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Wickens Estates Ltd against Tameside Metropolitan Borough Council.
 - The application Ref 21/00344/FUL, is dated 10 March 2021.
 - The development proposed is described as 'Construction of 2 number 4 Bedroom Town Houses 2 number 2 bedroom town houses and 12 apartment Resubmission of Application 20/00463/FUL.'
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by Wickens Estates Ltd against Tameside Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.
4. The application form does not provide a site address. I have therefore used the address provided in the appellants' appeal forms in the banner heading above.
5. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission for two reasons.

Main Issues

6. From the evidence before me, I consider the main issues to be:
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development on the living conditions of the residents of the neighbouring properties on the northern side of Stamford Road, with particular regard to outlook and privacy.

Reasons

Character and Appearance

7. The appeal relates to an undeveloped area of land that is located on the edge but within the boundary of the Mossley Town Centre as defined in the Tameside Unitary Development Plan 2004 (UDP). It is covered in vegetation, overgrown in sections and falls steeply from south to north. Although there are some three and four storey buildings in the immediate area, including the adjacent neighbouring property to the western side of the site, these are mainly dual fronted, and are situated on prominent corner locations next to the junctions of the highways within the commercial heart of the town centre.
8. The prevailing character of this part of Stamford Road is of two storey residential terrace blocks, of varying styles, that are set out in a linear pattern. Despite this variety, the majority of the properties have similar widths, heights and proportions as the other terrace dwellings within their rows. This general uniformity in design provides simple, continuous, and balanced individual terrace rows.
9. Nonetheless, the proposed development would be of considerable size and scale. The submitted plans and 3D computer generated images show that it would have an eaves and roof ridge height substantially taller than those of the neighbouring terrace properties to the east and on the opposite side of the road. Despite the staggered roof design, the introduction of the uncharacteristic steep pitched roof forms would also provide additional visual bulk and dominance to the building which would sharply step up and jar against what is otherwise a broadly harmonious scale of development to the north and east.
10. The narrower widths and set backs of the frontages of the properties referenced as house 1 and house 2 in the submitted plans, in comparison to the other properties in the proposed row, along with the varying number of differently positioned openings, would result in an inconsistent and irregular form of development.
11. The predominant impression of the proposal when viewed from nearby highways would therefore be of an overly large and contrived form of development that would appear out of context and at odds with the size, scale and simple frontages of the neighbouring terrace properties.
12. As such I find that the proposed development would cause significant harm to the character and appearance of the area. In reaching this finding I have had regard to the submitted photographs and historic map which indicate that multiple storey buildings previously occupied a similar position on this land. However, these buildings have been demolished, and no longer form a part of the immediate local context.
13. The proposal consequently conflicts with UDP Policies H10 and C1 which, amongst other things, seek high quality design and require proposals for built development to respect the townscape, topography and urban form of an area. Conflict would also arise with advice contained in Policy RD2 of the Council's Residential Design Guide Supplementary Planning Document 2010 (SPD) which requires a consideration be given to how a proposal would align with the height, width and scale of surrounding buildings when assessing an area's

character. In addition, it would also fail to accord with the design objectives of the Framework, specifically Section 12.

Living Conditions

14. According to the Council's uncontested measurements the distance between the proposal and the nearest windows in the two storey residential properties on the opposite side of Stamford Road would be approximately 9 metres. This would fall considerably short of the recommended interface distances contained within Policy RD5 of the SPD. However, the SPD also sets out that the variation of these guidelines may be acceptable on infill sites, such as the appeal site, where existing spacing should be taken into account. It therefore does not follow that a proposal should stand or fall solely on the application of these standards and each proposal is required to be judged on its own merits.
15. Nonetheless, at such close proximity to the ground and first floor habitable windows of the neighbouring two storey properties on the opposite side of Stamford Road, the proposed four storey building would visually dominate the outlook from these openings, thereby having an oppressive and overbearing effect.
16. I appreciate that the proposal has been amended from the previously refused scheme (Ref:20/00463/FUL) and now has rooflights within the front roof plane rather than dormer windows. However, there would still be a number of habitable room windows at second floor level that would directly face and overlook the ground floor and first floor windows of the terrace properties on the opposite side of the road. Given the short intervening distance between these windows an unacceptable loss of privacy to the residents of these neighbouring properties would thereby also occur.
17. Whilst the appellants contend that the siting of two storey properties opposite to three storey properties is not an uncommon occurrence in Mossley, I have not been provided with any specific examples of comparable relationships to those which apply in this appeal. I have, in any case, determined the appeal based on its own planning merits.
18. I therefore find that the proposed development would have a harmful effect on the living conditions of the residents of the neighbouring properties on the northern side of Stamford Road, with particular regard to outlook and privacy. As such it would conflict with UDP Policy H10, which seeks, amongst other things, to ensure that proposed housing developments do not have an unacceptable impact on the amenity of neighbouring properties through factors that include the loss of privacy. In addition, it would fail to comply with the advised private amenity space standards provided within the Council's SPD, and would fail to accord with paragraph 130 of the Framework which seeks a high level of amenity for all existing and future users.

Planning Balance

19. The Council accepts that it is unable to demonstrate a five year deliverable supply of housing land. The relevant policies of the development plan are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, planning 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. I have found that the proposed development would be harmful to the character and appearance of the area and the living conditions of the residents of neighbouring properties. These harms would be wide ranging, long lasting and contrary to the aims and objectives within paragraph 130 of the Framework. With these factors in mind, I ascribe these matters substantial weight.
21. I note that the Council has not raised any objections to the principle of residential development and that four town houses and twelve apartments would deliver housing in a sustainable location which would, in turn, reduce the pressure to develop Green Belt or Open Countryside sites. However, the amount of proposed housing would only provide a contextually moderate contribution to the Council's housing supply, and any subsequent economic, social and environmental benefits would also be somewhat limited.
22. With this in mind, I attach moderate weight to the appeal scheme's benefits. As such, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

23. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, I conclude that the appeal is therefore dismissed and planning permission is refused.

Mark Caine

INSPECTOR