
Appeal Decision

Site visit made on 11 February 2019

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2019

Appeal Ref: APP/G4240/W/18/3215638

Land to rear of plots 1-19 Shakespeare Avenue, Stalybridge SK15 3HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Bacon (Jigsaw Homes Group) against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 18/00516/FUL, dated 31 May 2018, was refused by notice dated 20 August 2018.
 - The development proposed is 3 No. 2 bedroom and 4 No. 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has highlighted that the second reason for refusal refers to Policy 1.1 not 1.3 of the *Tameside Unitary Development Plan (adopted November 2004)* (UDP), and so considers that this reason for refusal should be disregarded as it is factually incorrect. The Council have highlighted that this was a typographical error, and I note that the delegated report does reference the correct policy. Given this, and the fact that the reason for refusal also correctly refers to another policy in the UDP and the relevant section of the *National Planning Policy Framework*, I am satisfied that the reason for refusal is still valid, and I have determined the appeal on this basis.

Main Issues

3. The main issues in the appeal are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of nearby residents with particular regard to noise and disturbance, privacy and outlook.

Character and appearance

4. The appeal site is a largely overgrown site located to the rear of houses that face onto Shakespeare Avenue and Huddersfield Road. It contains a small number of lock up garages as well as an area of hardstanding associated with the former use of part of the site as a builders/maintenance depot. The surrounding area is predominantly residential.
5. The houses proposed on the site would consist of a row of 3 houses and two pairs of semi-detached houses. This would reflect the prevailing house types in

the immediate area. The scheme would utilise existing accesses adjacent to No 1 and No 19.

6. Due to the long narrow nature of the site the proposed houses would be set at right angles to the existing houses on Shakespeare Avenue, and the front elevations of the houses on plots 1 and 2 would face the rear elevations of the houses on Huddersfield Road. Whilst this would not respect the established pattern of development in the locality, there would be very little visibility of the development from the public realm, and so I am satisfied that this arrangement would not have a detrimental impact on the street scene.
7. Each dwelling would have a small rear garden, similar in size to the surrounding properties, as well as an area to the front which would largely provide parking spaces for the houses. However, the constraints of the site are such that, there is little additional space to the front of many of the dwellings other than the parking spaces. Landscaped areas, particularly near plot 1 and 2, are limited in size, and this would restrict the scope to provide any attractive soft landscaping on them.
8. As a result, this would create a layout that would be dominated by hard surfacing. Combined with the high fencing needed along the boundary of the access roads to provide adequate privacy to existing users, I consider the scheme would create a poor visual environment and an unattractive streetscape within the site. This would be out of keeping with the visual environment of the wider estate, and make the scheme appear cramped and over developed.
9. Consequently I consider that the proposed development would have an unacceptable impact on the character and appearance of the area. Therefore, it would conflict with Policies H10, and C1 of the UDP which require developments to have a high quality of design that complements and enhances the character and appearance of the surrounding area. It would also be contrary to section 12 of the Framework which seeks to ensure developments are well designed and visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Living conditions – nearby residents

10. The proposed access for plots 1 and 2 would run along the rear gardens of the adjacent properties on Huddersfield Road. Whilst this is an existing access, it is an unmade track, which did not appear to be used other than perhaps by residents accessing their rear gardens. As such, its proposed use by vehicular traffic would mean a significant increase in its use.
11. The access for the other 5 plots is immediately adjacent to the rear gardens of Nos 13-19 Shakespeare Avenue. Whilst this currently provides access to a small number of garages, vehicular movements to these are likely to be limited. Therefore, the proposal would result in a significant increase in the amount of traffic movements utilising this access.
12. Given the proximity of these adjacent houses and their rear gardens to the access and parking areas for the proposed dwellings, even if traffic speeds are low, the increase / introduction of traffic movements along these accesses would inevitably exacerbate the levels of noise and disturbance experienced by the occupiers, especially as I noted at my site visit that ambient noise levels in

the area were low. In my view this would make the noise and disturbance in the back garden of these houses more akin to that of a front garden and would be particularly noticeable and intrusive in the summer months when the gardens are likely to be used more intensively and windows left open to improve ventilation.

13. I accept that the former use of part of the site as a depot would have been likely to generate traffic movements along the access adjacent to No 19 throughout the day. However, this use ceased around 14 years ago. It is disputed between the parties whether the site could be re-used for this purpose or not. Whether the use has been abandoned or not, is not a matter for me to determine in this appeal. However, even if it could still be used for such purposes, such a use would mainly generate traffic movements during the day, whereas the proposal would also create traffic movements in the evening and at weekends, which is the time when occupiers are most likely to be utilising their houses and garden areas. As such, the appeal scheme would still create greater noise and disturbance for existing residents.
14. There would be no windows on the side elevation of the houses facing the properties on Shakespeare Avenue, and with adequate boundary treatment along the access road, I am satisfied there would be no loss of privacy to these occupiers.
15. The houses on plot 1 and 2 face the rear elevations of Nos 414 and 416 Huddersfield Road. The appellant has indicated that the proposal would meet all the separation distances as set out in the *Tameside Residential Design Supplementary Planning Document (adopted March 2010)* (SPD). Whilst the Council have stated this takes no account of the difference in levels between the site and existing properties, they have not provided any evidence to show that these minimum distances are not met. In the light of this, and my own observations, I am satisfied that the proposed houses would be a sufficient distance apart to ensure no loss of privacy to the occupiers of the adjacent houses on Huddersfield Road.
16. In addition, although a number of these houses only have small fences around their rear gardens, as the appellant has suggested that high fencing would be provided along the boundaries, and this could be secured by a condition, this would be sufficient to maintain the privacy of the gardens from those using the existing access or from ground floor windows.
17. Although, not mentioned in the reason for refusal, the Council's evidence also refers to the impact of the proposal on the outlook from the surrounding houses. Nevertheless, in the absence of any evidence to show that the proposal would not meet the required separation distances, I consider that whilst the outlook from some of the houses may change, the proposal would not unacceptably harm the living conditions of the occupiers in this respect. Nor would the proposal create an unneighbourly sense of enclosure to their rear gardens as the houses are set away from the boundaries.
18. Notwithstanding my findings regarding privacy and outlook, I consider that the proposal would unacceptably harm the living conditions of nearby occupiers with particular regard to noise and disturbance. As such, it would be contrary to Policies H10 and 1.3 of the UDP which amongst other things, requires that developments do not have an unacceptable impact on the amenity of neighbouring properties, and have a high quality of design which has regard to

the relationship between buildings. It would also conflict with the Framework (paragraph 127) which seeks to ensure that developments, amongst other things, provide a high standard of amenity for existing and future users.

Other Matters

19. The site is immediately adjacent to Millbrook Conservation Area and the church to the rear of the site, which is set in extensive grounds, is a Grade II Listed Building. As such, I have had regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
20. A heritage statement was submitted with the application and the Council agree with its conclusion that the proposal would not harm the setting of the Listed Building or the conservation area. Nothing that I have seen or read leads me to a different conclusion in this regard. Consequently, I am satisfied that the proposal would not have a detrimental impact on the setting of either heritage asset.
21. The Council have indicated that the rear gardens of plots 5-7 are limited in size. However, I note that the council do not have any adopted standards for the amount of outdoor space that should be provided in new dwellings. Given the context is one of modest rear gardens, and the fact that plots 5-7 are the 2 bedroomed houses, I consider that they would be provided with an adequate amount of outdoor space.

Planning Balance and Conclusion

22. It is not disputed that the Council cannot demonstrate a 5 year supply of housing land. Paragraph 11d of the Framework indicates that in such circumstances permission should be granted unless certain criteria apply. In this case, although the site is within the setting of a Listed Building and a conservation area, I have concluded above that the proposal would not have a detrimental impact on them and so this does not represent a clear reason for refusing the development. It follows that Footnote 6 to paragraph 11 does not apply. Thus permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
23. The construction of the dwellings would provide some temporary work for local contractors, and spending by future occupiers would benefit the local economy. However, given the size of the development these benefits would be limited. The appellant is a social housing provider and has indicated that there is a large demand for social housing in the area. As such, the proposal would make a small, but valuable contribution to housing supply in an accessible location. In addition, the proposal would result in the development of what is currently an unkempt, derelict site, that it is indicated is subject to anti-social behaviour.
24. Whilst I have given consideration to these benefits, I consider that they are significantly and demonstrably outweighed by the adverse impact that the proposal would have on the character and appearance of the area and on the

living conditions of nearby residents. Therefore, for the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR