



Appeal Decision

Site visit made on 22 January 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2020

Appeal Ref: APP/N4205/W/19/3237598

Land to the rear of 15-49 Singleton Avenue, Horwich

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Paul Philbin against the decision of Bolton Council.
 - The application Ref 05772/19, dated 21 February 2019, was refused by notice dated 29 July 2019.
 - The development proposed is the erection of 48 No dwellings with associated car parking and landscaping.
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Decision

1. I allow this appeal, and grant planning permission for the erection of 48 dwellings with associated car parking and landscaping on land to the rear of 15-49 Singleton Avenue, Horwich in accordance with the terms of the application 05772/19, dated 21 February 2019, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issues in this appeal are the effect of the proposed development on:
 - The provision of informal green space in the surrounding area; and
 - The character and appearance of the site and the surrounding area.

Reasons

Informal Green Space

3. The appeal site is a broadly rectangular area of open, rough grassland located to the rear of No 15-49 Singleton Avenue in Horwich, near Bolton. It slopes gently from the rear of Singleton Avenue to a larger area of open land which accommodates several playing pitches. The appeal site forms about one-quarter of the entire area of open land. This area of open land is surrounded by housing and other forms of built development.
4. The appeal proposal comprises the construction of 48 dwellings (31 x 3-bedroom; 17 x 2 bedroom) on a cul-de-sac to be accessed from Singleton Avenue together with a small water pumping station laid largely underground. 46 of the dwellings would be 2-storey and 2 would be bungalows. 40 of the dwellings would be made available for affordable rent and the remaining 8 would be available on a shared ownership basis.

5. The site is used for informal recreation including dog walking. It seemed to be soft underfoot. During my visit I was able to identify several pathways through the rough grassland from the more elevated section along the edge of Singleton Avenue towards the playing fields. I formed the impression that the site and its surroundings provided a well-used and valuable area of open space within an urban area.
6. The site is notated as '96SC' in Bolton's Allocations Plan 2014 (BAP) and is allocated for the development of up to 53 dwellings. I consider that within a plan-led system this is a very important factor in support of the appeal proposal.
7. The Council acknowledges that it does not have a 5-year supply of deliverable housing land although it does not state what the scale of the shortfall is. In these circumstances the scheme would add to the supply of affordable housing in the area.
8. The site is a greenfield, not a brownfield, site. It has been argued that the Council should be focusing on brownfield development and that there is a risk of Horwich being over-developed. Several objectors referred to the development of 1700 dwellings at the former locomotive works in Horwich, questioning or disputing the need for the release of a greenfield site. It was also suggested that a new town (what might be referred to in formal planning parlance as a new settlement) should be considered in the alternative to development on an urban greenfield site.
9. I also note that access to informal open space is likely to fulfil an important need for mental, as well as physical, well-being. This is likely to be more important in an area like Horwich where a large number of people live in dwellings with only a limited amount of private garden space. Further, because the site is more natural than the rest of the open space, which is largely laid out for playing fields, it is also likely to have a greater degree of bio-diversity. In this regard I note the comments from objectors that the site has a wild meadow quality that contains butterflies and attracts gulls and agree that all might be displaced with development.
10. I note that some residents along Singleton Avenue will lose direct access to the open land via their back-garden gates. I am not able to say whether their current access constitutes a legal access. Nevertheless, whilst having to use a less direct route would create an inconvenience, access to the playing fields would still be available via the footpath to the side of the entrance to the proposed cul-de-sac.
11. In order to help off-set the loss of the informal green space the appellant has offered a signed and dated unilateral undertaking to provide £10,000 towards the improvement of Old Station Park recreation ground some 800 metres or so away from the site. The Council considers that improving this facility is a high priority.
12. This contribution by an affordable housing developer towards the improvement of green space close to the appeal site would be consistent with the advice set out at paragraph 4.17 of the Council's Infrastructure and Planning Contributions: Adopted Supplementary Planning Document 2016. I attach considerable weight to this document which gives support to the BAP. The

contribution sum was calculated by reference to the number of affordable homes being proposed.

13. Therefore, this undertaking complies with the requirements laid out at paragraph 56 of the Framework, namely that the undertaking is: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
14. Thus, I conclude that the development of the site for housing would lead to the loss of informal open space. However, the site is allocated for the development of up to 53 dwellings in the BAP. Furthermore, to offset the loss of informal open space the appellant has agreed with the Council to help fund the improvement of recreational space at the nearby Old Station Park. Thus, I find that the proposal accords with Policy CG1.4 of the CS which permits the development of some informal green spaces in urban areas providing that it allows for the improvement of remaining green spaces and helps to meet a strategic housing objective.

Character and Appearance

15. At present the site is part of a larger area of open land which provides an important green space within the neighbourhood. This open space is bisected by a shallow stream running east-west and described by a line of large, mature trees. The rough grassland of the appeal site helps to frame the view of the playing pitches and provides an important element of separation between them and the adjacent housing. With its unmanicured appearance it also provides a degree of visual variety and contrast, in particular when viewed from the far western side of the open space.
16. The broader open space is well looked after. I did not see any indication that the area might be associated with anti-social behaviour. Despite the soft ground I saw some people walking their dogs through the rough grassland.
17. The proposed development would comprise dwellings of a similar type and size to those along Singleton Avenue. Most of the dwellings would be in the form of semi-detached properties.
18. There is little doubt that when viewed from the playing pitches to the west the proposed development would result in the recreational space losing some of its open and almost wild quality. The development would result in new housing being brought very close to the playing pitches. Whilst the area would still possess a generally open appearance there would inevitably be a greater sense of enclosure and confinement.
19. For the above reasons, therefore, the proposed development would cause moderate harm the character and appearance of the appeal site and the surroundings. It would therefore fail to conform with Policy CG3 and OA1 of the CS which seek to ensure that new development conserves and enhances the character and distinctiveness of the local landscape and the physical environment.

Other Matters

20. It has been submitted that the appeal site includes what is currently part of the mown area of playing field and also what was until recently used as a playing pitch. On this basis it is asserted that part of the site is protected recreational land and that the proposal therefore fails to accord with the advice set out at paragraphs 96 and 97 of the National Planning Policy Framework (the Framework).
21. In his report into objections to the BAP the Inspector noted that the Council has undertaken a survey of the need for playing fields and concluded that the land subject to this appeal is surplus to requirements. The Council's 'Playing Pitch Strategy' has not been submitted to this appeal and, therefore, I cannot confirm what it states. Further, I am not able to determine whether any of the appeal site has previously, or does currently, comprise any playing pitches.
22. However, on the evidence that has been submitted, I find that the Council has a sufficient level of grass playing pitches. Further, the appellant is making a financial contribution to enhancing the provision of a nearby playing pitch as a compensation for the loss of informal open space. On the bases of the above, therefore, the proposal does not run counter to the advice set out at paragraphs 96 and 97 of the Framework.
23. It was contended that the proposal might result in around 96 extra cars (i.e. 2 cars per dwelling) being introduced on to what is claimed to be an already congested local road system with attendant issues concerning pedestrian safety and access for emergency vehicles and household waste collection. I noted that there was a good deal of on-street parking along Singleton Avenue and other local roads. Nevertheless, gaining access to the proposed entrance point was quite straight forward.
24. According to the Council's Highways Officer the recorded number of accidents in the area did not raise any concerns and the additional number of traffic movements generated by the proposal would be very low. In saying this I am mindful of the submission that an accident on the junction of Ormston Avenue and Green Lane led to a fatality although I have no details on this incident. Because the additional traffic is likely to be distributed around the road network quite quickly on leaving the site, the development would not cause any danger to highway safety or lead to any unacceptable traffic congestion.
25. The width of the proposed cul-de-sac carriageway would be slightly below that required by the Council. However, each dwelling would include a driveway capable of accommodating 2 cars implying that the need for on-street parking would be relatively limited. Thus, the proposed cul-de-sac would not create any meaningful highway safety concerns.
26. Concern was also raised over the increased risk of flooding. It was stated that heavy rain leads to large outflows from Singleton Avenue towards the site. This was consistent with my own finding that the appeal site was very wet underfoot. Nevertheless, the site is not located within an area of high flood risk. Consequently, the development proposal would not be subject to a serious risk of flooding.
27. It was also suggested that the proposed development would infringe the privacy or outlook of neighbours. The Council states that the interface distance

between Nos 47/49 Singleton Road and the side elevation of Plot No 1 of the proposed development would be 13.5 metres. This would just comply with the standard advised in the Council's Supplementary Planning Document General Design Principles 2014 (SPD). Similarly, the interface distances between Nos 23/15 Singleton Avenue and Plot No 17 plot comply with the SPD as do those between Plot 3 and Plot 5. Since the SPD was introduced to give effect to principles set out in the development plan, I accord it considerable weight.

28. It has been stated that there is a restrictive covenant prohibiting the land from being developed. I have not been presented with a copy of this document. Nevertheless, this is not a planning matter and is therefore not relevant to the determination of this appeal. Finally, it has been stated that development of the appeal site would be contrary to one or more provisions of the Open Spaces Act 1906. No further details have been provided and so I have been unable to explore this matter.

Planning Balance and Conclusions

29. I have found that the proposed development would cause moderate harm to the character and appearance of the appeal site and the surrounding area and so conflict with provisions of the development plan. However, I have also found that the proposal is allocated for housing development and would accord with the Development Plan so far as the loss of informal open spaces is concerned.
30. I conclude that the harm caused by the development to the character and appearance of the area is clearly outweighed by the fact that the site is allocated for housing development within the BAP and that any loss of informal open space will be offset by a unilateral undertaking securing enhanced recreation facilities at Old Station Park.
31. For the above reasons I find that the proposal accords with the Development Plan as a whole. Consequently, the appeal is allowed subject to the attached Schedule of Conditions.

Conditions

32. In addition to the standard 3-year commencement condition and a condition requiring implementation of the scheme in line with the approved drawings, I have imposed a number of pre-commencement conditions. I have imposed a condition requiring a preliminary risk assessment to protect the health and safety of future occupants. I have required that a construction management plan be submitted and imposed to minimise inconvenience to other road users during the construction phase. I have imposed a condition requiring that a surface water drainage plan be submitted to ensure that surface water is dealt with through a sustainable drainage system. A condition has been attached requiring that trees close to the site be protected prior to the construction phase and that an Arboricultural Method Statement be submitted for the protection of trees to the rear of plots Nos 18-30. I have also included conditions requiring the submission and approval of details concerning building materials, the use of swift bricks and details of boundary treatment.
33. In order to ensure the orderly development of the scheme I have included conditions requiring the submission and approval of a landscaping scheme and completion of the cul-de-sac prior to the occupation of the first dwelling. Prior to the occupation of a dwelling I have required that the developer complete the

driveway and, exceptionally, I have withdrawn permitted development rights for the erection of any structures in driveways other than garages. To protect the living conditions of neighbours I have, exceptionally, attached a condition withdrawing the right of occupants to invoke permitted development rights on the rear elevations of plots Nos 5-14. To ensure highway safety I have attached a condition requiring that the developer have completed all its obligations so as to allow the Council to implement necessary traffic regulation orders.

William Walton

INSPECTOR

Richborough Estates

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in full accordance with the following approved Preliminary Risk Assessment: Intrusive Site Investigation recommended, dated 22 January 2018 (ref: 18-B-1207) by Carley Daines and Partners Limited.

Prior to commencement of development and before any physical site investigation, a methodology shall be approved by the Local Planning Authority. This shall include an assessment to determine the nature and extent of any contamination affecting the site and the potential for off-site migration. Provision of a comprehensive site investigation and risk assessment examining identified potential pollutant linkages in the Preliminary Risk Assessment should be presented and approved by the Local Planning Authority.

Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment shall be approved by the Local Planning Authority prior to implementation. Any additional or unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as practicably possible and a remedial scheme to deal with this approved by the Local Planning Authority.

Prior to first use/occupation of the development hereby approved a Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall validate that all remedial works undertaken on site were completed in accordance with those agreed by the Local Planning Authority

3. Prior to the commencement of development, including demolition, ground works or vegetation clearance a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The CMP shall include the following details:

a) Hours of construction and deliveries; b) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway; c) Dust suppression measures; d) Noise emission suppression measures; e) Construction routes in and around the site; f) Compound locations together with details of the storage facilities for any plant and materials including off-site consolidation if appropriate, the siting of any site huts and other temporary structures, including site hoardings and details of the proposed security arrangements for the site; g) Parking of vehicles associated with construction, deliveries, site personnel, operatives and visitors; h) Sheeting over of construction vehicles.

Development of each phase or plot shall be carried out in accordance with the approved CMP.

4. Prior to the commencement of any groundworks, full details of the proposed surface water drainage works shall be submitted to and approved in writing by

the local planning authority. Before these details are submitted an assessment shall be carried out to investigate the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage system is to be provided, the submitted details shall:

1) 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. 2) Include a timetable for its implementation, and 3) 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 approved works shall be implemented in full prior to the occupation of the buildings hereby approved and those works as approved shall be retained thereafter.

5. No demolition, development or stripping of soil shall be started until: 1. The trees within or overhanging the site which are to be retained have been surrounded by fences of a type to be agreed in writing with the Local Planning Authority prior to such works commencing. 2. The approved fencing shall remain in the agreed location (in accordance with BS 5837:2012) until the development is completed or unless otherwise agreed in writing with the Local Planning Authority and there shall be no work, including the storage of materials, or placing of site cabins, within the fenced area(s).

6. Prior to the commencement of development of any works on site, the developer shall submit an arboricultural method statement detailing how the following elements of the site will be constructed without causing harm or damage to the protected trees found on the site to the Local Planning Authority. The specified areas are:

Erection of fencing to the rears of plots 18 to 30; Clarification of no level changes within the root protection zones of the trees to the rear of plots 18 to 30; Clarification of where services and utilities will be.

No development or site clearance shall take place until the Local Planning Authority has agreed the measures in writing, and these measures shall then be implemented fully in accordance with the approved details.

7. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples or full details of materials to be used externally on the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The approved materials shall be implemented in full thereafter.

8. Prior to any above ground construction works taking place, details shall be submitted to and approved in writing by the Local Planning Authority to show how the development would incorporate swift bricks. The approved scheme shall be implemented in full and retained thereafter.

9. Prior to the development being first occupied or brought into use, details (including a brick or masonry specification and colour scheme) of the treatment to all boundaries to the site shall be submitted to and approved in writing by the Local Planning Authority. Fencing to the rear and side of garden areas should include hedgehog holes (measuring about 130mm by 130mm). The approved scheme shall be implemented in full prior to first occupation and retained thereafter.

10. Trees and shrubs shall be planted on the site in accordance with a landscape scheme to be submitted and approved in writing by the Local Planning Authority prior to the development being first brought into use. The approved scheme shall be implemented in full and carried out within 6 months of the occupation of any of the buildings or the completion of the development, whichever is the sooner, or in accordance with phasing details included as part of the scheme and subsequently approved by the Local Planning Authority. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.

11. Prior to the development hereby approved/permitted being first occupied or brought into use the means of vehicular access to the site from Singleton Avenue shall be constructed to a minimum width of 5.5 metres with 2 metres wide footways in accordance with the drawing ref. 1265-003.1 Rev D.

12. No dwelling shall be occupied until the access road(s), footway(s) and footpath(s) leading thereto have been constructed and completed in accordance with the approved drawing ref: 1265-003.1 Rev D.

13. Prior to the occupation of the dwelling houses hereby permitted provision shall be made for the parking of motor vehicles adjacent to each of the dwelling houses in the area identified for that purpose on the approved plan. Those areas shall thereafter be retained at all times for that purpose. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or replacing that Order) other than (a) garage(s), no extensions, porches, outbuildings, sheds, greenhouses, oil tanks, wind turbines or satellite antennae shall be erected within that area.

14. Prior to any above ground construction works taking place, all developer obligations shall be fulfilled to enable the Local Highway Authority to carry out a review of Traffic Regulation Orders in the locality where necessary and to enable the Local Highway Authority to consult, advertise, promote and implement Traffic Regulation Orders for (i) no-waiting at any time restrictions at the access junctions onto Singleton Avenue and turning heads within the site, and (ii) an extension of the 20mph speed limit onto the new residential road.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no extensions or outbuildings, dormers or any other alterations to the roof (other than those expressly authorised by this permission) shall be constructed on/to the rear elevation/rear roof plane of the dwellings approved at plots 5 to 14 (inclusive).

16. The development hereby permitted shall be carried out in complete accordance with the following approved plans:

1265-003.1 Rev D; "Proposed Site Plan"; dated 28.02.19 and received 13 Jun 2019 1265-005; "Unit Type 1"; dated 28.02.2019 1265-005.1; "Unit Type 2"; dated 28.02.2019 1265-005.2; "Unit Type 3"; dated 28.02.2019 1265-005.3; "Unit Type 4"; dated 28.02.2019 1265-005.4; "Unit Type 5"; dated 28.02.2019 1265-005.5; "Unit Type 6"; dated 28.02.2019 1265-005.6; "Unit Type 6 Alt"; dated 28.02.2019 1265-005.7; "Unit Type 7"; dated 28.02.2019 1265-005.8; "Unit Type 8"; dated 28.02.2019 1265-005.9; "Unit Type 9"; dated 28.02.2019 1265-005.10; "Unit Type 9 Alt"; dated 28.02.2019 1265-005.11; "Unit Type 9 Alt - 2"; dated 28.02.2019 1265-005.12; "Unit Type 10"; dated 28.02.2019 18.B.12017/02 Rev A; "Proposed Site Levels"; dated Sept 2018.

(End of Conditions)

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