

Report to Planning and Licensing Committee



Date of Meeting	5 th November 2020
Portfolio	Councillor Carol Wardle, Cabinet Member for Planning, Development & Housing
Report Author	Mubeen Patel
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Application: 19/00372/HOUS	Township: Rochdale	Ward: Balderstone And Kirkholt
Appeal References: Appeal A: APP/P4225/C/19/3235618 – Enforcement Notice Appeal B: APP/P4225/W/19/3235619 – Planning Refusal Application for Costs - Refused		Decision level: Delegated
Site Address: 663 Oldham Road, Rochdale OL16 4PE		
Proposal: Formation of vehicle access including alterations to existing side boundary walls, new double front entrance gates, building up of site levels along with associated landscaping and erection of front porch (part retrospective) - Resubmission of 17/01494/HOUS.		
Applicant: Mr Zain Ali		Agent: Inspire Planning Solutions Ltd
Planning Inspectorate Decision: Appeal Hearing – Planning Allowed and Enforcement Notice Quashed – 09 th October 2020		
<ul style="list-style-type: none"> – The site comprises a two storey detached residential dwelling, it is set back from Oldham Road by approximately thirty metres and has a relatively large front garden area which had different levels, with a sunken middle section which then rose again in front of the house. Neighbouring residential properties in the immediate vicinity are similarly set back from Oldham Road with sunken garden areas to the front. – The above application was refused by the Council for two reasons, in terms of character and appearance the Council viewed that the development by reason of its hard and industrial form and scale would be visually intrusive, dominant and incongruous in relation to the adjacent residential landscaped garden areas and be harmful to the character of the adjacent high quality residential street scene. In terms of Highways safety, the Council viewed that the proposed vehicular access onto the A671 Oldham Road would interfere with the free flow of traffic and give rise to additional vehicular turning movements, thereby reducing its effectiveness. Furthermore, the positioning of the access in close proximity to a bus stop, marked bus hatching and cycle lane, would present a danger to highway and pedestrian safety and result in a serious risk of accidents. – Some works including 'engineering operations comprising the formation, laying out and construction of a means of access to a classified road, and the excavation, raising, levelling and re-grading of the front garden area to form an area of hardstanding' have already taken place, subsequently an Enforcement Notice had been issued by the Council. <p>Character and Appearance</p> <ul style="list-style-type: none"> – As part of the application, the applicant had submitted a landscaping scheme that included hedge planting, tree planting close to the front boundary, whilst the hardstanding areas would comprise a variety of block paving and gravel. – The inspector viewed that the proposal includes an extensive hard surfaced area, but does not see this as unusual or necessarily at odds with residential surroundings, nor need such a large area be visually intrusive or incongruous within its residential setting. He goes on to state that the well- 		

considered bespoke design and layout of the landscaping would screen the development from existing viewpoints, including Oldham Road and the adjacent residential properties to an acceptable degree.

- The inspector goes onto state that the development would be different from front garden areas either side and in the immediate vicinity, but different is not harmful in this case.
- In terms of character and appearance the inspector concludes by expressing that the development would certainly be different from property frontages in the locality but overall it is considered to be well designed, taking account of the need to soften the hardstanding areas with a variety of soft landscaping, including trees, shrubs, grass, hedges and boundaries which will help to integrate the development within its attractive residential surroundings and ensure that it makes a positive contribution to the area.

Highways Safety

- Oldham Road is a classified highway which is a quality bus corridor and has a dedicated cycle lane. The Council argued that vehicular accesses which lead off main roads give rise to complex traffic movements and affect highway conditions and safety. Drivers turning in and out of such accesses cause other vehicles to stop and give way which interrupts the free flow of traffic and increases the risk of conflict between highway users.
- The inspector highlights evidence which shows that most accidents recorded along Oldham Road are caused by vehicles joining from side streets. The Council contends that the proposed development would result in there being an additional access point onto Oldham Road adjacent to a bus stop. However, the inspector states that the evidence confirmed that there to be no accident incidents in this particular locality. Furthermore, there is no dispute that vehicles could turn successfully within the site meaning that vehicles may enter and egress the site in forward gear
- The inspector goes onto to state that the development would cause a small increase in the number of turning movements and there is insufficient evidence to indicate that it would result in disruption to the free flow of traffic to a degree that would reduce the effectiveness of Oldham Road.
- In terms of the Bus Shelter adjacent, the inspector states that this has clear side panels and the structure itself causes insignificant hindrance to visibility. The council also argued that people and those congregating at the Bus stop which is near a high school would obstruct visibility sufficiently for them to cause an obstruction to visibility. The inspector rules that the bus stop in question is a relatively infrequently used quiet stop with very low passenger numbers waiting at the stop and therefore not a significant threat to the safety of highway users.
- The Council had also given consideration to a previously dismissed appeal at no. 657 Oldham Road about 15 years ago, but the inspector viewed the site context, including highways conditions to be likely to have been different including the planning context and development plan, the presumption now is in favour of sustainable development.
- The inspector concludes that the development would not have a harmful effect on highway safety and sees it necessary to include a condition to restrict the parking to no more than 2 cars in order to ensure turning areas are kept freely available.

Enforcement

- Given that the planning appeal is allowed, the breach of planning alleged under the enforcement notice has also been quashed which namely included engineering operations comprising the formation, laying out and construction of a means of access to a classified road, and the excavation, raising, levelling and re-grading of the front garden area to form an area of hardstanding on land.

Costs

- An application for costs was made against the Council relating to issues of 'Failing to produce evidence', 'Vague, generalised or inaccurate assertions', 'Not adopting a more helpful approach' and 'Poor ongoing case management'.
- The inspector viewed that in relation to the claims made by the appellant, the Council did not behave unreasonably in terms of the evidence it had provided, did not agree with the appellant that the Council has used vague, generalised or inaccurate assertions to support their case. Furthermore, the inspector found that the Council had not behaved unreasonably on 'adopting a more helpful approach' and no evidence was provided by the appellant in terms of the Council's alleged lack of cooperation and better ongoing case management.
- In concluding the inspector stated that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.