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## Appeal Decision

Hearing Held on 7 December 2022

Site visit made on 7 December 2022

**by T J Burnham BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> January 2023**

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**Appeal Ref: APP/N4205/W/22/3291602**

**Land off Grizedale Close, Johnson Fold, Bolton BL1 5QX**

- 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 Iain Watson (Watson Homes) against the decision of Bolton Metropolitan Borough Council.
  - The application Ref 10044/20, dated 9 December 2020, was refused by notice dated 15 November 2021.
  - The development proposed is Demolition of existing bungalows. Construction of new four storey apartment block containing 36 flats and 9 two storey houses, with associated new access road, parking and diversion to existing public footpath.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Hearing an application for costs was made by Mr Iain Watson (Watson Homes) against Bolton Metropolitan Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. It was clear from discussion at the Hearing that the scheme had evolved over time with the Council receiving amended plans during the determination period.
4. It was agreed that the final scheme that was considered by the Council related to the provision of 35 flats and 8 dwellings. The revised description should therefore be 'Demolition of bungalows and erection of 43no. dwellings comprising four storey block of 35no. flats and 8no. houses together with associated access, parking, landscaping and retaining wall along south western boundary'. I have considered the proposal on this basis.
5. It was confirmed at the Hearing that the Council were no longer contesting the original refusal reasons 3 and 4 relating to internal living space within the apartments and highway and pedestrian safety as well as part of reason 2 relating to biodiversity.

### Main Issue

6. The main issue therefore is the effect of the proposal on the character and appearance of the area with particular regard to the siting, height, scale and

appearance of the four-storey apartment building (AB) and loss of trees and hedgerows from the site.

## **Reasons**

7. The scheme, which it is stated would provide affordable housing throughout would be provided through the construction of an AB and 8 dwellings. These would be provided to the rear of Moss Bank Way, Marld Crescent and Grizedale Close, from which the site would be accessed through the site of an existing residential property, 11 Grizedale Close, which would be demolished.
8. The wider area is residential, and the site, which in part currently hosts a single residential dwelling and its large garden is secluded and set away from the busy A58 which runs to the north-west of the site. It is set towards the north-western fringes of Bolton.
9. Grizedale Close and its approach roads host residential properties in a reasonably low-density format often in single storey form. Whilst the pattern of development tightens somewhat around Marld Crescent, properties on Moss Bank Way backing onto the site enjoy a sense of openness that is a characteristic of the area. The established pattern is of dwellings with front and rear gardens.
10. The character of the area and the site in particular was discussed extensively at the Hearing, and amongst other terms it was described as being tranquil and quiet, terms with which I would not disagree. The site has a generally lightly wooded appearance other than the south-western section where prior tree clearance appeared to have taken place. The site is visible from the surrounding residential dwellings as well as the public rights of way (PROW) which fringe the site along two sides.
11. There would be an adverse impact on the appearance of the site, which would occur as a result of the removal of the attractive existing dwelling and the loss of some trees from areas towards the centre and at the access to the site.
12. However, whilst the AB would be an unfamiliar building within the area with regards to its height and scale, its impact on the appearance of the area would largely be contained and limited by reason of the siting and set down position of the building.
13. The retention, in the main, of the large grouping of TPO trees on the western side of the site would also serve to limit the impact of its appearance. The AB would also be set away from the passing PROW's. Whilst clearly arrived at largely out of function, the AB would not be unacceptable in terms of its appearance.
14. However, the AB, which would contain 28 one-bedroom flats along with 7 two-bedroom flats would be a notably dense form of development for this location, and its presence would contrast sharply with the character of the area.
15. Set against the tandem provision of the dwellings, the 35 flats within the AB would be likely to generate significant amounts of comings and goings as a result of the movement of residents and delivery and service vehicles, which are at the current time likely to be limited by reason of the restrained density of development.

16. The apartment block would be likely to introduce significant additional lighting into what would likely currently be a dark space during the winter along with significant additional noise during the summer when residents would likely wish to enjoy the extensively provisioned balconies and folding doors to the flats.
17. These would be development impacts that would contrast sharply with the existing character of the area and which despite the positioning and setting of the AB, would be notable from outside of the site.
18. Given these matters, the AB would result in substantial harm to the character of the area. It would subsequently conflict with policies CG3 and OA5 of the Bolton Core Strategy (2011) (CS) which amongst other things require that development has regard to the overall built character of an area and that the character of the existing physical environment should be conserved or enhanced within North Bolton.

### **Other Matters**

19. It is set out that the affordable housing would be secured by condition and the main parties agreed on that method at the Hearing. However, the suggested condition relies on the submission of a 'scheme for the provision of the affordable housing'. The condition would not be binding on a mortgagee, which would be likely to be problematic in securing the scheme as 100% affordable given that at the Hearing it was suggested that some of the houses within the scheme would be likely to be within shared ownership.
20. Mindful of the judgment<sup>1</sup>, I consider that the condition could be reasonably interpreted as requiring a legal agreement to secure the affordable housing at the site. It was agreed at the Hearing that there would not be exceptional circumstances justifying a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into as outlined within PPG<sup>2</sup>.
21. I am not therefore assured that the scheme could be secured and retained as affordable housing and the positive weight that could be afforded to the provision of affordable housing at the site is very limited.

### **Other Considerations**

22. Set against the harm identified there would be social and economic benefits associated with the proposal. The dwellings would make a notable positive contribution to the overall supply of housing and would provide support to the local economy both during and after construction. There would be good accessibility to services and facilities for residents. Biodiversity net gains are identified of 10.82% in relation to habitat units and 38.68% in relation to hedgerow units.

### **Planning Balance**

23. The CS dates from 2011 but the weight to be attached does not hinge on its age. Rather, paragraph 219 of the Framework<sup>3</sup> makes it clear that due weight should be given to existing development plan policies according to their degree

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<sup>1</sup> In R (on the application of Skelmersdale Ltd Partnership) v West Lancashire BC [2016] EWCA Civ 1260.

<sup>2</sup> <https://www.gov.uk/guidance/use-of-planning-conditions> Paragraph: 010 Reference ID: 21a-010-20190723.

<sup>3</sup> National Planning Policy Framework 2021.

of consistency with the Framework. The Framework places significant emphasis on achieving well designed places.

24. At paragraph 130 amongst other things, it states that planning decisions should ensure that developments are sympathetic to local character. Therefore, the conflict between the proposal and policies CG3 and OA5 of the CS should be given significant weight in this appeal. As the proposal would be contrary to these policies, there would be a conflict with the development plan as a whole.
25. It was agreed at the Hearing that the current five-year land supply position within the Borough is 3.9 years. When considering the Housing Delivery Test, the figure is 77%. In these circumstances footnote 7 of the Framework establishes that the policies which are most important for determining the application are deemed to be out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
26. Whilst I accept that there would be economic and social benefits associated with the provision of the scheme and acknowledge the housing supply position, the relationship of a development with the character of an area is a fundamental and important consideration within the planning process. I therefore afford significant weight to this matter.
27. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

## **Conclusion**

28. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. The appeal is therefore dismissed.

*T J Burnham*

INSPECTOR

## **DOCUMENTS SUBMITTED AT HEARING:**

Written comments of Cllr Roger Hayes

List of Bird and other wildlife species visiting 9 Great Marld Close

Costs claim from appellant (Further period of time allowed for Council Response)

Housing supply position update