
Appeal Decision

Site visit made on 9 February 2016

by Julia Gregory BSc (Hons) BTP MRTPI MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24th March 2016

Appeal Ref: APP/Z4718/C/15/3137022

**Land on the South West side of Woodhead Road, Honley, Huddersfield
HD9 6NW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Richard Schweidler against an enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The notice was issued on 9 September 2015.
 - The breach of planning control as alleged in the notice is without planning permission: - The erection of two sheds, one timber framed building and the formation of a new access onto a classified road including the erection of gates and the laying of a hard surface through the deposit of hardcore/crushed stone.
 - The requirements of the notice are:
demolish the two sheds and the timber framed building;
remove the hard surface;
remove all resultant debris from the site;
remove the stored building materials and equipment from the site.
remove the gates over the access;
close off the vehicular access to Woodhead Road by re-building the gap to the same height and the same materials as the remaining boundary wall.
 - The period for compliance with the requirements is 12 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (d) of the Town and Country Planning Act 1990 as amended.
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Preliminary matters

1. There is some reference in representations to the material change of use of the land from a nil use to storage in the form of a builder's yard. There is also reference in Council correspondence dated 3 November 2015 to "associated hard surface to be used for storage". As the enforcement notice relates to operational development I shall not refer to those matters further.
 2. The appellant has argued that the boundary line is inaccurate as regards its relationship to the public footpath to the south. Nevertheless, the information provided by the appellant is insufficient to make any alteration to the plan attached to the notice. Furthermore, it is not suggested that the buildings referred to or the access, gates and hard surface are outwith the land identified.
 3. I therefore consider that this has caused no injustice and shall make no alterations to the notice in that regard.
 4. Since there is no ground (a) appeal, whether all or part of the land is within the green belt does not affect my decision.
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Decision

5. The appeal is dismissed.

Reasons

Ground (c) appeal

6. The appeal is made on the ground that those matters, i.e. the matters stated in the notice which give rise to the alleged breach of planning control), if they occurred, did not constitute a breach of planning control. The main issue is whether the development amounts to permitted development under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The onus is on the appellant to prove his case.
7. The site comprises land between Woodhead Road and Far Banks. The access is onto Woodhead Road, a classified road, the A6024. The land slopes sharply down from Far Banks towards Woodhead Road.
8. I will deal firstly with the buildings. The buildings comprise what I shall call the upper shed, because it is at a higher level, and the lower shed because it is sited on lower land, and a partially constructed timber building in a state of some collapse to the south.
9. These result from building operations and hence fall within the meaning of development under s55 (1) of the 1990 Act. The Act provides a mechanism whereby the Secretary of State can grant planning permission for classes of development by means of a Development Order (sections 58, 59). The right to carry out development pursuant to planning permission granted by a Development Order is known as a permitted development right (PD).
10. As it is not disputed that the buildings were erected prior to 15 April 2015 the relevant Order is the Town and Country Planning (General Permitted Development) Order 1995.
11. Article 3 of the Order gives effect to the PD rights contained in Schedule 2. Part 1 of Schedule 2 applies to development within the curtilage of a dwellinghouse. Part 1, Class E makes provision for any building required for purposes incidental to the enjoyment of the dwellinghouse as such, subject to conditions and limitations.
12. Whether or not this is within the curtilage of a dwellinghouse is the first matter to consider. The 1995 Order does not define the curtilage of a dwellinghouse for the purposes of Class E. The Oxford English Dictionary defines it as a small court, yard, garth, or piece of ground attached to a dwellinghouse and forming one enclosure with it; or so regarded by the law; the area attached to and containing a dwellinghouse and its outbuildings. Curtilage defines an area of land in relation to a building and not a use of land.
13. This land is physically separated from any dwelling and is not a small area about a dwelling. Hillcrest which lies on the opposite side of Far Banks is a substantial dwellinghouse in extensive grounds which has been re-built in recent years. The plan 01.2116.(0-)02 approved 7 March 2003 does not show the appeal site within its boundary. The red line shown around the application site for a refused application ref 02/62/90916/103 for that dwelling shown on drawing No 01.2016 (0-)07 refused stamped 6 June 2002 did not include the appeal site.
14. The appellant says that the site was purchased from the previous owner in 1991 or 1992, but he does not say who this owner was or which property that owner

occupied. He says that the previous owner was unable to “maintain and garden it” due to the size and it had become overgrown. He says that the original garden included the full site indicated in Kirklees’s response and the cold frames and layout demonstrated that this was garden. This he reasons is supported by an earlier planning application of 1993 ref 93/62/02027/W8, but no details of this application have been provided. No evidence has been provided to support the previous presence of cold frames. The appellant says that he has raised beds and a compost area and that the sheds are used to store equipment used for normal works in gardens.

15. There is nothing to corroborate that that this land was used intimately associated with any dwellinghouse. There is a field to the north, a small parcel of land and a public footpath to the south. To the east there is Woodhead Road and to the west lies Far Banks. The land is not attached to any dwelling and so there is a distinction to be drawn between the use of the land, on which I do not need to reach a conclusion, and whether or not it was at the time the buildings were erected, part of any curtilage.
16. At the time the buildings were erected there is nothing to suggest that the land was owned or occupied together with any dwellinghouse nearby attached to it. I conclude therefore that the land cannot be considered to be within the curtilage of a dwellinghouse and that the permitted development rights of GPDO Part 1 Class E do not apply to these buildings.
17. In addition, since I have determined that the land is not within the curtilage of a dwellinghouse it follows that the buildings cannot be incidental to the use of a dwellinghouse.
18. I understand that the appellant believed that the timber framed building could be considered to be a temporary building. He has not however given any details to indicate that any permitted development rights in respect of Schedule 2, Part 4 of the GPDO apply.
19. Turning now to permitted development matters in respect of the access onto a classified road including the erection of gates and the laying of a hard surface through the deposit of hardcore/crushed stone. The appellant has not made any argument that there are any permitted development rights that would apply to these operations. There are provisions for minor operations under Schedule 2, Part 2 Class A and B, but the appellant is not arguing that these apply.
20. The appellant makes various representations about the planning merits of his case, in particular in respect of the Green Belt and also about the existence of similar accesses locally. However these matters are appropriately dealt with under a ground (a) appeal which has not been submitted, and since the fee has not been paid, I am unable to consider the planning merits.

Ground (d) appeal

21. Ground (d) is that at the date the notice was issued no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters, i.e. the matters alleged in the enforcement notice. Section 171B(1) of the Act indicates that for operational development such as detailed in the enforcement notice no action may be taken four years after the substantial completion of the development. The burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability. The appellant is only arguing this ground in respect of the lower shed, and the

- access including gates and hard surface. He has stated that he will remove the upper shed and timber framed building.
22. I shall deal firstly with the lower shed. The appellant says that one timber shed, the lower shed, was completed prior to 19 August 2011. He has provided a photograph along with a screenshot showing details of a digital file P190811_13.19 which purports to date it to 19 August 2011. If that date is correct, and the building was complete, that would mean that by 19 August 2015 this building would be immune from enforcement action. The enforcement notice is dated 9 September 2015, after that date.
23. The Council has provided a Google Streetview photograph that is from May 2011 that shows no buildings. They have submitted photographs from the appellant's Design and Access Statement which dates from sometime in 2012 which shows the south elevation of the shed. They have also submitted a photograph from 27 November 2012 that shows one shed in the position of the lower shed viewed from above. This can be dated to sometime in 2012 because the Planning Officer who took it was determining the planning application on the site. The building looks to be the same building as that in the appellant's photograph and that continues to be on site. The Council has made no argument that the building was not complete at 27 November 2012.
24. The appellant's photograph shows only one elevation and so it is far from a complete documentation of the state of the building to be able to conclude that it was substantially complete on 19 August 2011. Furthermore, digital information is capable of being manipulated. As there is no other corroborative evidence about the date the building was completed, including no statutory declarations or sworn affidavits to that effect, I consider that the evidence is not robust. I cannot therefore safely conclude that the building is immune from enforcement action by virtue of it having been in existence for more than 4 years before the enforcement notice was issued.
25. I shall turn now to the formation of a new access onto a classified road including the erection of gates and the laying of a hard surface through the deposit of hardcore/crushed stone. The Council argues that the access and gates should be seen as one operation and so the date for immunity should run until that operation was substantially complete. I have no reason to depart from that approach since the hard surface allows vehicles to access the site and the gates, if shut, prevent vehicular access.
26. The appellant says that the access has been there since 2007, but there is nothing to support that statement by way of hard evidence. The Council does concede in correspondence that the works commenced prior to Google Streetview images from 2008, albeit those have not been supplied. A Google Streetview photograph shows that there was a gap in the wall in the position of the access in May 2011.
27. I also note the Council's evidence shows the gap and gates were there at the time the appellant submitted his Design and Access Statement to the Council in 2012 and at 27 November 2012. Nonetheless, I am satisfied that a dropped kerb is integral to the creation of a vehicular access. I am content that the access had not been substantially completed on 6 August 2015 since there was still no dropped kerb and so I consider that the creation of the access including the gates and hard surface was not complete more than 4 years before the enforcement notice was issued.

28. Furthermore, the appellant says that the gates were erected in July 2011 but there is no documentary evidence to support that July date. The photograph submitted by the appellant purporting to be taken on 19 August 2011 along with a screenshot showing details of the digital file P190811_15.10 which purports to date it to 19 August 2011 shows an opening in the wall, double gates and some hard surfacing. The other photograph supplied by the appellant already referred to also shows the gates. For the same reasons to that I have given in my reasoning in respect of the lower shed, I am unable to rely on this photographic evidence supplied by the appellant. The earliest evidence that the Council supplies dates from 27 November 2012, and so this does not establish the date of the erection of the gates more than four years before the notice was served.
29. In addition, in respect of the hard surface, the appellant says that it was all in place before 9 September 2011. The appellant says that it has not been substantially changed or added to since that time. The photograph referred to earlier in respect of the access does show some hard surfacing. However this is not a complete photographic record of the whole of the hard surface and I cannot rely on it for the reasons already given. The Council's photographs dated 27 November 2012 seem to show it was still a work in progress. On that basis I conclude that the hard surfacing had not been substantially completed at a date more than four years before the issue of the enforcement notice.
30. Therefore, even if taken as separate entities each part of the access alleged breach would not be immune from enforcement action.
31. Taking into account all the evidence I conclude on the balance of probability the development was not substantially completed more than four years before the enforcement notice was issued and it is not immune from enforcement action. The appeal on ground (d) therefore fails and the enforcement notice is upheld.

Other matters

32. The appellant has made representations about similar accesses nearby, potential development opposite, the Green Belt review and many other matters including support from neighbours. These all could be termed the planning merits of the case. As there is no ground (a) appeal these matters are not for me to consider.
33. According to the appellant the Council gave little notice of the intention to take enforcement action and has not engaged proactively to seek a resolution of the matters. Nevertheless, these are matters for the appellant and the Council in the context of local government accountability.

Conclusions

34. For the reasons given above I consider that the appeal should not succeed.

Julia Gregory

Inspector

Appeal Decision

Site visit made on 24 February 2016

by Susan Wraith DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 April 2016

Appeal Ref: APP/Z4718/C/15/3131819

A-Z DIY and Plumbing, 7 Cobcroft Road, Fartown, Huddersfield HD2 2RU

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Tariq Ali against an enforcement notice issued by Kirklees Council.
- The notice was issued on 4 June 2015.
- The breach of planning control as alleged in the notice is: Without planning permission: The material change of use from retail to use for the storage of building, plumbing and construction materials and the unauthorised operational development of the erection of a timber framed construction incorporating storage containers.
- The requirements of the notice are: Cease the use of the site for the storage of building, plumbing and construction materials and remove all building, plumbing and construction materials from the external storage and demolish the building hatched black on the plan and remove resulting debris and all storage containers from the site.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the ground set out in s174(2)(a) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

Matters concerning the enforcement notice

1. At paragraph 4 of the notice the ten year period for enforcement is referred to which is the correct period for an alleged change of use. However, operational development (i.e. the timber framed construction) is also being alleged which has a four year period for enforcement¹. The notice should be clear as to the time periods for the respective breaches.
2. In paragraph 5 of the notice there is a drafting error in that the Council had intended (but omitted) to include the word "area" after the words "external storage". The insertion of this word would give greater clarity to the requirement.
3. It is incumbent upon me to ensure the notice is in good order before proceeding with the appeal. These matters have been raised with the parties neither of whom has any objection to me exercising my powers of correction. From the evidence, I have no reason to doubt that the operational development took

¹ S171B(1) of the Act states that, where there has been a breach of planning control consisting in the carrying out without planning permission of (amongst other things) building operations, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

place within the four year period prior to the issuing of the enforcement notice and that the enforcement notice was, thus, issued in time. I am satisfied that no injustice would arise to either party in me correcting the notice. I shall do so under the provisions of s176(1)(a) of the Act.

4. The area hatched black on the enforcement notice plan, which is intended to identify the timber framed construction, covers a larger area than that occupied by the building. However, the plan is sufficiently clear for the recipient of the notice to understand what is required. No correction is necessary in this regard.

Preliminary matter

5. Whilst no appeal has been lodged specifically under grounds (b)² or (c)³ the appellant has argued that there is no breach of planning control so far as the use is concerned because it is a retail use, not a storage use. The previous use of the property was as a supermarket for which planning permission had been granted.
6. I understand that this site is operated in conjunction with a shop premises located elsewhere in the area. Primarily the appeal site operates as a "pick-up" location although the actual sales transactions take place at the shop premises.
7. I saw, at my site visit, that there was no apparent sales point at the appeal site. The front (former shop) entrance to the premises did not appear to be in use or was in only occasional use. There was a sign on the door requesting visitors to use the "back door". The main access into the premises was from the yard to the rear.
8. Inside the main building there was a considerable amount of stock comprising mainly plumbing items and sanitary ware, much of which was stored on shelves or racking. Whilst it was possible to walk around to access the various items the tight aisles, quantity of stock and absence of any pricing information did not give the appearance of a retail display space.
9. Within the yard area, there was other (generally more bulky) stock including various joinery items (boards, timber, doors and doorframes for example) and plaster and plaster boards. Some of this was stored on racking and/or in the containers within the timber framed building whilst other items were stored on pallets within the yard area itself.
10. I am told that customers park within the yard area to load up the items which they have already selected and paid for at the nearby shop premises. I cannot see that the use of the yard is ancillary to a shop. Rather it is an integral part of the storage use taking place across the whole of the appeal site that being the relevant planning unit.
11. In all these circumstances I cannot agree that the use which operates at the appeal site is a retail use. The description as "storage" given in the enforcement notice is a reasonable one. Had any appeal been made under grounds (b) and/or (c) on this basis it would not have been successful.

² An appeal on ground (b) is that the matter alleged has not occurred as a matter of fact.

³ An appeal on ground (c) is that the matters alleged (if they occurred) do not constitute a breach of planning control.

The appeal on ground (a) and the deemed application

Planning policies and statutory requirement

12. The development plan for the purposes of this appeal comprises the saved policies of the Kirklees Unitary Development Plan [hereafter “UDP”]. Policy D2 is a permissive policy in favour of development provided that the proposals do not prejudice (amongst other things) highway safety and visual and residential amenity. Policy EP4 seeks to manage the effects of noise on noise sensitive development. Policies BE1 and BE2 seek design that contributes to the built environment and provides (amongst other things) for satisfactory access and policy T10 seeks to resist development that adds to highway safety or environmental problems. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise⁴.
13. Government’s overarching national policy is set out in the National Planning Policy Framework (hereafter “the Framework”). One of the core planning principles set out in the Framework is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings⁵. It also states that decisions should take account of whether safe and secure access to the site can be achieved for all people⁶. The Framework is a material consideration for this appeal. The development plan policies referred to above are in conformity with it.

Main issues

14. Having regard to the above planning policies, statutory requirement and the evidence brought by the parties, I consider the main issues in the appeal on ground (a) and the deemed application to be:
- i. Effect upon the living conditions of neighbouring residents with particular regard to noise, outlook and visual amenity.
 - ii. Effect upon the safe and efficient operation of the highway network in the vicinity of the appeal site.

Effect upon neighbours’ living conditions - noise

15. The area within which the appeal site is located is primarily residential in character interspersed with some small shops and businesses and community buildings. Surrounding the appeal site there are residential properties to three sides, being the properties to Yew Street, Percy Street and Cobcroft Road.
16. Whilst storage in itself is passive and unlikely to give rise to noise, some noise will arise from loading and unloading activities and from the movement of articles around the site including by use of a fork-lift truck. I expect such activities will be quite frequent because of the need to load into customers’ vehicles and the need to replenish stock.
17. There are photographs (which have not been challenged by the appellant) which show unloading from heavy goods vehicles [hereafter HGVs] by a fork-lift truck taking place on Cobcroft Road which then relocates the articles to the

⁴ S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

⁵ This is set out in paragraph 17 of the Framework.

⁶ This is set out in paragraph 32 of the Framework.

appeal site. Such activities will add to the noise arising from the use. All these activities will result in an unacceptable level of noise and disturbance within a residential area and be harmful to the living conditions of neighbouring residents.

Effect upon neighbours' living conditions – outlook and visual amenity

18. The timber framed building is positioned to the northern boundary of the site. It is overlooked from the rear windows of properties on Yew Street. Its front is viewed, at a greater distance, from the rear windows of the properties on Cobcroft Road and it is viewed at various angles from the Percy Street properties.
19. Given its distance from neighbouring properties and its relatively modest height I do not consider the building, in terms of its scale, to have an unreasonable effect upon outlook. However, I have reservations about its design and the materials for its construction.
20. Its front elevation lacks coherency, being partly boarded with various openings and doorways and container fronts. Whilst I acknowledge that timber is often used in residential locations (for garden fences, garden sheds etc) I am not persuaded that its use is appropriate for a commercial storage building. I am concerned about the durability of this light weight structure, its ongoing need for maintenance and the potential for its deterioration over time. Overall the building is not visually pleasing when viewed from neighbouring properties and does not respect the character of the more substantial buildings in the surroundings.
21. The storage and associated activities which take place within the yard, together with the unloading and storage activities which occur on the highway all appear visually incongruous within this residential area and are harmful to the appearance of the area and the visual amenity enjoyed by residents.

Highway safety and efficiency

22. The appeal site is accessed via a narrow road which runs behind properties at Halifax Old Road and which also services the rear of these properties. For its most part, whilst "two way", it would be difficult for two vehicles to pass, in particular larger commercial vehicles. Its narrow width means it is unsuitable for use by HGVs. Its surfaced space is shared by vehicles and pedestrians.
23. I am told that the access road was used by delivery and service vehicles in association with the former shop. The current use, itself, will give rise to visits by service and delivery vehicles in addition to visits made by customers who travel along the access road to collect purchased items from the yard area.
24. The current use is likely to result in more vehicular movements to and from the yard area, in particular because of the customers who visit. It gives rise to greater potential for conflict between vehicles using the access road, and also between vehicular and pedestrian movement within the access road.
25. I am also concerned by the evidence of unloading from HGVs that takes place on Cobcroft Road and the transference to the site of unloaded articles by fork-lift truck; and also by the evidence of items stored on pallets on the public highway. Such activities are likely to cause obstruction and conflict between highway users.

26. For all these reasons I consider the use to be contrary to the interests of the safe and efficient use of the highway.

Other matters

27. The site is positioned close to, but outside, the Birkby Conservation Area. Whilst there may be some effect upon its quiet residential character by the passage of vehicles along the access road which forms its boundary, there is little inter-visibility between the appeal site and the conservation area there being an intervening site currently being developed as a medical centre. Overall I consider the development to have a neutral effect upon the character and appearance of the conservation area. Effect upon the conservation area is not, therefore, a main issue in this appeal.
28. I acknowledge that the use provides local employment and a service which, no doubt, is valued by its customers. However, these benefits do not outweigh the harm which I have identified in my consideration of the principle issues.

Conclusions on ground (a) and the deemed application

29. On ground (a) I conclude that the development has harmful effects upon the living conditions of neighbours and is detrimental to the interests of highway safety and efficiency. It is, thus, contrary to policies D2, BE1, BE2, EP4 and T10 of the UDP. The appeal on ground (a) fails and the deemed application will be refused.

Conclusion

30. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

Formal decision

31. It is directed that the enforcement notice be corrected by:
- i. In paragraph 4, deletion of the first sentence in entirety and substitution of "It appears to the Council that the above material change of use occurred within the last ten years and that the above operational development occurred within the last four years."
 - ii. In paragraph 5, after "from the external storage" add "area".

Subject to these corrections the appeal is dismissed and the enforcement notice is upheld; and planning permission is refused on the application deemed to have been made under s177(5) of the Act.

Susan Wraith

Inspector

Appeal Decision

Site visit made on 11 April 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th April 2016

Appeal Ref: APP/Z4718/D/16/3145552

20 Woodroyd Avenue, Honley, Holmfirth, West Yorkshire, HD9 6LG

- 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 Anthony Makin against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/94102/W, dated 18 December 2015, was refused by notice dated 23 February 2016.
 - The development proposed is a detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are as follows:
 - The effect of the proposal on the character and appearance of the host property and the surrounding area; and
 - The effect of the proposal on the living conditions of the occupiers of 1 Copperas, with particular reference to outlook.

Reasons

Character and appearance

3. The appeal property is semi-detached bungalow in a residential area of similar properties. It is accessed via a private drive from the end of Woodroyd Avenue. The garage would be 5.5 metres deep and 6.5 metres wide with a flat roof a maximum of 3.4 metres high. Although it would be of a simple design and built using materials sympathetic to the existing development nearby, the double garage would be substantial in size and located at the end of the front garden, around 11 metres forward of the host dwelling.
 4. As such, it would be in a somewhat isolated position in relation to the appeal property. It would also be prominently located directly in front of neighbouring 1 Copperas to the south and readily visible from the head of the cul-de-sac and nearby properties. The surrounding area is characterised by open front gardens and, although I note the appellant's reference to existing front extensions nearby, I saw no other examples of garages or outbuildings in Woodroyd Avenue in a forward position such as that proposed.
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5. In this context, the siting of the proposed garage would be at odds with the layout of the surrounding development. Moreover, given its size and prominent location, it would stand out as a dominant and visually obtrusive feature that would detract from the appearance of both the host property and the surrounding residential area. The appellant advises that solar panels and a green roof could be provided and indicates that the garage would be covered on its side and rear elevations with planting. However, I am not persuaded that these factors would lessen the proposal's unacceptable visual impact to any significant extent.
6. I therefore conclude on this issue that the proposal would be harmful to the character and appearance of the host property and the surrounding area. This would be contrary to Policy D2 of the Kirklees Unitary Development Plan (UDP) which is permissive of development provide that proposals do not prejudice (amongst other things) visual amenity (vi) and the character of the surroundings (vii). It would conflict with UDP Policy BE1 which requires all development to be of good quality design such that it contributes to a built environment which (amongst other things) creates or retains a sense of local identity (i). It would be at odds with UDP Policy BE2 which requires new development to be designed so that (amongst other things) it is in keeping with any surrounding development in respect of design, materials, scale, density, layout, building height or mass (i). Furthermore it would fail to support the core planning principle of the National Planning Policy Framework (the Framework) to seek to secure high quality design.

Living conditions

7. The appeal site is behind a low stone retaining wall and at a higher level than the adjoining driveway to the south which serves 1 Copperas and 21 Woodroyd Avenue. The land slopes downwards to the south and No 1 is at a lower level to the driveway and has a shallow front garden. The front of No 1 directly faces the appeal property's front garden on the other side of the driveway at a distance estimated by the Council to be around 9 metres.
8. Although the appellant considers No 1's ground floor kitchen window to be below the level of the driveway, the proposed garage would nevertheless be visible from here as well as from the other windows on No 1's front elevation. Albeit that some of these are obscured glazed and/or do not serve habitable rooms, it would nevertheless be evident from the front of No 1 as a large structure in an elevated position at relatively close quarters. This being so, to my mind the garage would be appreciated as an unacceptably dominant feature that would have an overbearing and oppressive visual impact. This would result in an unsatisfactory loss of outlook to the occupiers of No 1.
9. I saw at my visit a tall timber fence had been erected along the southern boundary of the appeal property (set in just behind the retaining wall). Although this fence and the intended planting would screen views of the proposed garage to some extent, given its considerable size, along with the sloping nature of the site, it would nevertheless be seen above the fence. I also note the appellant's offer to substitute the garage's timber cladding for an alternative render finish. However, I am not convinced that these measures would sufficiently reduce the prominence of the garage or soften its appearance to any great degree.

10. I therefore conclude on this issue that the proposal would be harmful to the living conditions of the occupiers of 1 Copperas, with particular reference to outlook. This would be contrary to UDP Policy D2 which is permissive of proposals provided they do not prejudice (amongst other things) residential amenity (v). It would conflict with UDP Policy BE2 as set out above, and the core planning principle of the Framework to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other matters

11. The appellant refers to the lack of opportunity afforded to him to reduce the scale of the proposal in response to the objections received from local residents. He is also concerned about the influence of a local Councillor in the Council's consideration of the planning application. These are matters between the appellant and the Council. Any revisions to the scheme should be the subject of a further planning application to the Council and are not before me for consideration. I confirm that I have considered the appeal proposal as submitted, on its individual merits and have made my own assessment as to its impacts.
12. A fall back position whereby a 2 metre high fence or planting could be provided without the need for planning permission is cited by the appellant. As discussed above, a fence has already been erected along the site's southern boundary. I am also aware of the appellant's discussions with the Council in relation to the provision of a hard standing and/or a shed here. Be that as it may, in my view any such development would not be as substantial as the proposal now before me, and so would not justify allowing the appeal scheme.
13. Despite the concerns of local residents, the Council raises no objections to the scheme in relation to drainage or highway safety and I see no reason to come to a different view on these matters. However, the absence of harm in these regards counts neither for, nor against the proposal.
14. The scheme would allow the appellant to convert his existing garage into another bedroom. Although this would be a benefit of the scheme to the appellant, it is insufficient to outweigh the harm that I have identified in relation to the main issues in this case.

Conclusion

15. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR