
Appeal Decision

Site visit made on 14 June 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 30 June 2016

Appeal Ref: APP/Z4718/W/16/3146336

37 Oakes Avenue, Brockholes, Holmfirth, HD9 7EE

- 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 J Killick against the decision of Kirklees Council.
 - The application Ref 2015/62/91776/W, dated 6 June 2015, was refused by notice dated 7 January 2016.
 - The development proposed is the erection of a single new dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is a triangular plot of land which forms part of the side garden to No 37 Oakes Avenue. No 37 is a semi-detached 2-storey property set in a reasonably large corner plot, at the junction between Oakes Avenue and Bank View, a cul-de-sac. No 18 Bank View is located at right angles to the rear of the appeal site, with a shared boundary. Due to topographical differences, properties along Bank View are lower than properties along Oakes Avenue, and the appeal site is therefore elevated above No 18.
 4. The general area consists of a residential housing estate, built in the latter half of the 20th century, which contains semi-detached dwellings and short rows of terraced housing. All dwellings in this area are 2-storey in height, are of a similar scale and share characteristics such as stone walling, and tiled hipped roofs. There is general consistency between their plot sizes, although dwellings located within corner plots have the benefit of larger garden areas.
 5. The semi-detached dwellings and terraced rows are all regularly spaced, with reasonable gaps between them of around 5m. While some properties have been extended to the side, these are small scale and are set back into the plots. These have therefore not affected the spatial quality of the area to any great degree and, overall, the area has a pleasant and uniform character.
 6. The junction between Oakes Avenue and Bank View is wide, with a significant visibility splay consisting of broad pavements and grass verges. No 37 Oakes Avenue and No 18 Bank View are located to the south side of this junction with
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their side boundaries following the curve of the visibility splay, demarked by a low picket fence and vegetation. Due to the generous width of the junction and the low boundary treatment, the appeal site is prominent within the street scene.

7. The proposed dwelling would effectively infill the side garden of No 37, and would be orientated to face onto Oakes Avenue. Due to the triangular shape of the plot, the dwelling would be sited around 1.6m away from the boundary with No 18 Bank View, at its nearest point, and around 1.5m away from the flank boundary with No 37 Oakes Avenue.
8. While only around 22% of the appeal site would be developed, the creation of a development plot as a whole would lead to a significant reduction in the size of the garden of No 37. This would be in stark contrast to the reasonably large gardens enjoyed by the properties on these prominent corner plots.
9. Furthermore, due to the siting of the proposed development within the plot in close proximity to neighbouring properties, the dwelling would fail to respond to the general pattern of development in respect of the more generous spacing between properties in the locality. The overall effect would therefore be a visibly cramped form of development which would be at odds with the general, more spacious character of the area, causing harm.
10. The proposed dwelling would be 2-storey in height, thus providing a similar level of accommodation to surrounding properties. However, to ensure that the design of the proposed dwelling would avoid overlooking and overshadowing of No 37 Oakes Avenue and No 18 Bank View, it has been designed to exploit the falling land levels to the rear of the site and would be 'sunk' into the ground. It would therefore have the appearance of a single storey dwelling and would have a lower ridgeline than both No 37 Oakes Avenue and No 18 Bank View. The scale of the proposed development would therefore be considerably smaller in comparison to neighbouring properties.
11. This would result in a dwelling located in a prominent corner plot which is significantly out of keeping with the character of general area. Detailed elements of the proposed dwelling, such as the hipped roof, and use of matching materials and fenestration design to the other dwellings in the locality, would not overcome this concern to any great effect.
12. Overall, due to its cramped appearance and contrasting design in a prominent location within the street scene, I conclude that the proposed dwelling would be an incongruous addition and would have an adverse impact upon the character and appearance of the area. The proposals would therefore be in conflict with saved policies D2, BE1 and BE2 of the adopted Kirklees Unitary Development Plan which seek to avoid overdevelopment of sites, preserve the character of the area and ensure that new development is in keeping with its surroundings in terms of scale, layout, height and massing. I also find that the proposals would not accord with the National Planning Policy Framework (the Framework) in terms of responding to local character and quality of an area.

Other matters

13. I note the positive advice provided by the legal department of the Council prior to purchase in respect of development at the site. However, it is clear from the submitted correspondence that consent to develop at the property was given in

the Council's capacity as a landowner, and would not interfere in its exercise of any other statutory function. Therefore, the advice given would not have prejudiced the Council's formal decision on the planning application. In any event, it falls to me to assess the merits of the proposed dwelling based upon the information before me.

14. Similarly, there is no evidence in respect of positive pre-application advice which the appellant states the Council gave following the purchase of No 37. I therefore have no reason to suggest that the alleged advice was anything other than informal. In any case, it is clear from the submitted correspondence that during the course of the application, the appellant was consistently advised in respect of the concerns of the Officer.

Conclusion

15. I acknowledge that the proposed development is in a sustainable location and that residential amenity would be preserved. While I note that the appellant cites that the site would provide a small affordable property, there is no evidence to suggest that this would be affordable under the definition of the Framework and no means to secure this have been put forward. The weight I can give to this benefit is therefore limited.
16. Overall, I consider that the benefits would not outweigh the harm I have found in relation to character and appearance and, accordingly, this significantly and demonstrably outweighs the benefits of the development.
17. For all of the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C Searson
INSPECTOR

Appeal Decision

Site visit made on 4 July 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 12 July 2016

Appeal Ref: APP/Z4718/W/16/3149647

Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield, HD5 8TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jim Harris against Kirklees Metropolitan Borough Council.
 - The application Ref 2015/93052, is dated 24 September 2015.
 - The development proposed is a new bespoke 3 bed dwelling in the grounds of the existing historic lodge with a separate driveway from the original entrance and courtyard garden.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The submitted application form relates to both planning permission and listed building consent. The appeal is made only on the basis of the Council's failure to determine the planning application.
3. The site lies within the curtilage of Fenay Lodge, a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.

Main Issues

4. Accordingly the main issues for the appeal are:
 - Whether the proposal would preserve the setting of Fenay Lodge;
 - The effect of the proposal on the living conditions of adjoining occupiers on Dartmouth Avenue;
 - The effect of the proposal on highway safety.
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Reasons

The Effect of the Proposal on the Setting of Fenay Lodge

5. Fenay Lodge is a Grade II listed building. Constructed in the mid 19th Century, it is a 2 storey building of substantial size. It is built in ashlar stone with a hipped roof and regularly spaced sliding sash windows. It sits on a large plot, with a wide turning area in front of the front elevation leading to well established gardens which extend to the side and rear of the dwelling. These slope down from an elegant garden facing elevation which has a centrally placed canted bay with french casement windows. The space around the building is in keeping with its grand scale, and allows good views of both the front and the symmetrical garden facing façade. The significance of the asset is derived largely from it being a well preserved example of formal architecture from its period, which includes its landscaped setting.
6. The proposed dwelling would occupy the lower section of the garden, in a space which is currently overgrown and partly screened from Fenay Lodge by high vegetation. Nevertheless, it contributes to the sense of space around the listed building, with the established planting contributing to the verdant character of the plot. The proposed development would be a striking and well composed example of contemporary design which would utilise the slope of the garden to reduce the visible bulk of the dwelling in views from the listed asset.
7. Nevertheless, the dwelling would be of considerable size, and as it would use a large section of the garden to facilitate the building, its access and its parking, it would significantly reduce the extent of space in which the listed building is appreciated. This would be most apparent from the garden elevation where the depth of the available plot would be reduced by almost two thirds of its depth. The loss of space around the building would compromise its formal character, which is in part provided by its spacious setting. It would also diminish the quality of views of the asset by reducing the opportunity to appreciate the building from a distance. Furthermore, although the proposal has been designed to reduce the scale of the upper storey, and would be in part screened by planting, its presence would nonetheless be clearly apparent in views from the numerous windows from the facing elevation. In these views the reduction in perceived space would also have a harmful effect on the building's character.
8. The *National Planning Policy Framework* (the Framework) advises that the significance of a heritage asset can be harmed as a result of development within its setting. Having regard to the extent of harm identified above, the proposal would not preserve the special interest or setting of Fenay Lodge, and would conflict with guidance within the Framework which seeks to conserve heritage assets in a manner appropriate to their significance. The harm identified would amount to "less than substantial harm" which the Framework advises must be weighed against the public benefits of the scheme.
9. The proposal would provide a single dwelling. The Council is currently unable to demonstrate a five year housing land supply. It follows that the provision of an additional dwelling must carry substantial weight. Nevertheless, heritage assets are an irreplaceable resource and the Framework is also clear that in considering the impact of development on the significance of heritage assets, great weight should be given to the asset's conservation. Consequently I

conclude that the small contribution the proposal would make to housing supply would be insufficient to outweigh the harm the proposal would cause to the setting of the listed building, and its significance as a heritage asset. I therefore conclude the proposal would fail to comply with national policy outlined in the Framework.

Living Conditions

10. The appeal site is adjoined to the rear by properties on Dartmouth Avenue. The land slopes downhill away from Fenay Lodge and the neighbours to the south-east have sloping gardens, which are relatively narrow and provide their only private amenity space. I estimated on site that the rear of the dwellings at Nos 19 and 21 Dartmouth Avenue sat at least a metre and a half lower than the rear boundary fence with the appeal site. Both dwellings have a number of rear facing windows. No 19 would face onto the proposed side garden and parts of the ground floor and would retain some of its open aspect. However, No 21 would face directly onto the main body of the upper floor of the proposed dwelling and has a main kitchen window, the sole window to the dining room, and the rear living area window facing the appeal site, as well as two bedroom windows at first floor level.
11. The proposed dwelling would be located around 2 metres from the common boundary, with the upper floor set back around 6.3 metres. The 2 proposed windows would both be obscure glazed and I also note that at a distance of around 18.5 m the relative separation distances to No 21 would comply with the standards set out in policy BE12 of the *Kirklees Unitary Development Plan* (UDP). Nevertheless, due to the relative ground levels of the appeal site and No 21, and the extent to which it would occupy the space along the common boundary, the proposed dwelling would be seen as an overbearing and omnipresent feature in views from the garden and within the rear rooms. Furthermore, although the windows in the proposed side elevation would be obscure glazed, they would nonetheless lead to a perception of overlooking, which would diminish enjoyment of the adjoining garden of No 21.
12. The plans show boundary planting which would be located within a 2 metre gap between the rear fence and the proposed dwelling. However, taking into account the size and position of the gap, I am not convinced that a 3m high hedge such as the one indicated could be effectively established and maintained in this space and this reduces my confidence in its ability to mitigate the visual impact of the proposal.
13. On the second matter, I therefore conclude that although the proposal would not conflict with policy BE12 of the UDP, it would nonetheless be harmful to the living conditions of occupiers of No 21 Dartmouth Avenue and would thereby conflict with guidance within the Framework, which seeks a good quality of amenity for all existing and future occupiers of land and buildings.

Highway Safety

14. The site would be accessed via the existing access to Fenay Lodge from Thorpe Lane. This is single track in parts and I noted during my visit that it was relatively busy for the time of day. It had multiple accesses to properties along its length and parts of it had no footway. However, vehicles were slow moving and the access provided acceptable visibility in both directions. I am also advised that there is no recorded history of accidents in the vicinity. Taking into

account the very small increase in vehicle movements the proposal would give rise to, it would be unlikely to be a danger to highway safety.

15. On the third matter I therefore conclude that the proposal would not create or materially add to highway safety problems. It would thereby not conflict with policy T10 of the UDP which seeks to resist such development or with the Framework which has similar aims.

Conclusion

16. Although I have found no harm in relation to highway safety, the proposal would harm the living conditions of adjoining occupiers at 21 Dartmouth Avenue. It would also fail to preserve the setting of Fenay Lodge, a Grade II Listed Building. The stated benefits of the proposal would not outweigh this collective harm. Therefore having regard to all matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR

Appeal Decision

Site visit made on 13 June 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 21 June 2016

Appeal Ref: APP/Z4718/D/16/3149424
19 Fir Road, Paddock, Huddersfield HD1 4JE

- 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 Mrs Nargas Hussan against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93731/W, dated 20 November 2015, was refused by notice dated 12 February 2016.
 - The development proposed is a two storey rear extension and alterations to the roof to form rooms in the roof space.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is the effect of the proposed extension on the character and appearance of the area.

Reasons

3. The appeal property is located in a predominantly residential area, on a corner plot at the junction of North Street and Fir Road. The wider area contains a mixture of both two storey and single storey properties with considerable variation in style and design. Despite this variation, there is a clear difference between the scale and mass of the bungalows and the houses. The appeal property is a modestly sized bungalow, which due to the topography, at the rear has a garage and store at basement level.
 4. The proposed development would increase the height of the roof by over a metre, and would have a dormer window on both the front and rear elevation of the roof. It would also incorporate a first floor gabled roof, perpendicular to the main roof, that would extend the full depth of the dwelling. As a result the scale and bulk of the resultant dwelling would be considerably greater than the other bungalows in the area, and in particular the adjacent bungalow. This would make the proposal appear as an incongruous, and overly dominant, feature in the street scene. This would be exacerbated by the fact that, due to the topography, No 19 already occupies an elevated position in relation to the neighbouring property.
 5. Furthermore, the scale of this gabled roof element, together with the proposed dormers would be out of keeping with the modest scale of roof alterations found on other dwellings in the area. In addition, the overall size of the
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proposed rear extension, and the roof alterations, would fail to respect the modest proportions of the original property, to the detriment of its visual appearance.

6. All in all, the proposed alterations to the bungalow would so significantly alter the bulk, scale and mass of the original property that the resulting dwelling would unacceptably harm the character and appearance of the area. Accordingly, it would conflict with Policies D2, BE1 and BE2 of the *Kirklees Unitary Development Plan (adopted March 1999 and revised September 2007)* (UDP) which seek to ensure that new development does not have a detrimental impact on visual amenity, creates or retains a sense of local identity, and is in keeping with surrounding development.
7. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR