



Appeal Decision

Site visit made on 4 July 2016

by Sue Glover BA (Hons) MCD MRTPI

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

Decision date: 11 July 2016

Appeal Ref: APP/Z4718/D/16/31459959

127-129 Leeds Old Road, Heckmondwike, WF16 9AQ

- 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 M Abbas against the decision of Kirklees Metropolitan Council.
 - The application Ref 2015/62/93308/E was refused by notice dated 17 February 2016.
 - The development is the erection of a 2 storey side extension, single storey rear extension, alteration of hipped roof to gabled roof and increase in height, formation of 2 dormers in the rear roof plane and the erection of a detached outbuilding.
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Decision

1. The appeal is dismissed insofar as it relates to the erection of a detached outbuilding.
2. The appeal is allowed and planning permission granted insofar as it relates to the erection of a 2 storey side extension, single storey rear extension, alteration of hipped roof to gabled roof and increase in height, and formation of 2 dormers in the rear roof plane at 127-129 Leeds Old Road, Heckmondwike, WF16 9AQ in accordance with the terms of the application, Ref 2015/62/93308/E and the plans submitted with it so far as relevant to that part of the development hereby permitted.

Clarification

3. The development has taken place. Permission has been granted by the Council for a 2-storey extension with a hipped roof. The development that is subject to this appeal differs from that permission with the raising of the walls by about 0.8m, the alteration of the hipped roof to a gabled roof, 2 dormer windows, a single storey rear extension, and a detached outbuilding at the rear.
4. The description in the banner heading above is as amended by the Council and accepted by the appellant. It accurately describes the development that has taken place.

Main Issues

5. The main issues are firstly, the effect of the wall and roof extensions on the character and appearance of the area, and secondly the effect on the living conditions of nearby residents in respect of outlook. Regarding the second issue there are 2 matters; the effect of the enlarged 2-storey extension on the residents of no. 131 Leeds Old Road, and in respect of the outbuilding the effect on residents at no. 38 Berwick Avenue.
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Reasons

Character and appearance

6. There is a mix of dwelling types in the street, with a row of bungalows on the north-east side of the single dwelling house at nos. 127-129, and houses lower on the hill to the south-west. The pattern is repeated on the opposite side of the street. The dwellings are set back from the street in a spacious setting.
7. The appeal dwelling is a distinctive dwelling house of a substantial size clearly visible in an elevated position. The gable end of the side extension appears prominent from a north-easterly approach beyond the bungalows, but there is a similar prominent gable wall to the end house on the opposite side of the street where the row of houses meets bungalows.
8. The height of the gable wall is mitigated to an extent by the lower level of the appeal dwelling compared to the adjacent bungalow. The gable wall does not appear incongruous in the street scene since it is paired with a similar gable wall opposite, and it is not an unusual feature in the street scene.
9. The appeal dwelling differs from most other buildings nearby in that it is larger and there is a greater depth of wall between first floor windows and the eaves. However, the increase in massing is not so significant that it appears out of place or obtrusive. The greater depth of wall does not appear unduly disproportionate given the mix of dwelling designs in this part, and in particular the house adjacent with a prominent front gable wall. There is no significant effect on the spacious quality of the street scene.
10. Whilst the additional height and massing of the extensions are clearly visible at an elevated level from the rear of dwellings in Berwick Avenue, there is sufficient distance and separation that the extended dwelling does not appear unduly disproportionate from these perspectives. In respect of the outbuilding, it is located at the rear and appears subservient to the host dwelling.
11. Taking all these matters into account, there would be no material harm to the character and appearance of the area. There is no conflict with saved Policy BE1 of the Kirklees Unitary Development Plan (UDP), which expects all development to be of a good quality of design, and with saved UDP Policy D2, which indicates that proposals should not prejudice visual amenity and the character of the surroundings.
12. The development plan policies are compatible with paragraphs 17 and 60 of the National Planning Policy Framework that seek to secure a high quality of design, and to reinforce local distinctiveness. The proposal meets the objectives of the Framework in these respects.

Living conditions – no. 131 Leeds Old Road

13. The adjacent bungalow at no. 131 is separated from the side extension by a single vehicle width driveway at a higher level than the appeal dwelling. The bungalow has 2 side facing windows with clear glazed windows, one at ground level and one at first floor in the roof space.
14. I am mindful that there is permission for a 2-storey side extension to the side boundary, albeit with a hipped rather than the existing gable end roof. Both of no. 131's side facing windows face the new 2-storey extension wall, and would do so even without the raised side wall and gabled roof.

15. Nevertheless, there is some additional effect on the outlook from the 2 side windows, particularly the first floor window where the wall and gable end rises beyond the level of the approved hipped roof. The additional effect however is small and not sufficient in my view to warrant dismissal of this appeal on these grounds.
16. Given the permission that already exists, I therefore conclude that there is no material harm to the living conditions of no. 131 Leeds Old Road in respect of outlook. The development in this respect does not conflict with saved UDP Policy D2, which indicates that permission will be granted provided that proposals do not prejudice residential amenity.
17. The development plan policy is broadly compatible with the objectives of the Framework in this respect. Paragraph 17 of the Framework indicates that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. The proposal meets the objectives of the Framework in this respect.

Living conditions – no. 38 Berwick Avenue

18. There are a pair of semi-detached houses, nos. 38 and 40 at the rear of the appeal dwelling, with no. 38 having been extended at the rear. The detached outbuilding has been built so that it is next to the rear boundary with no. 38. Seen from no. 38's small rear garden the end gable wall of the outbuilding with a height to the apex of about 3.8m appears overly prominent, overbearing and obtrusive.
19. The prominent gable of the outbuilding would also be visible above a 2m high boundary fence, as proposed by the appellant. There is some vegetation screening on the boundary, but this is at the side of the outbuilding at the rear of the garden of no. 40. There is limited space between the outbuilding and the boundary with no. 38 for any effective new planting to screen the outbuilding.
20. On account of the significant increase in size over a previous outbuilding, combined with the position next to the boundary, I conclude that there is material harm to the living conditions of the residents of no. 38 Berwick Avenue in respect of outlook. The outbuilding conflicts with UDP Policy D2 that seeks to protect residential amenity, and the objectives of the Framework in this respect.

Other matters and conclusions

21. There is sufficient separation between the dormer windows and dwellings at the rear so that there is no material harm to the privacy of nearby residents. The enlarged dwelling is at a sufficient distance so that there is also no significant loss of daylight or sunlight to dwellings at the rear or side. Given the availability of off-street parking at the appeal property, I have no substantive evidence to indicate that any increase in parking on the street would lead to additional highway safety risk.
22. In respect of the finish of the rear elevation of the outbuilding, a condition could be imposed should permission be granted to ensure a satisfactory external appearance. I have taken into account all other matters, including all the policies in the Framework, and other national planning policy and guidance.
23. In respect of the outbuilding, notwithstanding my findings on character and appearance and the other matters, I find material harm to the living conditions

of some nearby residents in Berwick Avenue in respect of outlook. This matter is significant and overriding. The appeal does not succeed in respect of this part of the development.

24. In respect of the 2 storey side extension, single storey rear extension, alteration of hipped roof to gabled roof and increase in height, and 2 dormers in the rear roof plane, I find no material harm to the character and appearance of the area, the living conditions of nearby residents, or any other material considerations. In respect of this part of the development, the appeal is allowed. As the development has taken place, no conditions are necessary.

Sue Glover

INSPECTOR

Appeal Decision

Site visit made on 23 June 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 14 July 2016

Appeal Ref: APP/Z4718/W/15/3132074

2 Thornton Road, Dewsbury WF12 9HR

- 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 Yakub Patel against the decision of Kirklees Metropolitan Council.
 - The application Ref 2014/62/93055/E, dated 25 September 2014, was refused by notice dated 10 February 2015.
 - The development proposed is a change of use of first floor to D1 non-residential institution to create a mosque and madressah together with external alterations to building.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposed parking arrangement on highway safety and the operation of existing businesses, and the effect of the proposed use on the living conditions of nearby residents, with particular regard to potential noise and general disturbance.

Reasons

3. The proposal is primarily to change the use of the first floor of a 2-storey building in an area of mixed character to a mosque and a madressah. The new use would operate between 0100 until 2300 hours on any day. According to the appellant, prayers would be held 5 times a day, with each session lasting up to 15 minutes apart from early Friday afternoon, which would last about 30-minutes. The madressah would generally operate between 1630 and 1830 hours, 5-days a week. However, some flexibility could be applied to the operating times of the new use to ensure that people coming to and going from the site do not coincide with those of a nearby mosque on Dale Street.

Highway safety

4. A total of 11 off-street parking spaces are shown on the site layout plan to serve the proposed use. According to the appellant's Transport Statement (TS), this level of provision would comfortably exceed the Council's relevant parking standard, which would be a maximum of 6 off-street spaces to serve
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- users of the main prayer hall with an additional 2 off street spaces if the entire first floor accommodation of the host building is taken into account.
5. However, independent access to 2 of these spaces denoted 6 and 7 on the plan could not be achieved, as their use would require the spaces marked 5 and 8 to be unoccupied. While the appellant indicates that only staff would use the spaces numbered 6 and 7, it is unclear exactly how this would be achieved.
 6. The spaces shown as 7 and 9 would be immediately in front of the external staircase that would provide pedestrian access to the appeal premises. Drivers using these spaces would, in all likelihood, need to reverse into or out of the proposed parking area given the limited space available within it to enter and exit in forward gear. This arrangement would cause a significant conflict between people using the staircase and motorists especially if parked vehicles on this part of the site also restricted visibility of pedestrians. In addition, the host building and other parked vehicles on the site would obstruct views of footway users for drivers turning into or out of this part of the site particularly in reverse. This arrangement would cause an obvious and significant hazard to footway users, some of which may be visitors to the ground floor retail and commercial premises of the appeal building.
 7. As the number of spaces to be provided on-site exceeds the Council's parking standard, which is a maximum, it is possible that the layout could be amended to include fewer spaces that are arranged in a different way to address some of the difficulties to which I have referred. The appellant also states that the proposed mosque would be attended by up to 19 families, of which 18 families live within 500-metres of the site and thus would be likely to walk or cycle to and from the site. Cycle stands would be provided as part of the proposal and there would also be a bus-stopping place with regular services within convenient walking distance of the appeal property. On that basis, the TS considers that few people attending the mosque and madressah would use the car. In addition, I acknowledge that not all of the 19 families would be likely to attend the new use at the same time. Taken together, these factors indicate that the likely demand for on-site parking from the new use would be modest.
 8. However, there is nothing before me to indicate exactly how the attendance would be restricted to 19 families, or how many people that would involve, or what would happen if others were also to visit. This is relevant because the proposed floor plan shows that the main prayer hall would have a capacity of 133 people for the purposes of building regulations. Furthermore, as a planning permission runs with the property the proposed use would not be tied to the appellant and others may choose to operate the proposed use in a different way. While the new use may not operate at capacity at first, from the evidence before me I cannot rule out this possibility in the longer term. If that were to occur, the number of people attending the new use by car could be much greater than the TS and the appellant suggest even with alternative travel options available.
 9. For these reasons, it cannot be assumed that the parking arrangement, as proposed or with the potential to be adjusted, would be safe and adequate to serve the proposal. I also note that the Council and others state that motorists associated with the nearby mosque on Dale Street already use a number of the proposed parking spaces. Therefore, the appeal scheme could increase the

demand for on-street parking, which is likely to arise along those sections of Dale Street and Thornton Road that are closest to the site. However, there are parking restrictions along parts of Dale Street including the site's highway frontage in the form of single and double yellow lines. Bollards would also be introduced to prevent the use of the forecourt to the main building for parking.

10. Consequently, the on-street car parking that would arise from the proposal would be likely to take place close to the junction between Dale Street, Thornton Road and Brewery Lane, which is generally unrestricted or along Dale street near to existing houses. However, from numerous representations before me, local residents, nearby businesses and users of the nearby mosque on Dale Street already use these roads for on-street parking, which can cause congestion at certain times. Additional demand for on-street parking, coupled with cars waiting and turning off Dale Street to gain access to and from the site, would be likely to exacerbate these problems.
11. The appellant considers that the operating times of the new use could be managed so that these do not coincide with those of the nearby mosque on Dale Street. However, I am not convinced that such a restriction could be properly enforced given that operating hours could alter at short notice. That there has been only 1 reported road accident close to the site, which appears to have been unrelated to on-street parking, is not a reliable indicator that the highway can therefore be regarded as safe with the new use in place.
12. Taken together, I conclude on the first main issue that the proposed parking arrangement would be materially harmful to highway safety. Accordingly, it conflicts with Policies BE1, BE2, D2, T10 and T19 of the Kirklees Unitary Development Plan (UDP), which aim to ensure that development does not prejudice highway safety and provides adequate parking.

Existing businesses

13. The proposal would reduce the opportunities for off-street parking associated with the ground floor retail and commercial units of the host building if the proposed spaces were occupied or their use were to be discouraged. The proposed bollards would also largely prevent forecourt parking in front of these ground floor units. The lack of available off street parking could deter some customers to these premises especially if their visit coincided with a significant number of people coming to or going from the appeal premises.
14. The proposed parking spaces could be shared with these businesses, as the appellant suggests. However, as the new mosque and madressah would be open at the same time as these units, the demand for parking would not necessarily occur at different times. Nevertheless, it is unclear from the evidence whether the existing businesses currently rely on parking provided on the site and the appellant's survey also indicates that the level of parking demand may be limited. Overall, I am not convinced that a reduction in off street parking provision available to these businesses or additional activity in and around the site would necessarily harm their viability and vitality.
15. Consequently, I conclude on the second main issue that the proposed parking arrangement would not unduly harm the operation of existing businesses. Therefore, I find no material conflict with UDP Policy D2 and the National

Planning Policy Framework (the Framework) insofar as they seek to promote a strong, responsive and competitive economy.

Living conditions

16. As the past use of the appeal unit appears to be ancillary storage, the proposal would lead to a significant increase in comings and goings to the site. These movements would include worshippers, staff and people dropping off and collecting children. Many attendees of the new use will arrive on foot or cycle. However, for the reasons given earlier, others will be likely to arrive or depart by car especially if children are being brought to and picked up, in winter months when the weather is inclement, or during the hours of darkness. The proposal would therefore generate extra vehicle movements on the road network. It would also increase activity around the site especially during peak attendance times, during which there would be noise generated by people entering and leaving the premises, including getting out of and into vehicles. During the day, these kinds of activities would not be unexpected in this mixed-use area with retail and commercial uses nearby.
17. However, the proposal would also operate at other times and it is during the late evening, night and early morning that local residents are more likely to be at home and can reasonably expect quieter conditions in which to sleep and relax. Over this period, the coming and going of users has the potential to cause noise and disturbance especially if extra vehicle movements add to local parking and congestion problems to which many interested parties refer. In that context, the increase in vehicle movements and activity, coupled with the site's close relationship with residential properties, would cause unacceptable additional noise and general disturbance to nearby residents.
18. Therefore, I conclude on the third main issue that the proposal would be materially harmful to the living conditions of nearby residents. Accordingly, it conflicts with UDP Policies D2 and BE2 insofar as they aim to safeguard residential amenity. It would also be at odds with a core planning principle of the Framework, which is to ensure a good standard of amenity for all occupants of land and buildings.

Other matters

19. The proposal would bring back into use part of the building that appears to have been underused. It would provide a convenient place of worship and learning for the local community and, according to the appellant, relieve congestion associated with the use of mosques elsewhere. However, these benefits do not outweigh the harm that I have identified.

Conclusion

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

Gary Deane

INSPECTOR

Appeal Decision

Site visit made on 14 July 2016

by **Helen Heward BSc (Hons) MRTPI**

a **Planning Inspector** appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2016

Appeal Ref: APP/Z4718/D/16/3151368

New Hall, Nova Lane, Birstall, Batley WF17 9LD

- 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 S Wilson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/90024E, dated 5 January 2016, was refused by notice dated 20 April 2016.
 - The development is erection of 3 fences.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is retrospective.
3. The description of development given on the application form goes beyond describing the fences. The Council's decision notice refers to erection of a fence. However, there is no dispute between the parties that the development consists of 3 fences. Accordingly I have described it as such.

Main Issues

4. The main issue in this case are:-
 - 1) Whether the fence facing Nova Lane preserves or enhances the character or appearance of the Birstall Conservation Area (the CA) and the setting of New Hall, a Grade II listed building (New Hall), and
 - 2) Whether the fence facing Field Head Lane preserves or enhances the character or appearance of the CA.

Reasons

5. New Hall is a Grade II listed building constructed in the late 18th/early 19th century with later additions. The copy of the statutory listing provided refers to the architectural design and detailing of the building. It is within the CA and, I am informed, an area known as 'The Mount'.
6. On my visit I observed a feature gateway with ornate pillars at the junction of Nova Lane and Field Head Lane. To either side there are stone walls along large sections of the roadside boundaries, the exception being the northern section of the eastern boundary along Field Head Lane where only a few courses of a low stone wall can be seen. However, the majority of the roadside

boundaries are enclosed by substantial walls. The height of the walls rise/fall and in a couple of places there are feature changes in height, emphasising the hillside location. Together with the access these walls provide a formal and significant demarcation to the setting of the dwelling in the public realm.

7. On my visit I observed that these walls are typical of stone walls, often quite tall, and built close to the highways, which are characteristic features of this part of the CA. They create a strong sense of built form and enclosure. They emphasise the general hillside topography and have a unifying effect in the locality. They make a significant contribution to the character and appearance of the CA along Nova Lane and Field Head Lane in the vicinity of the appeal site.

Nova Lane

8. The fence facing Nova Lane is approximately 1.45m high and 12.7m long and has been erected on ground on the inside of a section of the stone boundary wall. It is located close to a bend at the junction of Field Head Lane and Nova Lane. It is a close boarded timber construction with a strong vertical emphasis and appears to have a roughly uniform height. It appears to sit above the wall. The length, height, construction and materials of this section of fence draw the eye. In some views from Field Head Lane it can be seen together with the gateway and glimpsed views to New Hall beyond. In other views it is seen in the context of feature stone walls which enclose and characterise both sides of Nova Lane. In the available views the fence appears uncharacteristic and incongruous. In these ways it detracts from the character and appearance of this section of boundary wall to New Hall, fails to preserve the setting of the LB and is harmful to the character and appearance of the CA in the locality.
9. The wall in front of the fence appears physically unchanged by the installation of the fence. It may be that there are other fences in the Birstall area, but I did not see any other similar fences within the CA or along Nova Lane in the vicinity of the appeal site.
10. The appellant offers to stain the fence dark green. This would reduce its visual impact but this would not fully mitigate the impacts, and this limits the weight I attach to this. The appellant also offers to accept a condition requiring the planting of a hedgerow along this section and the removal of the fence once the hedgerow is mature, or after 5 years, whichever is the sooner. However, there are no proposals for hedgerow planting in front of me, and I have no way of knowing if the position of the fence would prejudice the positioning or establishment of a hedgerow, therefore I attach little weight to this proposal.
11. I conclude that the fence along Nova Lane fails to preserve the setting of the LB and is harmful to the character and appearance of the CA in the locality. As such it is contrary Policy BE5 of the Kirklees Unitary Development Plan (UDP) which, amongst other things, seeks to ensure that new development within conservation areas respects the architectural qualities of surrounding buildings and contributes to the preservation or enhancement of the character or appearance of the area.

Field Head Lane

12. The fence facing Field Head Lane is approximately 1.6m high and 28m long. It is also a close boarded timber construction with a strong vertical emphasis.

For the most part it is positioned behind the section of low stone wall and alongside a wide section of footpath. It appears to have a variable height and there is a slight kink in the alignment at one end. These characteristics make it appear both prominent and incongruous. A set back behind a section of wall and the wide footpath restrict and limit views of the fence from the south. Nonetheless it is seen in close views within the CA and in views along Field Head Lane from the north.

13. The fence aligns with a similar tall close boarded timber fence at the front of an adjacent property, 2B Field Head Lane which can also be seen in the available views. However, the Council informs me that the fence at 2B does not have consent and this limits the weight I attach to this matter. It may be that there are other fences too, but I did not see any other similar fences within the CA along Field Head Lane in the vicinity of the appeal site.
14. The appellant offers to stain the fence a dark colour. This would reduce its visual impact, but I am not persuaded that these matters fully mitigate the impacts.
15. I conclude that the fence along Field Head Lane fails to preserve the character and appearance of the CA in the locality. As such it is contrary to Policies BE1, BE2 and BE5 of the UDP which, amongst other things, seek to ensure new development is of a good quality design, and that within conservation areas new development contributes to the preservation or enhancement of the character or appearance of the area.

Other Matters

16. I am informed that members of the public have been entering the garden and that the property has been the subject of some vandalism, including throwing stones at original windows of the New Hall, and damage to the wall and coping stones along Nova Lane. My attention is also drawn to very large changes of levels adjacent to retaining walls within the property, where the appellant fears a fall could result in permanent injury or death. To maintain safety and security, temporary measures which do not require planning consent such as a "Herras" type fencing or crowd control barriers could be used which would not be permanently fixed but which would have a greater visual impact.
17. The appellant submits that the positioning of the fences have the least impact on New Hall and that they are required to enable them to prevent unauthorised access, to make the site secure for people and the protection of the listed building and walls, and to fulfil their statutory duty for the health and safety of both the users of the property and would be trespassers. However, there is little to explain what other options have been considered, and why the fences are the only means of making the site secure. This limits the weight I attach to these considerations.
18. An Arboricultural Statement has been submitted and there is nothing to say the fences harm existing trees, however this does not weigh in favour of the proposal, rather it is neutral.
19. I am informed that the Council raised no objection to the fences in a phone call in April 2016, when the appellant was informed there would be a condition requiring staining the fence a dark colour. However, there is scant evidence of

this. In any event, I have concluded that whilst a dark stain would make the fences less visually prominent, it would not fully mitigate the adverse impacts.

20. The Council do not raise any objection in respect of the picket fence, approximately 120cm high and erected along the driveway within the site. I agree that this fence would not harm the character or appearance of the CA or the setting of New Hall.

Conclusions

21. The fences to Nova Lane and Field Head Lane are prominent and incongruent features harmful to the character and appearance of this part of the CA which is particularly characterised by stone boundary walls. The fence to Nova Lane also detracts from the setting of New Hall, a Grade II listed building. The development fails to satisfy requirements of UDP Policies BE1, BE2 and BE5 and is contrary to advice in the National Planning Policy Framework that planning should always seek high quality design and to conserve heritage assets in a manner appropriate to their significance.
22. Although these harms are less than substantial, I attach only limited weight to matters raised concerning public benefits and personal circumstances in relation to the securing of the site for the protection of the LB and its walls, and for the safety of people. I find that they do not outweigh the harms. Nor am I persuaded that staining the fences dark colours or planting a hedgerow and removing the fence to Nova Lane would fully mitigate the adverse impacts.
23. Therefore, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

Helen Heward

PLANNING INSPECTOR

Appeal Decision

Site visit made on 28 July 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 16th August 2016

Appeal Ref: APP/Z4718/W/16/3150356

Brentwood, 36 Oxford Road, Dewsbury, West Yorkshire WF13 4LL

- 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 Imran Akhtar against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93467/E, dated 29 October 2015, was refused by notice dated 18 March 2016.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal site is located in the Northfields Conservation Area (CA). I am therefore required to have regard to the statutory duty to preserve or enhance the character or appearance of the CA.
3. Therefore, the main issue is the effect of the proposal on the long-term health and viability of the protected trees, particularly in terms of post development pressure for felling or pruning and the consequent effect on the character and appearance of the conservation area.

Reasons

4. The appeal site is located in a predominantly residential area. The scheme would divide the garden plot of 36 Oxford Road and create a new detached dwelling. The Council is concerned that the proximity of the new house would lead to unacceptable post development pressure from occupants of the new house to prune or fell the nearby protected specimens, which are located to the north and west of the site.
 5. The trees mainly comprise a mixture of sycamore and ash, as well as a horse chestnut, a birch and a lime. According to the Arboricultural Impact Assessment (AIA) submitted by the appellant, their condition is generally considered fair to good. I consider that they make a positive contribution to the character and appearance of the CA, particularly where they are most visible on Reservoir Street. There would be no tree losses to allow for the construction of the building, although part of the hedge would be removed to form the proposed new access to the site.
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6. The Shadow Prediction Plan in the AIA shows that the trees would shade the new dwelling and much of its garden area from mid-day into the afternoon. I note that the trees are deciduous, and so the impact of shadowing would be less during the winter months. Nonetheless, the effect would be significant whilst the trees were in leaf during the spring and summer months, when the occupants would wish to use make greater use of the garden. Furthermore, given the proximity of the tree canopies particularly to the west of the location of the new dwelling, it is highly probable that future occupants would experience maintenance problems caused by falling leaves and other tree debris.
7. The siting of the new dwelling and its main outdoor space close to a significant number of trees would be highly likely to lead to future occupiers being concerned about the impact of shading on living conditions, and also the inconvenience of leaf and debris fall. In the light of such concerns, there is some doubt as to whether it would be reasonable to resist subsequent applications to fell or heavily prune the trees. The latter course of action would have an inevitable impact upon the trees' health and longevity, and short or long term removal would fail to preserve or enhance the character or appearance of the CA, contrary to the provisions of the National Planning Policy Framework.
8. As no trees are proposed to be felled as part of the development proposal, Policy NE9 of the Kirklees Unitary Development Plan (UDP, September 2007) does not strictly fit with the appeal case. However, the proposal would be contrary to the general thrust of the policy, which is to retain and protect mature trees. As such, Policy NE9 is broadly consistent with the NPPF, which requires the planning system to contribute to and enhance the natural and local environment by protecting valued landscapes and minimising the impacts on biodiversity. This is a material consideration which lends significant support to my conclusion in this case.
9. The appellant argues that future occupants would be aware of the potential issues posed by the proximity of the protected trees. However, there is a significant possibility that potential occupiers might not fully appreciate the implications of having the trees nearby until they had occupied the property and experienced the issues at first hand. This matter has therefore not led me to a different conclusion on the main issue.
10. I accept that the development would be designed so as to keep in with its surroundings. It would add one dwelling to the housing supply, making a social and economic contribution, however modest, to the local area. However, these benefits would not outweigh the harm I have identified.

Conclusion

11. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Elaine Gray

Inspector